

STATE OF NEW YORK

2030

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. EICHENSTEIN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to pendency placements in a school district in a city having a population of one million or more

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 4404 of the education law is amended by adding a
2 new subdivision 1-b to read as follows:

3 1-b. a. Notwithstanding any other provision of law, rule or regu-
4 lation to the contrary, in a school district in a city having a popu-
5 lation of one million or more, the parent or person in parental
6 relation shall be entitled to the presumption that the school identified
7 in a settlement agreement entered on or after the effective date of this
8 subdivision is the student's operative placement for the purposes of
9 pendency until there is an intervening, pendency-changing event (that
10 is, an actual agreement of the parties; an unappealed decision by an
11 impartial hearing officer; a decision of the state review officer that
12 agrees with the parents as to the appropriateness of their proposed
13 change in placement; or a determination by a court on appeal from the
14 decision of a state review officer) or a program offered by the school
15 district and not challenged by the parent. Each child's IEP shall be
16 reviewed periodically, but not less frequently than annually, as
17 required by 20 U.S.C. 1414(d)(4)(A)(i). Pendency payments for tuition
18 shall be at the tuition cost of the previous year's payments unless a
19 new IEP was performed, and shall be made prospectively and shall be made
20 for amounts not less than two months' worth of tuition or the remaining
21 balance on the contract, whichever is smaller, provided that the initial
22 tuition payment may include retroactive payments. Pendency payments, as
23 provided for in subdivision four of this section, shall continue unin-
24 terrupted while the appeal is pending.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 b. Where a claim for tuition for a school year commencing in two thou-
2 sand twenty-one or earlier has been filed pursuant to this section on or
3 before June thirtieth, two thousand twenty-two and remains pending and
4 timely, the local educational agency of a city having a population of
5 over one million shall, on or before January first, two thousand twen-
6 ty-four, make all reasonable efforts to finalize a settlement or inform
7 the parent or person in parental relation, or their representative, that
8 it has not been able to settle the claim. Nothing in this act shall
9 preclude parties from reaching a settlement after January first, two
10 thousand twenty-four. Any settlements for tuition, including those
11 already settled, shall include a schedule for payments, the first of
12 which shall begin no later than sixty days after the latter of the date
13 the settlement is fully executed or receipt of documentation necessary
14 for payment, and the remainder of which shall be completed within sixty
15 days of receipt of any documentation necessary for payment.

16 § 2. This act shall take effect on the ninetieth day after it shall
17 have become a law.