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SPECIAL EDUCATION FIELD ADVISORY

From: James P. DeLorenzo

Subject: Chapter 56 of the Laws of 2014 relating to Parental Consent for Initial Provision of a 12-month Special Service and/or Program

Section 4402 of New York State Education Law has been amended by Chapter 56 of the Laws of 2014 to repeal the requirement that the district obtain parental consent prior to the initial provision of special education services to a student with a disability in a 12-month special service and/or program. Effective March 31, 2014, school districts are no longer required to obtain parental consent for the initial provision of special education services and programs during the months of July and August (i.e., 12-month special service and/or program). However, if a school district provides special education services to a student for the first time during the months of July and August and the student has not previously been identified as having a disability, parental consent must be obtained prior to the initial provision of special education to the student. A proposed amendment to State regulations to be consistent with the requirements of Chapter 56 will be presented to the Board of Regents at the July 2014 meeting. A copy of the full text of the relevant section of Chapter 56 is attached.

To ensure dissemination to appropriate individuals within a school district, I ask Superintendents to please share this memorandum with individuals such as Directors of Special Education, School Psychologists, Committee on Special Education and Committee on Preschool Special Education Chairpersons, Guidance Counselors and Directors of Pupil Personnel, and Parent Teacher Associations. Questions regarding this memorandum may be directed to the Special Education Policy Unit at 518-473-2878 or to the Special Education Quality Assurance Office in your region:

Central Regional Office	(315) 428-4556
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(518) 473-1185
Long Island Regional Office	(631) 952-3352
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2002
Nondistrict Unit	(518) 473-1185

Section 16-a of Chapter 56 of the Laws of 2014

L. 2014, Ch. 56, Part A

§ 16-a. Paragraph a of subdivision 2 of section 4402 of the education law, as amended by chapter 243 of the laws of 1989, is amended to read as follows:

a. The board of education or trustees of each school district shall be required to furnish suitable educational opportunities for ~~[children with handicapping conditions]~~ students with disabilities by one of the special services or programs listed in subdivision two of section forty-four hundred one of this article. The need of the individual child shall determine which of such services shall be rendered. Each district shall provide to the maximum extent appropriate such services in a manner which enables ~~[children with handicapping conditions]~~ students with disabilities to participate in regular education services when appropriate. Such services or programs shall be furnished between the months of September and June of each year, except that for the nineteen hundred eighty-seven--eighty-eight school year and thereafter, with respect to the students whose ~~[handicapping conditions]~~ disabilities are severe enough to exhibit the need for a structured learning environment of twelve months duration to maintain developmental levels, the board of education or trustees of each school district upon the recommendation of the committee on special education ~~[and, in the first instance, the consent of the parent]~~ shall also provide, either directly or by contract, for the provision of special services and programs as defined in section forty-four hundred one of this article during the months of July and August as contained in the individualized education program for each eligible ~~[child]~~ student, and with prior approval by the commissioner if required; provided that ~~[(i) a student with a handicapping condition who is first eligible to attend public school in the nineteen hundred eighty seven eighty eight school year shall not be eligible to receive services pursuant to this paragraph during the months of July and August nineteen hundred eighty seven and (ii) a student with a handicapping condition who is first eligible to attend public school in the nineteen hundred eighty eight eighty nine school year shall not be eligible to receive services pursuant to this paragraph during the months of July and August nineteen hundred eighty eight and (iii) a student with a handicapping condition who is eligible for services during the months of July and August nineteen hundred eighty nine pursuant to the provisions of subdivision six of section forty four hundred ten of this article shall not be eligible to receive services pursuant to this paragraph during such months and (iv)]~~ a student with a ~~[handicapping condition]~~ disability who is eligible for services, including services during the months of July and August, pursuant to section forty-four hundred ten of this article shall not be eligible to receive services pursuant to this paragraph during the months of July and August.