

SENATE, No. 2344

STATE OF NEW JERSEY

INTRODUCED DECEMBER 15, 1997

By Senator PALAIA

1 AN ACT concerning services provided to nonpublic school students  
2 and amending P.L.1977, c.192 and P.L.1977, c.193.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 5 of P.L.1977, c.192 (C.18A:46A-5) is amended to read  
8 as follows:

9 5. Auxiliary services shall be provided only upon the consent of the  
10 parent or guardian and shall be provided in a location determined by  
11 the local board of education [, except that no such services shall be  
12 provided in a church or a sectarian school].  
13 (cf: P.L.1977, c.192, s.5)

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15 2. Section 7 of P.L.1977, c.193 (C.18A:46-19.5) is amended to  
16 read as follows:

17 7. Services for children enrolled in nonpublic schools shall be  
18 provided only upon the consent of the parent or guardian and shall be  
19 provided in a location determined by the local board pursuant to rules  
20 and regulations of the State board [, except that no such services shall  
21 be provided in a church or sectarian school].  
22 (cf: P.L.1977, c.193, s.7)

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24 3. This act shall take effect immediately.

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STATEMENT

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29 This bill amends New Jersey law concerning the provision of  
30 auxiliary and handicapped services to students in nonpublic schools to  
31 conform it with the June 23, 1997 United States Supreme Court  
32 decision, Agostini v. Felton. In that decision, the court held that  
33 publicly funded programs which provide supplemental, remedial  
34 instruction to nonpublic school students do not violate the

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 constitutionally required separation between church and state when  
2 such programs are held on the premises of sectarian schools.

3 This decision reverses a ban on publicly funded teachers providing  
4 services on sectarian school property which led to the use of trailers  
5 and mobile classrooms for the provision of such services at  
6 tremendous additional cost. Conforming New Jersey's law on the  
7 provision of auxiliary and handicapped services will provide that time  
8 will not be wasted by students traveling between schools and  
9 makeshift classrooms and will ensure that funds will be more  
10 appropriately spent on the actual provision of services.

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15 Provides that remedial programs for nonpublic school students may be  
16 held on the premises of the nonpublic school.