§ 3202. Public schools free to resident pupils; tuition from nonresident pupils. 1. A person over five and under twenty-one years of age who has not received a high school diploma is entitled to attend the public schools maintained in the district in which such person resides without the payment of tuition. Provided further that such person may continue to attend the public school in such district in the same manner, if temporarily residing outside the boundaries of the district when relocation to such temporary residence is a consequence of such person's parent or person in parental relationship being called to active military duty, other than training. Notwithstanding any other provision of law to the contrary, the school district shall not be required to provide transportation between a temporary residence located outside of the school district and the school the child attends. A veteran of any age who shall have served as a member of the armed forces of the United States and who (a) shall have been discharged therefrom under conditions other than dishonorable, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, may attend any of the public schools of the state upon conditions prescribed by the board of education, and such veterans shall be included in the pupil count for state aid purposes. A nonveteran under twenty-one years of age who has received a high school diploma shall be permitted to attend classes in the schools of the district in which such person resides or in a school of a board of cooperative educational services upon payment of tuition under such terms and conditions as shall be established in regulations promulgated by the commissioner; provided, however, that a school district may waive the payment of tuition for such nonveteran, but in any case such a nonveteran who has received a high school diploma shall not be counted for any state aid purposes. Nothing herein contained shall, however, require a board of education to admit a child who becomes five years of age after the school year has commenced unless his or her birthday occurs on or before the first of December.

1-a. No pupil over the compulsory attendance age in his or her school

district shall be dropped from enrollment unless he or she has been absent twenty consecutive school days and the following procedure is complied with: The principal or superintendent shall schedule and notify, in writing and at the last known address, both the student and the person in parental relation to the student of an informal conference. At the conference the principal or superintendent shall determine both the reasons for the pupil's absence and whether reasonable changes in the pupil's educational program would encourage and facilitate his or her re-entry or continuance of study. The pupil and the person in parental relation shall be informed orally and in writing of the pupil's right to re-enroll at any time in the public school maintained in the district where he or she resides, if otherwise qualified under this section. If the pupil and the person in parental relationship fail, after reasonable notice, to attend the informal conference, the pupil may be dropped from enrollment provided that he or she and the person in parental relation are notified in writing of the right to re-enter at any time, if otherwise qualified under this section.

2. Nonresidents of a district, if otherwise competent, may be admitted into the school or schools of a district or city, upon the consent of the trustees or the board of education, upon terms prescribed by such trustees or board.

3. The school authorities of a district or city must deduct from the tuition of a nonresident pupil, whose parent or guardian owns property in such district or city and pays a tax thereon for the support of the schools maintained in such district or city, the amount of such tax.

4. a. Definitions. For purposes of this subdivision only, the following definitions shall apply.

(i) The term "school district of origin" shall mean the school district within the state of New York in which the child or youth in foster care was attending a public school or preschool on a tuition-free basis or was entitled to attend when the social services district or office of children and family services assumed responsibility for the placement, support and maintenance of such child or youth, which is

different from the school district of residence.

(ii) School district of residence. The term "school district of residence" shall mean the public school district within the state of New York in which the foster care placement is located, which is different from the school district of origin.

b. Except as provided in subdivision five of this section, the cost of instruction of children in foster care shall be borne by the school district of origin. Where a school district other than the school district of origin is designated in accordance with paragraph e of subdivision two of section thirty-two hundred forty-four of this article, the cost of instruction shall be borne by the school district of origin and the tuition paid to the designated school district of attendance shall be computed as provided in paragraph d of this subdivision, except that, where the foster care placement receives program support from a child care institution affiliated with a special act school district as defined in subdivision eight of section four thousand one of this chapter, and the designated school district of attendance, upon the recommendation of its committee on special education, contracts for such pupil's education pursuant to paragraph c, d, e, or f of subdivision two of section forty-four hundred one of this chapter or for a nonresidential placement pursuant to paragraph l of such subdivision, costs incurred shall be reimbursed in accordance with paragraph e of this subdivision. Notwithstanding any inconsistent provision of law, where the permanent residence of a pupil is outside of the state, the school district in which the pupil was located at the time the public agency placed such pupil shall be deemed the school district of origin of such pupil for purposes of this subdivision and shall be responsible for the cost of instruction of such pupil.

