STATE OF NEW YORK

3950

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the submission of requests to the committee on special education for the educational services mandated by an individualized education services program

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

Section 1. Section 3602-c of the education law is amended by adding a new subdivision 2-d to read as follows:

2-d. a. Notwithstanding any provision to the contrary, for the two thousand twenty-four--two thousand twenty-five school year, a parent or person in parental relation to a student with a disability attending a nonpublic school shall have until April first, two thousand twenty-five to submit a request to the committee on special education of the school district of location for the educational services mandated by an individualized education services program for the student.

b. For purposes of this subdivision, "procedural grounds" shall mean administrative or procedural errors in the application process, including, but not limited to, failure to meet submission deadlines, incomplete documentation, or other technical errors, and not the substantive eligibility or needs of the student.

c. Within fourteen days of the effective date of this subdivision, the committee on special education of the school district of location shall provide written notice to each parent or person in parental relation to a student with a disability attending a nonpublic school located in such district whose request for services for the two thousand twenty-four--two thousand twenty-five school year was denied on procedural grounds prior to the effective date of this subdivision. Such notice shall afford such parent or person in parental relation a reasonable opportunity to cure the procedural deficiencies. Such notice shall include:

(1) identification of all deficiencies in the original application;

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

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(2) a description of the steps necessary to remedy such deficiencies; and

(3) information regarding the extended submission deadline set forth in paragraph a of this subdivision.

d. Services requested pursuant to this section for the two thousand twenty-four--two thousand twenty-five school years shall be authorized by the committee on special education of the school district of location within fourteen days of receipt of a procedurally sufficient application as determined by the committee on special education of such school district.

e. Services requested for a student with a disability for the two thousand twenty-four--two thousand twenty-five school year who has previously been the subject of a due process hearing regarding the rate for such services pursuant to section forty-four hundred four of this chapter, shall be authorized at the hourly rate established in the most recent prior due process determination without requiring the parent or person in parental relation to initiate a new due process proceeding. Such enhanced rate shall be authorized by the committee on special education of the school district of location within fourteen days of receipt of a request demonstrating the prior determination and eligibility for services. Parents or persons in parental relation to a student with a disability may initiate a new due process hearing pursuant to section forty-four hundred four of this chapter if they deem the previous rate no longer acceptable or wish to adjudicate other issues related to the student's needs, services or eligibility.

f. Parents or persons in parental relation to a student with a disability who was otherwise eligible to receive special education services but was denied provision of such services on procedural grounds, and who thereafter submitted a request pursuant to this subdivision, shall be entitled to payment for costs incurred in obtaining equivalent services through other means. Such payment shall not exceed the cost of services for which the student was previously determined to be eligible, at the rate determined by the school district of location or at the rate determined by an impartial hearing officer appointed pursuant to section forty-four hundred four of this chapter, whichever rate is higher. If the student was previously the subject of a due process hearing regarding the rate for equivalent services, the hourly rate established in that hearing shall apply for purposes of this provision. Claims for payment must be filed within two years of the end of the school year for which the costs were incurred or within two years of the effective date of this subdivision, whichever date is later. Claims shall be adjudicated by an impartial hearing officer appointed pursuant to section forty-four hundred four of this chapter and must include sufficient documentation to demonstrate the student's eligibility for services and the costs incurred. Payments under this paragraph shall only apply to costs incurred during the two thousand twenty-three--two thousand twenty-four and two thousand twenty-four--two thousand twenty-five school years.

g. Parents or persons in parental relation to a student with a disability who was otherwise eligible to receive special education services but was denied provision of such services on procedural grounds, and who were unable to fully obtain such services through other means, may seek compensatory services as a remedy for the harm caused by the lack of services. Claims for compensatory services must be filed within two years of the end of the school year for which the services were denied or within two years of the effective date of this subdivision, whichever

date is later. Claims shall be adjudicated by an impartial hearing officer appointed pursuant to section forty-four hundred four of this chapter and must include sufficient documentation to demonstrate the student's eligibility for compensatory services.

h. Upon approval of a claim for compensatory services pursuant to this subdivision, the committee on special education of the school district of location shall review the student's needs and develop an individualized education service program that incorporates the compensatory services. If the student has an existing individualized education service program, the committee on special education shall amend the individualized education service program to include the compensatory services, unless and until a new evaluation or review determines that further amendments are necessary. The compensatory services shall be provided during the school year for which the harm occurred and during subsequent school years. The committee on special education shall notify the parent or person in parental relation of the approval and integration of compensatory services into the individualized education service program and provide a detailed description of how and when the services will be delivered.

i. No services provided pursuant to this section shall be conditioned upon the waiver of any procedural safeguards available pursuant to: (i) this article; (ii) article eighty-nine of this chapter; or (iii) any other or applicable state and federal law. Any agreement that purports to waive such safeguards in violation of this paragraph shall be deemed void as a matter of public policy.

j. Within fourteen days of the effective date of this subdivision, the committee on special education of the school district of location shall provide written notice to all parents or persons in parental relation to students with disabilities attending nonpublic schools within such district regarding the provisions of this subdivision. Such notice shall:

(1) be provided in the native language of the parent or person in parental relation;

(2) include a description of the extended deadline for requesting services pursuant to paragraph a of this subdivision;

(3) include a description of the eligibility criteria and process for seeking payment for costs incurred in obtaining equivalent services under paragraph f of this subdivision, including the documentation required to demonstrate eligibility and costs incurred;

(4) include a description of the eligibility criteria and process for seeking compensatory services under paragraph g of this subdivision, including the documentation required to demonstrate eligibility, the process for adjudication by an impartial hearing officer, and details about how approved compensatory services will be incorporated into the individualized education service program; and

(5) include an explanation of the procedural safeguards available under paragraph i of this subdivision, with a clear statement that no services provided under this subdivision shall be conditioned upon the waiver of such safeguards and that any agreement purporting to waive such safeguards is void as a matter of public policy.

§ 2. This act shall take effect immediately.