§ 4002. Educational services. 1. Each child between the ages of five and twenty-one who resides in a child care institution and who has not yet graduated from high school shall be entitled to receive a free and appropriate education in the least restrictive environment for that child.

2. Each child shall be provided suitable educational services in the least restrictive environment which can be provided by one of the day programs listed below. The need of the individual child shall determine the program that shall be offered. Such programs are as follows:

a. The program of the public schools, as defined by section forty-four hundred one of this chapter, where such child care institution is located or a neighboring public school program.

b. The program of the board of cooperative educational services serving the area in which the institution is located. Boards of cooperative educational services are hereby authorized to provide such services on the same basis as such services are provided to children residing in component districts of such boards.

c. A special act school district.

d. An approved private school operated by such institution, or a private non-residential school approved by the state education department. Children who receive care in a residential treatment facility for children and youth which is operated by an authorized agency may be placed in a private school operated by such residential treatment facility or in a private school operated by the authorized agency.

e. Appointment by the commissioner to a state or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of this chapter.

f. Contracts with the state university at Binghamton for non-residential special services or programs at the children's unit for

treatment and evaluation which have been approved by the commissioner.

* g. Related services which shall in appropriate cases be provided or assured to students with disabilities and which shall include audiology, counseling including rehabilitation counseling services, occupational therapy, parent counseling and training, school health services, school nurse services, school social work, physical therapy, speech pathology, medical services as defined in regulations, psychological services, orientation and mobility services, assistive technology service as defined under federal law, interpreting services, other appropriate developmental, corrective or other support services, and appropriate access to recreation, as such terms are defined by regulations of the commissioner and approved by the director of the budget. Such term does not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of such device.

* NB Effective until June 30, 2027

* g. Related services which shall in appropriate cases be provided or assured to students with disabilities and which shall include audiology, counseling including rehabilitation counseling services, occupational therapy, parent counseling and training, school health services, school social work, physical therapy, speech pathology, medical services as defined in regulations, psychological services, orientation and mobility services, assistive technology service as defined under federal law, other appropriate developmental, corrective or other support services, and appropriate access to recreation, as such terms are defined by regulations of the commissioner and approved by the director of the budget.

* NB Effective June 30, 2027

h. Hospital instruction, which shall be provided as specified in the regulations of the commissioner.

i. Other programs approved by the commissioner.

3. Each child care institution maintaining a school shall appoint a committee on special education of the same composition as required of public schools by section forty-four hundred two of this chapter. Such

committee shall have responsibility for evaluating each pupil suspected of having a handicapping condition who has been placed in the care of a child care institution by a public agency and each child placed in a residential treatment facility for children and youth, and placing such children in an appropriate special education program as provided in section forty hundred five of this article. Such committee shall follow the procedures contained in section forty-four hundred two of this chapter. A residential treatment facility for children and youth which is operated by an authorized agency may share the services of a committee on special education established pursuant to this subdivision or other provisions of law.