c. Children cared for in free family homes and children cared for in family homes at board, when such family homes shall be the actual and only residence of such children and when such children are not supported and maintained at the expense of a social services district or of a state department or agency, shall be deemed residents of the school district in which such family home is located.

d. For the purposes of this subdivision, tuition shall be fixed in an amount which represents the additional operating cost to the designated school district of attendance resulting from the attendance of a child for whom tuition is required, computed in accordance with a formula established by the commissioner of education.

e. Where the designated school district of attendance for a child or youth in foster care that receives program support from a child care institution affiliated with a special act school district, other than the board of the pupil's school district of origin as defined in paragraph a of this subdivision, upon the recommendation of its committee on special education, contracts for the instruction of such pupil pursuant to paragraph c, d, e, or f of subdivision two of section forty-four hundred one of this chapter or for a nonresidential placement pursuant to paragraph l of such subdivision, such board shall submit a claim to the commissioner for current year reimbursement of costs incurred for such pupil. The commissioner shall pay such claim in accordance with the applicable provisions of section thirty-six hundred nine-b of this chapter and shall be reimbursed by the school district identified as the pupil's school district of origin as defined in paragraph a of this subdivision. The commissioner shall deduct the amount of such claim from moneys otherwise due the school district of origin.

f. The identity of the school district of origin shall be established in accordance with the following procedure:

(i) Within ten days of the placement of such pupil, the public agency or its designee shall give written notice of such placement to the board of education of the school district believed to be the school district of origin. Such notification shall include the name of the pupil and any particulars about the pupil that pertain to the identification of the school district as the school district of origin as defined in paragraph a of this subdivision.

(ii) A board of education of a school district which receives notification pursuant to subparagraph (i) of this paragraph may submit to the public agency, within ten days of its receipt of such notice, additional evidence to establish that it is not the pupil's district of

origin as defined in paragraph a of this subdivision. Any evidence so submitted shall be considered by the agency prior to making its final determination, which shall be made no later than five days after the agency's receipt of such additional evidence. In the event such school district fails to submit additional evidence within such ten day period, the determination of the public agency shall be final and the notification provided pursuant to subparagraph (i) of this paragraph shall be deemed final notification of such determination.

(iii) If, upon its review, the public agency determines that the school district notified pursuant to subparagraph (i) of this paragraph was not the pupil's district of origin, the public agency shall send notification to the correct school district, in the form prescribed by subparagraph (i) of this paragraph. Alternatively, if, upon its review, the public agency determines that the school district originally designated pursuant to subparagraph (i) of this paragraph is the pupil's district of origin, the public agency shall notify such district in writing of its final determination.

(iv) The board of education of the school district finally determined by the public agency to be the pupil's school district of origin may appeal such determination to the commissioner within thirty days of its receipt of final notification pursuant to this paragraph. Such an appeal shall be conducted in the same manner as an appeal from the actions of local school officials pursuant to section three hundred ten of this chapter, except that the factual allegations of the petitioner shall not be deemed true in the event the public agency elects not to appear in the appeal. The petitioner shall join as a party to the appeal any other school district suspected to be the pupil's actual school district of origin.

(v) If the commissioner finds that the school district notified pursuant to subparagraph (i) or (iii) of this paragraph was not the pupil's school district of origin as defined in paragraph a of this subdivision and that the correct school district was not joined as a party to the appeal, the commissioner shall direct the public agency to notify the correct school district pursuant to subparagraph (i) of this paragraph.

(vi) Notwithstanding any inconsistent provisions of law, during the pendency of all proceedings to review a denial of financial

responsibility, the commissioner shall issue an interim order assigning such financial responsibility to the school district or, alternatively, upon a determination that the public agency failed to make reasonable efforts to identify the school district of origin of such child, to the public agency. In the event the public agency fails to provide timely notice pursuant to subparagraph (i) of this paragraph, or fails to render its final determination in a timely manner, the public agency responsible for such pupil's residential placement shall reimburse the commissioner for the payments made to the district furnishing instruction pursuant to this paragraph during the pendency of all proceedings or for the duration of the current school year, whichever is longer, and the state comptroller shall withhold such amount from any moneys due the county or the city of New York, on vouchers certified or approved by the commissioner, in the manner prescribed by law or shall transfer such amount from the account of such state department or agency upon certification of the commissioner, and such funds shall be credited to the general support for public schools local assistance account of the department.

