



Legislation Text

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Int. No. 1380

By Council Members Rosenthal, Treyger, Dromm, Levine, Ampy-Samuel, Brannan, Levin, Rose, Adams, King, Kallos, Ayala, Lander, Powers, Grodenchik and Chin

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to annually report on claims for payment for tuition or services

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 21-A of the administrative code of the city of New York is amended by adding a new section 21-955.1 to read as follows:

§ 21-955.1 Annual reporting on requests for payment for tuition or services from parents of students with disabilities. a. Definitions. For purposes of this section, the following terms have the following meanings:

Accessible data. The term “accessible data” means data that is in a convenient and modifiable format. Accessible data can be indexed and searched.

Committee on special education. The term “committee on special education” has the same meaning as set forth in subdivision k of section 200.1 of title 8 of the New York codes, rules and regulations.

Disaggregated data. The term “disaggregated data” means numerical and non-numerical information that has been collected and compiled, but in no way summarized, analyzed or manipulated after collection.

Due process complaint notice. The term “due process complaint notice” has the same meaning as set forth in subdivision i of section 200.5 of title 8 of the New York codes, rules and regulations.

Free appropriate public education. The term “free appropriate public education” has the same meaning as set forth in section 1401 of title 20 of the United States Code.

Impartial due process hearing. The term “impartial due process hearing” has the same meaning as set

forth in subdivision j of section 200.5 of title 8 of the New York codes, rules and regulations.

Machine-readable format. The term “machine-readable format” means a non-proprietary format that permits automated processing.

Mediation. The term “mediation” has the same meaning as set forth in subdivision h of section 200.5 of title 8 of the New York codes, rules and regulations.

Metadata. The term “metadata” means a plain language data dictionary that provides a description for each column heading used within the data set and shall include a description of any acronym, technical term, unit of measure, range of possible values, relationship between or among columns within the data set, frequency of updates to the data set, and other information or description that can provide context to the data, such as the method of collection, a history of modifications to the data set format, data or methods of collection, or any other contextual information that the agency providing the data deems relevant, or that is specified in this bill.

Parent. The term “parent” has the same meaning as set forth in section 1401 of title 20 of the United States Code.

Refers for settlement. The term “refers for settlement” means that, following receipt of a ten-day notice or due process complaint, the department notifies the parent that it will engage in negotiating a written settlement agreement.

Resolution meeting. The term “resolution meeting” has the same meaning as set forth in subdivision j of section 200.5 of title 8 of the New York codes, rules and regulations.

Student with a disability. The term “student with a disability” has the same meaning as set forth in section 4401 of the education law.

Ten-day notice. The term “ten-day notice” means a written notice in which a parent states his or her intent to enroll a student with a disability in a private school pursuant to subparagraph (C) of paragraph (10) of subsection (a) of section 1412 of title 20 of the United States Code.

Written settlement agreement. The term “written settlement agreement” means an agreement between the department and a parent of a student with a disability in which the department agrees to pay for tuition or services to resolve claims raised in a ten-day notice or due process complaint notice.

b. No later than November 1, 2019, and on or before November 1 annually thereafter, the department shall submit to the speaker of the council and post on the department’s website an annual report regarding claims for payment for tuition or services made by parents of a student with a disability during the preceding academic year pursuant to a due process complaint notice or ten-day notice. The data contained in the annual report shall be organized in a manner that includes one row referencing each unique claim, with each row containing, but not limited to, the following information:

1. Whether each ten-day notice or due process complaint notice is submitted by a parent of a student with a disability or an attorney representing such parent;

2. The committee on special education region to which each ten-day notice is submitted;

3. The date the department receives each ten-day notice;

4. The date the department issues a response to each ten-day notice, if at all;

5. The date the department receives each due process complaint notice, if at all;

6. The date the department issues a response to each due process complaint notice, if at all;

7. The date the department refers for settlement, if at all;

8. The date of any resolution meeting that resolves all claims in the due process complaint notice, if such meeting takes place;

9. The date of any mediation that resolves all claims in the due process complaint notice, if such mediation takes place;

10. The date each impartial due process hearing commences, if at all;

11. The date each impartial due process hearing decision is rendered, if at all;

12. The date the department makes its first settlement offer, if at all;

13. The date a parent signs each written settlement agreement, if at all;

14. The date the department transmits each written settlement agreement to the comptroller for approval, if so transmitted;

15. The date the comptroller approves each written settlement agreement, if at all;

16. The date the department and parent execute each written settlement agreement, if at all;

17. The date the department issues a first tuition payment pursuant to each written settlement agreement, if so issued; and

