§ 236. Powers of the family court with regard to certain handicapped children. 1. This section shall apply for: (a) services provided to children with handicapping conditions as defined in subdivision one of section forty-four hundred one of the education law who were not eligible, prior to September first, nineteen hundred eighty-six, for educational services during July and August pursuant to article seventy-three, eighty-five, eighty-seven, eighty-eight or eighty-nine of the education law; (b) for services provided to children with handicapping conditions who meet all the criteria of subdivision one of section forty-four hundred one of the education law except that such children 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 the education law and that such children are also not eligible for educational services pursuant to article seventy-three, eighty-five, eighty-seven, eighty-eight or eighty-nine of the education law; (c) for services provided to children with handicapping conditions who meet all the criteria of subdivision one of section forty-four hundred one of the education law except that such children are five years of age or under and: (i) are first eligible to attend public school in the nineteen hundred eighty-seven--eighty-eight or the nineteen hundred eighty-eight--eighty-nine school year but are not eligible for educational services pursuant to the education law during the months of July and August, nineteen hundred eighty-seven or nineteen hundred eighty-eight, or (ii) are not eligible to commence a state appointment pursuant to article eighty-five, eighty-seven or eighty-eight of the education law during the months of July and August; (d) for services provided during the nineteen hundred eighty-nine--ninety school year, pursuant to the provisions of subdivision six of section forty-four hundred ten of the education law; (e) for services provided prior to July first, nineteen hundred ninety-one to children with handicapping conditions who met the criteria of subdivision one of section forty-four hundred one of the education law except that such children were three years of age or under and (i) were not eligible for services pursuant to section forty-four hundred ten of such law, or (ii) were not eligible for services through a state appointment pursuant to article eighty-five, eighty-seven or eighty-eight of such law; and (f) for services provided on or after July

first, nineteen hundred ninety-one to children with handicapping conditions who meet the criteria of subdivision one of section forty-four hundred one of the education law except that such children are three years of age or under and (i) are not eligible for services pursuant to section forty-four hundred ten of such law, or who are first eligible for services pursuant to such section whose parents or persons in parental relationship elect to have them continue to be eligible to receive services pursuant to this section through August thirty-first of the calendar year in which the child turns three or (ii) are not eligible for services through a state appointment pursuant to article eighty-five, eighty-seven or eighty-eight of such law. (f) for services provided to children with handicapping conditions who meet the criteria of subdivision one of section forty-four hundred one of the education law and who, on or before June thirtieth, nineteen hundred ninety-three, are receiving services or who, as of July first, nineteen hundred ninety-three, have petitioned for services pursuant to this section prior to such date and which complete petition has not been denied prior to October first, nineteen hundred ninety-three and whose parent has elected to continue the provision of such services until the child is no longer an eligible child under title II-A of article twenty-five of the public health law or is eligible for services pursuant to section forty-four hundred ten of the education law. (g) Notwithstanding any other provision of this section, this section shall not apply for services to children who were not receiving services prior to July first, nineteen hundred ninety-three, or who, as of July first, nineteen hundred ninety-three, have petitioned for services prior to July first, nineteen hundred ninety-three and whose complete petition has been denied prior to October first, nineteen hundred ninety-three.

2. Whenever such a child within the jurisdiction of the court pursuant to this section appears to the court to be in need of special educational services as provided in section forty-four hundred six of the education law, including transportation, tuition or maintenance, a suitable order may be made for the education of such child in its home, a hospital, or other suitable institution, and the expenses thereof, when approved by the court and duly audited, shall be a charge upon the county or the city of New York thereof wherein the child is domiciled at

the time application is made to the court for such order.

3. (a) Every such order for services to be provided after September first, nineteen hundred eighty-six which provides for the transportation of a child shall further require that such transportation shall be provided by the county or the city of New York, as the case may be, and, that the city of New York may delegate the authority to provide such transportation to the board of education or the city school district of such city.

(b) Such order shall further require that such transportation shall be provided within thirty days of the issuance of such order, and, shall be provided as part of a municipal cooperation agreement, as part of a contract awarded to the lowest responsible bidder in accordance with the provisions of section one hundred three of the general municipal law, or as part of a contract awarded pursuant to an evaluation of proposals to the extent authorized by paragraphs e and f of subdivision fourteen of section three hundred five of the education law and otherwise consistent with the provisions of this subdivision, and that buses and vehicles utilized in the performance of such contract shall meet the minimum requirements for school age children as established by the commissioner of transportation.