(vii) Any final determination or order of the commissioner concerning the school district of origin of any pupil under this section may only be reviewed in a proceeding brought in the supreme court pursuant to article seventy-eight of the civil practice law and rules. In any such proceeding under such article seventy-eight, the court may grant any relief authorized by the provisions of section seventy-eight hundred six of such law and rules and may also, in its discretion, remand the proceedings to the commissioner. A local social services commissioner or any state department or agency placing pupils pursuant to this subdivision is a proper party in any such appeal or proceeding.

(viii) Upon completion of all proceedings to review the denial of financial responsibility for the costs of instruction pursuant to this paragraph, the commissioner shall refund any payments made by a party cleared of such responsibility and shall collect any payments owed by a party found to have such responsibility. Where such transactions involve a school district liable for reimbursement pursuant to paragraph e of this subdivision, the commissioner shall appropriately increase or decrease the moneys due a school district by such amount in accordance with the provisions of section thirty-six hundred nine-b of this

chapter. Where such transactions involve the public agency making a placement pursuant to this subdivision, the comptroller shall increase or decrease the moneys due such public agency by such amount upon certification of the commissioner, transferring such amount to or from the account of such state department or agency to or from the general support for public schools local assistance account of the department.

g. If within ninety days from the entry of an order or judgment of a court of competent jurisdiction or the receipt of a decision of the commissioner pursuant to section three hundred ten of this chapter, determining the responsibility of a school district to pay tuition for a pupil in accordance with the provisions of paragraph a of this subdivision or of section five hundred four of the executive law, such school district has not made payment to the designated school district of attendance, the school district entitled to such payment may make application to the commissioner to receive a sum in the amount of such tuition from the apportionment of public money payable to the school district required to pay such tuition. The application for payment shall be accompanied by a certified copy of the order or judgment of a court, or a copy of the decision of the commissioner, and by proof of service by first class mail of a copy of such application upon the school district required to pay such tuition. Unless the school district required to pay such tuition shall have notified the commissioner of such payment within thirty days from the receipt of such application, the commissioner shall withhold an amount equal to the tuition for such pupil from the public money payable to the school district responsible for such tuition and shall pay such amount to the school district which has provided instruction to such pupil. The commissioner is authorized to promulgate regulations to implement the provisions of this paragraph.

5. a. Children who reside in a school for individuals with developmental disabilities operated by the department of mental hygiene and for whom the department has assumed responsibility for support and maintenance prior to July one, nineteen hundred seventy-seven and who are placed in a family home at board, a duly incorporated orphan asylum or other institution for the care, custody and treatment of children shall be admitted to the schools of the school district in which such

family home or institution is located. The department is authorized to reimburse each school district furnishing educational services to such children for the direct cost of such services in accordance with regulations promulgated by the commissioner and approved by the director of the budget. The educational costs for these children shall not be otherwise aidable or reimbursable.

b. Children who reside in a school for individuals with developmental disabilities operated by the department of mental hygiene and for whose support and maintenance the department assumes responsibility on or after July one, nineteen hundred seventy-seven and who are thereafter placed in a family home at board, a duly incorporated orphan asylum or other institution for the care, custody and treatment of children shall be admitted to the schools of the school district in which such family home or institution is located. The department is authorized to reimburse each school district furnishing educational services to such children for the direct cost of such services in accordance with regulations promulgated by the commissioner and approved by the director of the budget. The educational costs for these children shall not be otherwise aidable or reimbursable. The school district in which the child resided at the time the department of mental hygiene assumed responsibility for the support and maintenance of such child shall reimburse the education department for its expenditure on behalf of such child in an amount equal to the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter. The department of mental hygiene shall notify the department of the name of the child, the location of the family home or institution where the child is to be placed and the name of the school district in which such child resided at the time the department of mental hygiene assumed responsibility for his or her support and maintenance.

c. (1) The department is authorized to reimburse each school district furnishing educational services to children residing in schools for individuals with developmental disabilities operated by the office for people with developmental disabilities for the direct cost of such services in accordance with regulations promulgated by the commissioner and approved by the director of the budget.