18. The date the department issues a first payment for services pursuant to each written settlement agreement; if so issued.

c. The report of information required pursuant to subdivision b of this section shall contain accessible data and disaggregated data made available in a machine readable format. It shall also include the relevant metadata. If any information does not exist, it shall be signified by a null value.

d. In addition to the report required pursuant to subdivision b of this section, no later than November 1, 2019, and on or before November 1 annually thereafter, the department shall submit to the speaker of the council and post on the department's website an annual report regarding claims for payment for tuition or services made by parents of a student with a disability during the preceding academic year pursuant to a due process complaint notice or ten-day notice. The annual report shall include a list of all documents the department requires such parents to submit prior to signing a written settlement whether pursuant to a ten-day notice or a due process complaint notice. The annual report shall also include, but need not be limited to, the following information regarding claims for payment for tuition or services the department refers for settlement in response to a ten-day notice:

1. The percentage of instances in which the department responded to a ten-day notice (i) within 15 business days of receipt of the ten-day notice, (ii) within 16-30 business days of receipt of the ten-day notice and (iii) within 31 or more business days of receipt of the ten-day notice;

2. The percentage of instances in which the department made its first settlement offer (i) within 15 calendar days of receiving all documents the department requires parents submit prior to executing a written settlement, (ii) within 16-45 calendar days of receiving all such documents and (iii) within 46 or more calendar days of receiving all such documents;

3. Where the department transmitted a proposed written settlement agreement to the comptroller for approval:

(a) the percentage of instances in which the comptroller approved the written settlement agreement (i) within 15 calendar days of receipt by the comptroller, (ii) within 16-45 calendar days of receipt by the comptroller and (iii) within 46 or more calendar days of receipt by the comptroller; and

(b) the percentage of instances in which a written settlement agreement was signed by the department (i) within 15 calendar days of receipt of approval by the comptroller, (ii) within 16-45 calendar days of receipt of approval by the comptroller and (iii) within 46 or more calendar days of receipt of approval by the comptroller;

4. Where the parent signed a written settlement agreement, the percentage of instances in which a written settlement agreement was signed by the department (i) within 15 calendar days of receipt by the department, (ii) within 16-45 calendar days of receipt by the department and (iii) within 46 or more calendar days of receipt by the department; and

5. Where a written settlement agreement was signed by both the parent and the department,

(a) the percentage of instances in which such written settlement agreement was signed by the parent and department (i) within 90 calendar days of the date the department refers for settlement, (ii) within 91-180 calendar days of the date the department refers for settlement and (iii) within 181 or more calendar days of the date the department refers for settlement;

(b) the percentage of instances in which the department issued a first tuition payment (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the

department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department; and

(c) the percentage of instances in which the department issued a first payment for services (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department.

e. The report required pursuant to subdivision d of this section shall also include, but need not be limited to, the following information regarding claims the department refers for settlement in response to a due process complaint notice:

1. Where the department transmitted a proposed written settlement agreement to the comptroller for approval:

(a) the percentage of instances in which the comptroller approved the written settlement agreement (i) within 15 calendar days of receipt by the comptroller, (ii) within 16-45 calendar days of receipt by the comptroller and (iii) within 46 or more calendar days of receipt by the comptroller; and

(b) the percentage of instances in which a written settlement agreement was signed by the parent and the department (i) within 15 calendar days of receipt of approval by the comptroller, (ii) within 16-45 calendar days of receipt of approval by the comptroller and (iii) within 46 or more calendar days of receipt of approval by the comptroller;

2. Where the parent signed a written settlement agreement, the percentage of instances in which a written settlement agreement was signed by the department (i) within 15 calendar days of receipt by the department, (ii) within 16-45 calendar days of receipt by the department and (iii) within 46 or more calendar days of receipt by the department; and

3. Where a written settlement agreement was signed by both the parent and the department,

(a) the percentage of instances in which such written settlement agreement was signed by the parent and department (i) within 90 calendar days of the date the department refers for settlement, (ii) within 91-180 calendar days of the date the department refers for settlement and (iii) within 181 or more calendar days of the date the department refers for settlement;

(b) the percentage of instances in which the department issued a first tuition payment (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department; and

(c) the percentage of instances in which the department issued a first payment for services (i) within 30 calendar days of the date such written settlement agreement was signed by the parent and the department, (ii) within 31-60 calendar days of the date such written settlement agreement was signed by the parent and the department and (iii) within 61 or more calendar days of the date such written settlement agreement was signed by the parent and the department.

f. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or other personally identifying information.

§ 2. This local law takes effect immediately, and expires and is deemed repealed seven years after it becomes law.