

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4396

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2022

The Assembly Education Committee reports favorably Assembly Bill No. 4396.

Many of New Jersey's most vulnerable students receive the educational program and services required in their individual education program at approved private schools for students with disabilities (APSSDs) as part of the statutorily created continuum of services established pursuant to N.J.S.18A:46-14.

Pursuant to regulation, APSSDs are required to submit annually to the Commissioner of Education an independent audit as part of the tuition setting process and accountability structure. It is not uncommon for the commissioner to take 20 years or more to complete the review of the submitted annual audit and finalize the tuition rate charged by the APSSDs to sending school districts for that school year. This inordinate delay creates havoc in the budgeting process for both the APSSDs and the sending school districts. There is also a manifest unfairness in holding APSSDs responsible for audits that were completed so far in the past, because it is difficult for the APSSDs to defend themselves against the audit review findings under these circumstances. Basic fairness to the APSSDs requires timely notice of the audit review findings and a meaningful chance to be heard and defend against the finding. There is also a concern that an audit finding by the commissioner regarding an audit completed many years ago will be repeated in each succeeding year as a continuing finding and thereby compound the financial impact of any disagreement, error, or omission.

The bill provides a timeline within which the Commissioner of Education must issue any adverse finding, adjustment, or penalty regarding an audit submitted by an APSSD. For audits submitted for any school year ending after the effective date of the bill, the action of the commissioner must be within seven years of the date of the submission of that audit. For audits submitted for any school year ending prior to the effective date of the bill, the action of the commissioner must be within seven years of the date of the submission of that audit or two years following the effective date of the bill, whichever is the later date.