

SCHOOL DISTRICT ALERT: NEW LEGISLATION AFFECTING SPECIAL EDUCATION

Education Law Alert
July 5, 2012

The New York State Legislature just passed two new pieces of legislation that are currently awaiting Governor Andrew Cuomo's signature. These bills will significantly affect how committees on special education (CSE) make decisions when developing educational plans for students with disabilities.

The Hodgson Russ Education Law Practice Group will keep you up to date on these important legislative changes, and will advise if and/or when Governor Cuomo signs these bills into law.

Attorneys

Ryan Everhart

Andrew Freedman

Practices & Industries

Education

Special Education

Determinations of Appropriate Educational Programs and Tuition Reimbursement for Special Education Students

New York State Assembly Bill No. 10722 was passed by the Senate and Assembly on June 21, 2012. This bill requires CSEs to consider the *impact of a child's home environment and family background* when making recommendations for special education instruction and related services. A failure to consider home and family factors will be considered a denial of free appropriate public education (FAPE).

This is the first legislation which seeks to infuse home or family issues into a CSE discussion. Previously, the courts have been steadfast in assuring that educational programs for disabled students only address problems that arise in the classroom. This new bill blurs the line between home and school, and has the potential to cause many more disputes and issues between schools and parents.

The bill also requires a district to grant and/or deny a parent's request for private school tuition reimbursement within 90 days. If the request is granted, tuition must be provided within 30 days of the date the request is granted. This timeline adds further obligations for school district when addressing tuition reimbursement claims.



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Additional Parent Member of Committees on Special Education

New York State Assembly Bill No. 7216 modifies the inclusion of the additional parent member in the CSE meeting process. This bill states that the additional parent member would only be required to attend the CSE meeting if requested in writing at least 72 hours prior to the meeting by the parents/guardians, student, or a member of the CSE. In addition, the bill requires that the parents/guardians of the student must receive proper written notice of their right to have an additional parent attend any meeting of the CSE regarding the student. The notice must be accompanied by a statement prepared by the New York State Education Department that explains the role of having the additional parent at the meeting.

This bill will ease CSE obligations in securing additional parent members for meetings, which has historically been a difficult task for school districts. Since parents are now more knowledgeable of the special education process and have numerous sources of data to assist them, the need for an additional parent member has decreased over the past few years. This bill is a manifestation of this fact.

We will immediately notify you of any developments relating to these two bills, as well as any other significant legislative developments.