(2) The school district in which each such child resided at the time the office for people with developmental disabilities assumed responsibility for the support and maintenance of such child shall reimburse the department for its expenditures on behalf of such child, in an amount equal to the school district basic contribution as such term is defined in subdivision eight of section forty-four hundred one of this chapter, for any such child admitted to a state school for individuals with developmental disabilities on or after July first, nineteen hundred seventy-eight. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph and the amount so deducted shall not be included in the approved operating expense of such district for the purpose of computing the approved operating expenses pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

d. (1) Children who reside in an intermediate care facility for individuals with developmental disabilities, other than a state operated school for individuals with developmental disabilities, as defined in regulations of the office for people with developmental disabilities, shall be admitted to the public schools, except as otherwise provided in subparagraph fourteen of this paragraph. The trustees or board of education of the school district in which such facility is located shall receive such children in the school or schools of the district for instruction and for the provision of necessary related services for a compensation to be fixed by the trustees or board of education, unless such trustees or board of education shall establish to the satisfaction of the commissioner that there are valid and sufficient reasons for refusal to receive such children. Evaluation of the educational needs of such children and placement in appropriate educational programs shall be

made in accordance with article eighty-nine of this chapter.

(2) A child who resides in an individualized residential alternative as defined in regulations of the office for people with developmental disabilities which is located in a school district other than the school district in which such child's parent or person in parental relation resided at the time such child was placed in an institution under the auspices of such office shall be deemed to reside in an intermediate care facility for purposes of this subdivision to the extent such child is enrolled in a home and community based waiver program approved by the Health Care Financing Administration.

(3) Such intermediate care facility is authorized to contract with the trustees or board of education of such school district for the provision of services, including transportation.

(4) The education department shall reimburse the school district in which such intermediate care facility is located for the full cost of all services, which shall, notwithstanding any inconsistent provision of law, include transportation services provided pursuant to a contract authorized by this paragraph. Provided, however, that notwithstanding any other law, rule or regulation to the contrary, that no reimbursement shall be payable pursuant to this subparagraph for due process costs incurred on or after July first, two thousand nine. Such reimbursement shall be for the period from September first through June thirtieth, and state reimbursement for July and August programs shall be in accordance with subdivision one of section forty-four hundred eight of this chapter. The provisions of subdivision two of such section forty-four hundred eight shall apply to all July and August programs provided pursuant to this section.

(5) The school district in which the child resided at the time of placement in such intermediate care facility shall reimburse the education department for its expenditure on behalf of such child in an amount equal to the school district's basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this article for any child first admitted to such intermediate care facility, on or after July first, nineteen hundred seventy-nine.

(6) Upon certification by the commissioner of education, the comptroller may deduct from any state funds which become due to the school district an amount equal to the reimbursement required to be made

by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expenses pursuant to paragraph t of subdivision one of section thirty-six hundred two of this article.

(7) Within forty-five days of the placement of a child in a school district, the intermediate care facility shall notify the school district in which the child resided at time of entrance to the intermediate care facility and the school district in which the facility is located. Such notice shall include the name of the child, the location of the intermediate care facility, and the name of the school district in which such child resided at the time of placement.

(8) A board of education of a school district which receives notification that a child has been placed in an intermediate care facility for individuals with developmental disabilities may deny financial responsibility for any child by written notice within twenty days of such notification to the school district furnishing instruction and the intermediate care facility.

(9) An intermediate care facility responsible for placing the child, the school district furnishing instruction or the parent or guardian of the child involved may appeal a denial of responsibility to the commissioner of education. If the commissioner finds that the child was not a resident of the school district that was notified that the child was a resident therein, the commissioner shall request the intermediate care facility to ascertain the correct school district and notify such school district pursuant to subparagraph six of this paragraph. The commissioner shall review and determine responsibility for the child in question. If the commissioner finds that a child has no residence in this state, he shall determine that there is no local contribution for such child.

