STATE OF NEW YORK

7000--B

2023-2024 Regular Sessions

IN SENATE

May 16, 2023

Introduced by Sen. MANNION -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Disabilities -- recommitted to the Committee on Disabilities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the responsibility for certain temporary-resident preschool children with disabilities

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

Section 1. Section 4410-a of the education law, as added by chapter 53 of the laws of 1990 and as renumbered by chapter 705 of the laws of 1992, the section heading, paragraph f of subdivision 1 and subdivisions 2, 3 and 4 as amended by chapter 371 of the laws of 2023, paragraph b of subdivision 1 as amended by chapter 569 of the laws of 1994, paragraphs d, e and g of subdivision 1 as amended by chapter 705 of the laws of 1992 and paragraph h of subdivision 1 as amended by chapter 280 of the laws of 1994, is amended to read as follows:

§ 4410-a. Responsibility for certain temporary-resident preschool children with disabilities. 1. Definitions. For the purpose of this section, the following definitions shall apply:

a. "[~~Foster care child~~] **Child in foster care**" shall mean a child placed in foster care by a social services district.

b. "[~~Homeless child~~] **Child who is homeless**" shall mean a homeless child as defined in paragraph a of subdivision one of section thirty-two hundred nine of this chapter.

c. "Municipality" shall mean a county outside the city of New York or the city, in the case of a county in the city of New York.

d. "Municipality of current location" shall mean a municipality in which a child lives which is different from the municipality [~~in which a~~

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

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~~child or such child's family lived at the time a social services district assumed responsibility for the placement of such child or family, or at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency~~] of origin.

e. "Municipality of [~~residence~~] origin" shall mean:

(i) for a child in foster care, the municipality within the state of New York in which a child or such child's [~~family lived~~] parent or person in parental relation resided at the time [~~the local social services district assumed responsibility for the placement of such child or family, or at the time~~] of placement into foster care when the social services district assumed care and custody or custody and guardianship of such child;

(ii) for a child who is homeless, the municipality within the state of New York in which a child or such child's parent or person in parental relation resided when circumstances arose which caused such child to become homeless; and

(iii) for a child in residential care, the municipality within the state of New York in which a child or such child's parent or person in parental relation resided at the time such child was admitted for care and/or treatment in a facility licensed or operated by [~~another~~] a state agency, other than the office of children and family services.

f. "Preschool child with a disability" shall mean a child eligible for services pursuant to section forty-four hundred ten of this [~~chapter~~] article.

g. "School district of current location" for a child who is homeless or in residential care shall mean a school district in which a child lives which is different from the school district [~~in which a child or such child's family lived at the time a social services district assumed responsibility for the placement of such child or family, or at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency~~] of origin. For a child in foster care such term shall mean "school district of residence" as defined in section thirty-two hundred forty-four of this chapter.

h. "Child in residential care" shall mean a child residing in a facility, hospital or institution licensed or operated by [~~another~~] a state agency, other than the office of children and family services, as defined by subdivision six of section 1.03 of the mental hygiene law or by paragraph (m) of subdivision one of section two of the public health law.

i. "School district of origin" shall mean: (i) for a child in foster care, the school district within the state of New York in which the child in foster care was attending a public preschool on a tuition-free basis or was entitled to attend, or would have been entitled to attend had the child been the eligible age to attend, at the time of placement into foster care when the social services district assumed care and custody or custody and guardianship of such child;

(ii) for a child who is homeless, the school district within the state of New York in which a child who is homeless was attending a public preschool on a tuition-free basis or was entitled to attend, or would have been entitled to attend had the child been the eligible age to attend, when circumstances arose which caused such child to become homeless; and

(iii) for a child in residential care, the school district within the state of New York in which a child was attending a public preschool on a tuition-free basis or was entitled to attend, or would have been entitled to attend had the child been the eligible age to attend, at the

time such child was admitted for care and/or treatment in a facility licensed or operated by a state agency, other than the office of children and family services.

2. School district evaluation and placement responsibility. a. The school district of current location of a [~~foster care or homeless child or~~] child in residential care shall be responsible for the evaluation and placement procedures prescribed for a preschool child suspected of having or who has a disability pursuant to section forty-four hundred ten of this [~~chapter~~] article.

b. The school district of origin or the school district of current location of a child in foster care designated pursuant to paragraph (a) of subdivision two of section thirty-two hundred forty-four of this chapter shall be responsible for the evaluation and placement for a preschool child suspected of having or who has a disability pursuant to section forty-four hundred ten of this article, subject to a best interest determination pursuant to paragraph (a) of subdivision two of section thirty-two hundred forty-four of this chapter.

c. The school district of origin or the school district of current location of a child who is homeless designated pursuant to subdivision two of section thirty-two hundred nine of this chapter shall be responsible for the evaluation and placement procedures prescribed for a preschool child suspected of having or who has a disability pursuant to section forty-four hundred ten of this article, subject to a best interest determination pursuant to subparagraph three of paragraph f of subdivision two of section thirty-two hundred nine of this chapter.

d. In issuing its written notice of determination of services, the board of education of [~~such~~] the school district with evaluation and placement responsibility as determined pursuant to paragraphs a, b, and c of this subdivision shall identify the municipality of [~~residence~~] origin and the municipality of current location, of a preschool child with a disability who is a child in foster care or [~~homeless~~] child who is homeless or child in residential care. Such notice of determination shall be transmitted to both the municipality of [~~residence~~] origin and the municipality of current location.

3. Contract and payment responsibility. The municipality of [~~current location~~] the school district which is determined to be responsible for the evaluation and placement of such child, pursuant to subdivision two of this section, shall be the municipality of record for a preschool child with a disability who is a child in foster care or a child who is homeless [~~child~~] or a child in residential care for the purposes of section forty-four hundred ten of this [~~chapter~~] article provided, however, that, notwithstanding the provision of paragraph b of subdivision eleven of such section, if the municipality of record is the municipality of current location, the state shall reimburse one hundred percent of the approved costs paid by such municipality which shall be offset by the local contribution due pursuant to subdivision four of this section.

4. Local contribution. [~~The~~] If the municipality of record as described in subdivision three of this section is the municipality of current location, the municipality of [~~residence~~] origin shall be financially responsible for the local contribution which shall equal that portion of the approved costs of services to a child in foster care or a child who is homeless [~~child~~] or a child in residential care with a disability which would not be reimbursed pursuant to the schedule set out in paragraph b of subdivision eleven of section forty-four hundred ten of this [~~chapter~~] article. The commissioner shall certify to the

comptroller the amount of the local contribution owed by each municipality to the state. The comptroller shall deduct the amount of such local contribution first from any moneys due the municipality pursuant to such section and then from any other moneys due or to become due such municipality.

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