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:

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

1-b. a. Notwithstanding any other provision of law, rule or regulation to the contrary, in a school district in a city having a population of one million or more, the parent or person in parental relation shall be entitled to the presumption that the school identified in a settlement agreement entered on or after the effective date of this subdivision is the student's operative placement for the purposes of pendency until there is an intervening, pendency-changing event (that is, an actual agreement of the parties; an unappealed decision by an impartial hearing officer; a decision of the state review officer that agrees with the parents as to the appropriateness of their proposed change in placement; or a determination by a court on appeal from the decision of a state review officer) or a program offered by the school district and not challenged by the parent. Each child's IEP shall be reviewed periodically, but not less frequently than annually, as required by 20 U.S.C. 1414(d)(4)(A)(i). Pendency payments for tuition shall be at the tuition cost of the previous year's payments unless a new IEP was performed, and shall be made prospectively and shall be made for amounts not less than two months' worth of tuition or the remaining balance on the contract, whichever is smaller, provided that the initial tuition payment may include retroactive payments. Pendency payments, as provided for in subdivision four of this section, shall continue uninterrupted 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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b. Where a claim for tuition for a school year commencing in two thousand twenty-one or earlier has been filed pursuant to this section on or before June thirtieth, two thousand twenty-two and remains pending and timely, the local educational agency of a city having a population of over one million shall, on or before January first, two thousand twenty-four, make all reasonable efforts to finalize a settlement or inform the parent or person in parental relation, or their representative, that it has not been able to settle the claim. Nothing in this act shall preclude parties from reaching a settlement after January first, two thousand twenty-four. Any settlements for tuition, including those already settled, shall include a schedule for payments, the first of which shall begin no later than sixty days after the latter of the date the settlement is fully executed or receipt of documentation necessary for payment, and the remainder of which shall be completed within sixty days of receipt of any documentation necessary for payment.

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