(10) If the intermediate care facility fails to make a reasonable effort to identify the residence of such a child, such agency shall be responsible for the local contribution and, upon notification by the commissioner of education, shall pay such amount to the commissioner of education.

(11) If the intermediate care facility rejects the finding of the committee on special education of the school district of attendance, or

a finding affirmed or revised on appeal, such facility shall retain responsibility for payment of the cost of instruction of such child.

(12) Any final determination or order of the commissioner concerning residence or placement of any child under this paragraph may only be reviewed in a proceeding brought in the supreme court pursuant to article seventy-eight of the civil practice law and rules. In any such proceeding, the court may grant any relief authorized by the provisions of section seventy-eight hundred six of such law and rules or may, in its discretion, remand the proceedings to the commissioner. An intermediate care facility attempting to place a child pursuant to this paragraph shall be considered a proper party to any such proceeding.

(13) The school district providing educational services to children placed pursuant to this paragraph shall provide a report on the status of each such child with a handicapping condition annually to the committee on special education of the school district in which the child resided at the time of admission to the intermediate care facility for individuals with developmental disabilities. Such report shall also be sent to the parent or guardian of the child and the office for people with developmental disabilities.

(14) The board of education responsible for providing appropriate educational services for a child receiving care in an intermediate care facility developed pursuant to the residential school bed development program, as authorized by chapter fifty-four of the laws of nineteen hundred eighty-five or any subsequent enactment extending such program, shall be the board of education of the school district in which such child would be deemed to reside but for such child's placement in such an intermediate care facility. The department shall reimburse such school district of residence for all nonfederally reimbursable costs of such educational services in accordance with subparagraph four of this paragraph as if such district were the school district in which the intermediate care facility is located, and such school district of residence shall be responsible for reimbursement of the department for its expenditure on behalf of the child in an amount equal to the school district basic contribution, as defined in subdivision eight of section four thousand four hundred one of this chapter. The comptroller may deduct the amount of such reimbursement from any state funds due the district in the manner prescribed in subparagraph six of this paragraph.

e. Notwithstanding the provisions of paragraph a of subdivision five of section thirty-six hundred four of this chapter, the commissioner shall be authorized to grant a waiver excusing the late filing of claims submitted for costs incurred pursuant to this subdivision, upon findings that the school district has submitted a timely request for a waiver and has submitted proof satisfactory to the commissioner that the delay in filing was caused by a party other than the school district. A request for such a waiver, together with all supporting documentation, shall be submitted to the commissioner within sixty days after the date on which this paragraph was enacted, or within fourteen months after the end of the school year in which services were provided pursuant to this subdivision, whichever is later.

6. Except as provided in subdivision five of this section or by article eighty-one of this chapter, children cared for in a hospital or other institution for the care, custody and treatment of children, other than a school and excepting children of the officers and employees of such hospital or institution, shall not, by reason of their presence in such hospital or institution, be deemed to be residents of the school district in which such hospital or institution is located. The trustees or board of education of the school district of their residence shall provide educational services for such children. Such services may be provided by a tutor employed by the district, by contract with a school connected with such hospital or institution, or by contract with the local public school district in which such hospital or institution is located. Such contracts shall be limited to the cost of educational services and shall not include maintenance or medical services. Provided, however, if such children are supported and maintained at the expense of a social services district, the cost of said instruction shall be paid by the social services district which is liable for payment of the cost of their support and maintenance. In the case of hospitals or institutions located in the state of New York, the trustees or board of education of a school district in which such a hospital or institution is located shall receive such children in the school or schools of the district for instruction for a compensation to be fixed by the trustee or board of education, unless such trustees or board of

education shall establish to the satisfaction of the commissioner of education that there are valid and sufficient reasons for refusal to receive such children.

