

# STATE OF NEW YORK

625

2025-2026 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. EICHENSTEIN, COLTON, PHEFFER AMATO, R. CARROLL --  
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 Assem-  
bly, 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.

LBD01630-01-5

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