§ 4406. Procedures through the family court; cost of certain educational services. 1. When the family court pursuant to section two hundred thirty-six of the family court act shall issue an order to provide for educational services, including transportation, tuition or maintenance of such children with disabilities, the commissioner, if he approves such order, shall issue a certificate to such effect in duplicate, one of which shall be filed with the clerk of the board of supervisors or other governing elective body of the county or chief fiscal officer of the city of New York and one in the office of the commissioner. Refusal of the commissioner to approve such order may be reviewed only in accordance with the provisions of article seventy-eight of the civil practice law and rules.

2. One-half of the cost of providing such services, as provided in subdivision one of this section, as certified by the commissioner, is hereby made a charge against the county or the city of New York in which any such child with disabilities resides, and the remaining one-half of the cost thereof shall be paid by the state out of moneys appropriated therefor. All claims for services rendered and for supplies furnished and for other expenses incurred in providing such services, shall be paid in the first instance by the board of supervisors or other governing elective body of the county or chief fiscal officer of the city of New York in which such child with disabilities resides, upon vouchers presented and audited in the same manner as in the case of other claims against the county or the city of New York.

3. The legislature shall appropriate an amount sufficient to pay one-half of the claims paid by a county or the city of New York for the purposes and in the manner herein specified. The clerk of the board of supervisors or other governing elective body of each county or chief fiscal officer of the city of New York which has paid claims as provided herein shall, not more than once in each month, transmit to the commissioner of education a certified statement in the form prescribed by him, stating the amount expended for the purposes specified herein, the date of each expenditure, and the purpose for which it was made. Upon the receipt of such certified statement the commissioner of education shall examine the same, and if such expenditures were made as

required by law he shall approve it and transmit it to the comptroller for audit. The comptroller shall thereupon issue his warrant in the amount specified in such approved statement for the payment thereof out of moneys appropriated therefor to the county treasurer of the county or chief fiscal officer of the city of New York by which such payments were made.

4. The commissioner is hereby authorized after consultation with an advisory task force to be appointed by the commissioner, appropriately representative of consumers and providers of such services, to establish program and expenditure guidelines and standards for the provision of special services or programs as defined in section forty-four hundred one of this article for children with disabilities who are under the age of five and are not entitled to attend public schools without the payment of tuition pursuant to section thirty-two hundred two of this chapter.

5. a. Each county and the city of New York may perform a fiscal audit of such services or programs within their respective county or city ordered by the family court pursuant to section two hundred thirty-six of the family court act for preschool age children with disabilities.

b. Payments made pursuant to this section by the county or the city of New York shall, upon the conclusion of the July first to June thirtieth school year for which such payment was made, be subject to audit against the actual difference between such audited expenditures and revenues. Any overpayments made shall be refunded to such county or city or such county or city shall withhold the amount of such overpayment from any other payments due to the claimant and shall report such overpayments to the commissioner.

6. Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on or after July first, two thousand based on a claim for services rendered, provided however, that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment issued on or after July first, two thousand or a final audit.