6-a. Notwithstanding subdivision six of this section or any other law to the contrary, the commissioner of the office of children and family services shall be responsible for the secular education of youth under the jurisdiction of the office and may contract for such education with the trustees or board of education of the school district wherein a facility for the residential care of such youth is located or with the board of cooperative educational services at which any such school district is a component district for special education programs, related services and career and technical education services and music, art and foreign language programs in accordance with subparagraph eight of paragraph (h) of subdivision four of section nineteen hundred fifty of this chapter. A youth attending a local public school while in residence at such facility shall be deemed a resident of the school district where his parent or guardian resides at the commencement of each school year for the purpose of determining which school district shall be responsible for the youth's tuition pursuant to section five hundred four of the executive law.

7. Youth incarcerated in county correctional facilities or youth shelters. a. A person under twenty-one years of age who has not received a high school diploma and who is incarcerated in a correctional facility maintained by a county or by the city of New York or in a youth shelter is eligible for educational services pursuant to this subdivision and in accordance with the regulations of the commissioner. Such services shall be provided by the school district in which the facility or youth shelter is located, within the limits of the funds allocated by the commissioner for such purposes pursuant to section thirty-six hundred two of this chapter and pursuant to a plan approved by the commissioner. School districts shall submit such plan by July fifteenth of each school year. Boards of education are authorized to contract for the provision of such educational services by a board of cooperative educational services or by another public school district.

b. Except as otherwise provided in this paragraph, the school district in which the child resided at the time of the child's commitment to the custody of the sheriff or local commissioner of corrections or youth shelter shall reimburse the education department for its expenditure for the full time equivalent attendance of such child pursuant to subdivision thirteen of section thirty-six hundred two of this chapter on behalf of such child, in an amount equal to the product of such full time equivalent attendance and the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter, provided, however, that such basic contribution shall be multiplied by the full time equivalent attendance multiplied by one hundred twenty per centum for such children attending programs which operate between July first and June thirtieth. If at the applicable time specified in this paragraph a school district other than the school district in which the child resides is responsible for the cost of instruction of the child or for reimbursement of the state for its expenditure on behalf of the child pursuant to any provision of this chapter, then such other school district shall be responsible for reimbursement of the education department in accordance with this paragraph. Upon certification by the commissioner, the comptroller shall deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

c. After admission of a child eligible for educational services pursuant to this subdivision, but within a time prescribed by the commissioner in regulations, the correctional facility maintained by the county or the city of New York shall furnish such child with information concerning the availability of such educational services and shall submit a request for educational services to the school district in which the facility is located. Such request shall conform to requirements prescribed by the commissioner by regulation in consultation with the state commission of correction and shall include,

but shall not be limited to, notice of: the name of the child, the name and location of the facility in which such child is incarcerated, the last grade completed by the child as reported by the child, the anticipated duration of the incarceration and the last known residence of such child at the time of the child's commitment to custody. The school district in which the facility is located shall notify other appropriate agencies, including, but not limited to, the education department and the school district identified as being responsible for the educational costs of such child pursuant to paragraph b of this subdivision, that such a request for educational services has been received. The commissioner shall promulgate regulations specifying the time within which such notice shall be provided and the contents of such notice, and establishing a procedure by which a school district may request the commissioner to review its identification as the school district responsible for the educational costs of such child.

d. Upon release or discharge of a child eligible for educational services pursuant to this subdivision, the correctional facility shall apprise such child that further educational services may be available pursuant to this section through the school district in which the child resides or in which the child is otherwise entitled to attend school, and shall, at the request of the student, notify such district of the child's desire to enroll in such district.

e. The state commission of correction shall promulgate rules and regulations in consultation with the commissioner which shall require each correctional facility operated by a county or the city of New York to cooperate with the school district or board of cooperative educational services providing educational services and to comply with the requirements of this subdivision.

f. As used in this subdivision, "youth shelter" shall mean an alternative residential facility for the incarceration of youths between the ages of sixteen and twenty-one who are remanded by the criminal courts.

8. Homeless children. A homeless child, as defined in subdivision one

of section thirty-two hundred nine of this article, over the age of five and under twenty-one years of age, who has not received a high school diploma, shall be entitled to attend a public school without the payment of tuition, in accordance with the provisions of section thirty-two hundred nine of this article.