

**Section 3602-c of the Education Law
as Amended by Chapter 378 of the Laws of 2004**

§ 4. Subdivision 1 of section 3602-c of the education law is amended by adding a new paragraph f and subdivisions 2, 2-a and 7, subdivisions 2 and 7 as amended by section 1 of part H of chapter 61 of the laws of 2006 and subdivision 2-a as amended by chapter 430 of the laws of 2006, are amended and a new subdivision 2-b is added to read as follows:

f. "School district of location" means the school district in which the nonpublic elementary or secondary school attended by the student is located.

2. **a.** Boards of education of all school districts of the state shall furnish services to [~~pupils~~] **students** who are residents of this state and who attend nonpublic schools located in such school districts, upon the written request of the parent or person in parental relation of any such [~~pupil~~] **student**. Such a request **for career education or services to gifted students** shall be filed with the board of education of the school district in which the parent or person in parental relation of the [~~pupil~~] **student** resides on or before the first day of June preceding the school year for which the request is made[~~provided that, in~~]. **In the case of education for students with disabilities, such a request shall be filed with the trustees or board of education of the school district of location on or before the first of June preceding the school year for which the request is made, or by July first, two thousand seven for the two thousand seven--two thousand eight school year only, provided that** where a student is first identified as a student with a disability after the first day of June preceding the school year for which the request is made, **or thirty days after the chapter of the laws of two thousand seven which amended this paragraph, takes effect where applicable, and prior to the first day of April of such current school year** [~~or when a student with a disability establishes residence in the school district after June first of the preceding year and prior to April first of the current school year~~], such request shall be submitted within thirty days after such student is first identified [~~or establishes residence in the district, as applicable~~]. For students first identified [~~or establishing residence~~] after March first of the current school year, any such request for education for students with disabilities in the current school year that is submitted on or after April first of such current school year, shall be deemed a timely request for such services in the following school year.

b. (1) For the purpose of obtaining education for students with disabilities, as defined in paragraph d of subdivision one of this section, such request shall be reviewed by the committee on special education [~~in accordance with the provisions of section forty-four hundred two of this chapter~~] **of the school district of location, which shall develop an individualized education service program for the student based on the student's individual needs in the same manner and with the same contents as an individualized education program. The committee on special education shall assure that special education programs and services are made available to students with disabilities attending nonpublic schools located within the school district on an equitable basis, as compared to special education programs and services provided to other students with disabilities attending public or nonpublic schools located within the school district.** Review of the recommendation of the committee on special education may be obtained by the parent or person in parental relation of the

pupil pursuant to the provisions of section forty-four hundred four of this chapter. [~~Such~~]

(2) In the event an individualized education program for the two thousand seven--two thousand eight school year is developed pursuant to this section by the committee on special education of the student's school district of residence prior to the effective date of this subparagraph, with the consent of the parent or person in parental relation, such school district shall forward such individualized education program to the committee on special education of the school district of location. Such individualized education program shall be deemed to be an individualized educational services program for purposes of this subdivision, and the school district of location shall provide the services recommended in such individualized education program, unless and until it is amended by its committee on special education in the manner prescribed by law. If, prior to the effective date of this subparagraph, a student suspected of having a disability has been referred to the committee on special education of the student's school district of residence the results of such evaluation, with the consent of the parent or person in parental relation of the student, shall be shared with the committee on special education of the school district of location, which may adopt such evaluation as its own or conduct a new evaluation in whole or in part.

(3) Notwithstanding any other provision of this section to the contrary, an individualized education program developed for the two thousand six--two thousand seven school year shall continue to be in full force and effect and binding on the school districts through the end of such school year. Such individualized education program shall be deemed an individualized educational services program for purposes of dispute resolution.

c. Due process complaints relating to compliance of the school district of location with child find requirements, including evaluation requirements, may be brought by the parent or person in parental relation of the student pursuant to section forty-four hundred four of this chapter.

d. In the case of career education and education of gifted students, the school district of residence shall contract with the school district in which the nonpublic school attended by the pupil is located, for the provision of services pursuant to this section[~~, except that in the case services to students with disabilities in the two thousand six--two thousand seven school year, the school district of residence may contract with the school district in which the nonpublic school attended by the student is located or may provide such services directly~~].

2-a. For the education for students with disabilities provided in the two thousand seven--two thousand eight school year and thereafter, to the extent required by federal law, the school district [~~in which the nonpublic elementary or secondary school attended by the~~] of location of compliance with the requirements of paragraph ten of subsection (a) of section fourteen hundred twelve of title twenty of the United States code, including but not limited to, equitable provision of services, child find and consultation requirements. The committee on special education of the school district [~~in which the nonpublic school is located~~] of location shall [~~immediately refer any nonpublic school student who is a resident of this state and has been identified through its child find process as a student suspected of having a disability to the committee on special education of the student's school district of residence~~] be responsible for evaluation and possible identification as a student with a disability [~~by the committee on special education of the school district of residence~~] of all students attending nonpublic

schools located within the school district, including students who are not New York residents. The school district [~~in which the nonpublic school is located~~] of location shall expend a proportionate amount of its federal funds made available under part B of the individuals with disabilities education act for the provision of services to students with disabilities attending such nonpublic schools, including students who are not New York residents, provided that such federal funds may not be used for the cost of carrying out the child find requirement. School districts shall obtain parental consent prior to the release of personally identifiable information concerning a student attending a nonpublic school from records collected or maintained pursuant to Part B of the individuals with disabilities education act between such student's school district of residence and school district of location.

2-b. The school district of location shall provide special education programs and services to students with disabilities attending nonpublic schools in the school district who are not New York residents to the extent required under federal law and regulations and such students shall not have an individual right to receive special education programs and services pursuant to this section. The committee on special education shall develop services plans for such students in accordance with federal law and regulations. The provisions of subdivision two of this section shall not apply to such students, except that due process complaints relating to compliance of the school district of location with child find requirements, including evaluation requirements, may be brought by the parent or person in parental relation of the student pursuant to section forty-four hundred four of this chapter.

7. a. Boards of education of districts providing career education and gifted education services to non-resident [~~pupils~~] students shall be entitled to recover tuition from the district of residence of such [~~pupils~~] students in accordance with a formula promulgated by the commissioner by regulation.

b. In the case of the education for students with disabilities who are residents of New York, [~~such tuition shall exclude any costs paid with federal or state funds by the school district providing such services~~] a school district of location providing services to non-resident students shall be entitled to recover costs of services, costs of evaluation, and costs of committee on special education administration directly from the district of residence of the student if consent of the parent or person in parental relation is obtained to release of personally identifiable information concerning their child. If such consent is not obtained, the school district of location shall submit to the commissioner, in a form prescribed by the commissioner, a claim for costs of services, evaluation costs, and committee on special education administrative costs that includes the address of the student's permanent residence, including the school district of residence, and a certification by officials of the nonpublic school attended by the student that such address is the address of record of such student. Upon certification by the commissioner of the amount of such claim, the state comptroller shall deduct such amount from any state funds which become due to such school district of residence.

c. The amount charged by the school district of location for services, evaluation, eligible due process costs and committee on special education administrative costs shall not exceed the actual cost to the school district of location, after deducting any costs paid with federal or state funds. The commissioner shall adopt regulations prescribing a dispute resolution mechanism that will be available to a school district of residence where such district disagrees with the amount of tuition or costs charged by the school district of location.