STATE OF NEW YORK

8522

IN SENATE

February 8, 2024

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on New York City Education

AN ACT to amend the education law, in relation to rental assistance for all New York city charter school students

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

Section 1. Paragraph (e) of subdivision 3 of section 2853 of the education law, as added by section 5 of part BB of chapter 56 of the laws of 2014, subparagraphs 5 and 6 as amended by section 11 of part A of chapter 54 of the laws of 2016, clause (B) of subparagraph 5 as amended by section 5 of part YYY of chapter 59 of the laws of 2017, is amended to read as follows:

(e) In a city school district in a city having a population of one million or more inhabitants, charter schools that [~~first commence instruction or that require additional space due to an expansion of grade level, pursuant to this article, approved by their charter entity for the two thousand fourteen--two thousand fifteen school year or thereafter and~~] request co-location in a public school building shall be provided access to facilities pursuant to this paragraph for such charter schools [~~that first commence instruction or that require additional space due to an expansion of grade level, pursuant to this article, approved by their charter entity for those grades newly provided~~].

(1) Notwithstanding any other provision of law to the contrary, within the later of (i) five months after a charter school's written request for co-location and (ii) thirty days after the charter school's charter is approved by its charter entity, the city school district shall either: (A) offer at no cost to the charter school a co-location site in a public school building approved by the board of education as provided by law, or (B) offer the charter school space in a privately owned or other publicly owned facility at the expense of the city school district and at no cost to the charter school. The space must be reasonable, appropriate and comparable and in the community school district to be served by the charter school and otherwise in reasonable proximity.

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

LBD14402-01-4

(2) No later than thirty days after approval by the board of education or expiration of the offer period prescribed in subparagraph one of this paragraph, the charter school shall either accept the city school district's offer or appeal in accordance with subparagraph three of this paragraph. If no appeal is taken, the city's offer or refusal to make an offer shall be final and non-reviewable. The charter school may appeal as early as issuance of an educational impact statement for the proposed co-location.

(3) The charter school shall have the option of appealing the city school district's offer or failure to offer a co-location site through binding arbitration in accordance with subparagraph [~~seven~~] six of this paragraph, an expedited appeal to the commissioner pursuant to section three hundred ten of this chapter and the procedures prescribed in paragraph (a-5) of this subdivision, or a special proceeding pursuant to article seventy-eight of the civil practice law and rules. In any such appeal, the standard of review shall be the standard prescribed in section seventy-eight hundred three of the civil practice law and rules.

(4) If the appeal results in a determination in favor of the city school district, the city's offer shall be final and the charter school may either accept such offer and move into the space offered by the city school district at the city school district's expense, or locate in another site at the charter school's expense.

(5) [~~For a new charter school whose charter is granted or for an existing charter school whose expansion of grade level, pursuant to this article, is approved by their charter entity, if~~] If the appeal results in a determination in favor of the charter school, the city school district shall pay the charter school an amount [~~attributable to the grade level expansion or the formation of the new charter school~~] that is equal to the lesser of:

(A) the actual rental cost of an alternative privately owned site selected by the charter school or

(B) thirty percent of the product of the charter school's basic tuition for the current school year and [~~(i) for a new charter school that first commences instruction on or after July first, two thousand fourteen,~~] the charter school's current year enrollment[~~; or (ii) for a charter school which expands its grade level, pursuant to this article, the positive difference of the charter school's enrollment in the current school year minus the charter school's enrollment in the school year prior to the first year of the expansion~~].

(6) An arbitration in an appeal pursuant to this paragraph shall be conducted by a single arbitrator selected in accordance with this subparagraph from a list of arbitrators from the American arbitration association's panel of labor arbitrators, with relevant biographical information, submitted by such association to the commissioner pursuant to paragraph a of subdivision three of section three thousand twenty-a of this chapter. Upon request by the charter school, the commissioner shall forthwith send a copy of such list and biographical information simultaneously to the charter school and city school district. The parties shall, by mutual agreement, select an arbitrator from the list within fifteen days from receipt of the list, and if the parties fail to agree on an arbitrator within such fifteen day period or fail within such fifteen day period to notify the commissioner that an arbitrator has been selected, the commissioner shall appoint an arbitrator from the list to serve as the arbitrator. The arbitration shall be conducted in accordance with the American arbitration association's rules for labor arbitration, except that the arbitrator shall conduct a pre-hearing

conference within ten to fifteen days of agreeing to serve and the arbitration shall be completed and a decision rendered within the time frames prescribed for hearings pursuant to section three thousand twenty-a of this chapter. The arbitrator's fee shall not exceed the rate established by the commissioner for hearings conducted pursuant to section three thousand twenty-a of this chapter, and the cost of such fee, the arbitrator's necessary travel and other reasonable expenses, and all other hearing expenses shall be borne equally by the parties to the arbitration.

§ 2. This act shall take effect immediately.