

STATE OF NEW YORK

8370

2025-2026 Regular Sessions

IN SENATE

June 5, 2025

Introduced by Sen. FAHY -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

1 Section 1. Section 4410-a of the education law, as added by chapter 53
2 of the laws of 1990 and as renumbered by chapter 705 of the laws of
3 1992, the section heading, paragraph f of subdivision 1 and subdivisions
4 2, 3 and 4 as amended by chapter 371 of the laws of 2023, paragraph b of
5 subdivision 1 as amended by chapter 569 of the laws of 1994, paragraphs
6 d, e and g of subdivision 1 as amended by chapter 705 of the laws of
7 1992 and paragraph h of subdivision 1 as amended by chapter 280 of the
8 laws of 1994, is amended to read as follows:

9 § 4410-a. Responsibility for certain temporary-resident preschool
10 children with disabilities. 1. Definitions. For the purpose of this
11 section, the following definitions shall apply:

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

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

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

19 d. "Municipality of current location" shall mean a municipality in
20 which a child lives which is different from the municipality [~~in which a
21 child or such child's family lived at the time a social services
22 district assumed responsibility for the placement of such child or fami-
23 ly, or at the time such child was admitted for care and/or treatment in
24 a facility licensed or operated by another state agency~~] of origin.

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

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

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

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

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

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

21 g. "School district of current location" for a child who is homeless
22 or in residential care shall mean a school district in which a child
23 lives which is different from the school district [~~in which a child or~~
24 ~~such child's family lived at the time a social services district assumed~~
25 ~~responsibility for the placement of such child or family, or at the time~~
26 ~~such child was admitted for care and/or treatment in a facility licensed~~
27 ~~or operated by another state agency] of origin. For a child in foster~~

28 care such term shall mean "school district of residence" as defined in
29 section thirty-two hundred forty-four of this chapter.
30 h. "Child in residential care" shall mean a child residing in a facil-
31 ity, hospital or institution licensed or operated by [~~another~~] a state
32 agency, other than the office of children and family services, as
33 defined by subdivision six of section 1.03 of the mental hygiene law or
34 by paragraph (m) of subdivision one of section two of the public health
35 law.

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

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

49 (iii) for a child in residential care, the school district within the
50 state of New York in which a child was attending a public preschool on a
51 tuition-free basis or was entitled to attend, or would have been enti-
52 tled to attend had the child been the eligible age to attend, at the
53 time such child was admitted for care and/or treatment in a facility
54 licensed or operated by a state agency, other than the office of chil-
55 dren and family services.

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

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

15 c. The school district of origin or the school district of current
16 location of a child who is homeless designated pursuant to subdivision
17 two of section thirty-two hundred nine of this chapter shall be respon-
18 sible for the evaluation and placement procedures prescribed for a
19 preschool child suspected of having or who has a disability pursuant to
20 section forty-four hundred ten of this article, subject to a best inter-
21 est determination pursuant to subparagraph three of paragraph f of
22 subdivision two of section thirty-two hundred nine of this chapter.

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

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

45 4. Local contribution. [~~The~~] If the municipality of record as
46 described in subdivision three of this section is the municipality of
47 current location, the municipality of [~~residence~~] origin shall be finan-
48 cially responsible for the local contribution which shall equal that
49 portion of the approved costs of services to a child in foster care or a
50 child who is homeless [~~child~~] or a child in residential care with a
51 disability which would not be reimbursed pursuant to the schedule set
52 out in paragraph b of subdivision eleven of section forty-four hundred
53 ten of this [~~chapter~~] article. The commissioner shall certify to the
54 comptroller the amount of the local contribution owed by each muni-
55 cipality to the state. The comptroller shall deduct the amount of such
56 local contribution first from any moneys due the municipality pursuant

1 to such section and then from any other moneys due or to become due such
2 municipality.
3 § 2. This act shall take effect on the ninetieth day after it shall
4 have become a law.