

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2020**

No. 20

Introduced by Council Members Rosenthal, Treyger, Dromm, Levine, Ampry-Samuel, Brannan, Levin, Rose, Adams, King, Kallos, Ayala, Lander, Powers, Grodenchik, Chin, Lancman, Barron, Louis and Rivera.

A LOCAL LAW

In relation to requiring the department of education to annually report on certain claims for payment for tuition or services

Be it enacted by the Council as follows:

Section 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:

Comptroller. The term “comptroller” means the office of the New York city comptroller.

Department. The term “department” means the New York city department of education.

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.

Parent. The term “parent” has the same meaning as set forth in subsection (23) of section 1401 of title 20 of the United States code.

Referred for settlement. The term “referred for settlement” means when, following receipt and investigation of a ten-day notice or due process complaint, the department notifies the parent that it is willing to engage in settlement negotiations.

Student with a disability. The term “student with a disability” has the same meaning as set forth in subdivision 1 of section 4401 of the education law.

Ten-day notice. The term “ten-day notice” means a written notice in which a parent states an 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, in an amount agreed to by the parties and approved by the comptroller, to resolve claims raised in a ten-day notice or due process complaint notice.

b. No later than November 1, 2020, 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 that were made by parents of a student with a disability pursuant to a due process complaint notice filed during the preceding academic year or a ten-day notice filed for the preceding academic year, and that resulted in a written settlement agreement. The data contained in the annual report shall, where applicable, be organized in a manner that includes one row referencing each such unique claim settled by the department, with each row containing, but not limited to, the following information:

1. Whether the student was represented by an attorney, represented by an advocate or other individual other than an attorney, or was not represented;
2. The student’s community school district of residence;
3. The date on which the department received the due process complaint notice or ten-day notice that was the basis for the written settlement agreement;

4. The date the department referred for settlement such notice;
5. The date that the parent and the department agreed to a proposed written settlement agreement that is subject to additional required approvals;
6. The date on which the department has received all approvals and authority necessary to sign a written settlement agreement;
7. The date the department receives from the parent a proposed written settlement agreement signed by the parent;
8. The date the department approved for payment each written settlement agreement; and
9. The date the department issued a first payment pursuant to each written settlement agreement, where applicable.

c. The report required pursuant to subdivision b of section 1 of this local law shall also include the following information:

1. The total number of impartial hearing officers certified by the state education department to cover the city of New York during the preceding academic year;
2. The number of impartial hearing officers who resigned, whose certification was revoked by the state education department or whose certification was suspended by the state education department during the preceding academic year in total and disaggregated by resignations, certification revocations and certification suspensions;
3. The annual compensation for each such officer from highest to lowest, the total number of cases assigned to each such officer during the preceding academic year and the total number of cases from which each such officer recused themselves during the preceding academic year;

4. A list of all documents the department may require parents to submit prior to signing a written settlement agreement, whether pursuant to a ten-day notice or a due process complaint notice. Notwithstanding the foregoing, nothing in this section shall prohibit the department from requiring parents to submit documents that are not on such list. Beginning with the report due on November 1, 2021, and annually thereafter, the department shall also be required to report, to the extent practicable, any additional documents that the department required any parent to submit during the preceding academic year that were not on the list submitted by the department pursuant to this subdivision in the prior annual report; and

5. The following information regarding claims for payment for tuition or services for the preceding academic year that result in a written settlement agreement:

(a) The percentage of instances in which a written settlement agreement was approved for payment by the department (i) within 15 calendar days of the date by which the department received all approvals necessary to enter into a written settlement agreement, (ii) between 16-45 calendar days after such date and (iii) 46 or more calendar days after such date;

(b) The percentage of instances in which a written settlement agreement was approved for payment by the department (i) within 15 calendar days of the date by which the department received the signed written settlement agreement from the parent, (ii) between 16-45 calendar days after such date and (iii) 46 or more calendar days after such date;

(c) The percentage of instances in which such written settlement agreement was approved for payment by the department (i) within 90 calendar days of the date the department referred the notice for settlement, (ii) between 91-180 calendar days after such date, and (iii) 181 or more calendar days after such date; and

(d) The percentage of instances in which the department issued a first payment pursuant to a written settlement agreement (i) within 30 calendar days of the date such written settlement agreement was approved for payment by the department, (ii) between 31-60 calendar days after such date and (iii) 61 or more calendar days after such date.

d. 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 five years after it becomes law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 19, 2019 and returned unsigned by the Mayor on January 21, 2020.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 20 of 2020, Council Int. No. 1380-A of 2019) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.