

HOUSE RESEARCH

Bill Summary

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Overview

In 1998, the state prospectively amended special education laws and rules to make the laws and rules consistent with federal special education law as of July 1, 1999, which is after the close of the 1999 legislative session. The purpose of the July 1, 1999 date was

to allow the state and interested stakeholders time to determine whether certain state standards for special education that exceeded federal requirements were desirable. This bill proposes to re-establish state special education standards that exceed federal requirements.

Section

- 1 Suspension.** Requires the individual education plan (IEP) team to meet as soon as possible within 10 school days after the date on which the decision to remove the student from the student's current educational placement is made. Requires the IEP team at that meeting to review the relationship between the child's disability and the behavior subject to disciplinary action and consider the appropriateness of the disabled student's individual education plan if the student is removed from the student's current educational placement for five or more consecutive days or ten cumulative days within a school year, or the student's parent requests the meeting. Strikes language requiring school districts to comply with applicable federal law in suspending a disabled student.
- 2 Exclusion and expulsion of pupils with a disability.** Requires a school district to begin a review of a

disabled student's individual education plan and review the relationship between the student's disability and the behavior subject to disciplinary action and determine the appropriateness of the student's IEP before expelling or excluding the student, but not before suspending the student. Strikes language requiring the district to review a disabled student's individual education plan within five school days of beginning an expulsion, exclusion or suspension.

- 3 Coordinated interagency services.** Changes from 3 to 22 to 3 to 21 the eligible ages for disabled children to participate in a coordinated, multi-disciplinary interagency intervention system. Makes this provision effective July 1, 2002.

- 4 Interagency early intervention committee (IEIC) responsibilities.** Changes from 3 to 22 to 3 to 21 the eligible ages for disabled children to participate in coordinated interagency services at the local level. Makes this provision effective July 1, 2002.

- 5 Special instruction for children with a disability.** (a) Strikes language requiring school districts by July 1, 1999 to comply with applicable federal law in providing special instruction and services for resident children with a disability.

(b) Changes the age limit for providing special instruction and services from birth until September 1 after the disabled child becomes 22, to from birth until July 1 after the disabled child becomes 21. Makes this provision effective July 1, 2002.

- 6 Rules of the state board.** Strikes language requiring the state board of education to adopt rules governing qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, class size, rooms, equipment, supervision, parent consultation and other needed rules for instructing disabled children that are consistent with the requirements of federal law as of July 1, 1999. Strikes language requiring the state's regulatory scheme, which supports schools by adopting rules to meet one or more stated outcomes, to be consistent with the requirements of federal law.

- 7 School district obligations.** Strikes language requiring school districts by July 1, 1999, to ensure that disabled students, and where applicable their families, receive appropriate instruction and services, are guaranteed procedural safeguards and the right to participate in decisions affecting their disabled children, are

appropriately assessed or reassessed, are educated in the least restrictive environment, and are not discriminated against on the basis of race or culture, consistent with the requirements of federal law.

8 District obligation. Strikes language requiring school districts by July 1, 1999 to use specified procedures for decisions involving the identification, assessment and educational placement of disabled children, consistent with the requirements of federal law.

9 Impartial due process hearing. Requires a school board to ask the commissioner to appoint a hearing officer within three business days, instead of four business days, of receiving a request for a hearing if the parties are unable to agree on a hearing officer. Directs the commissioner to appoint a hearing officer at either party's request if the parties are unable to agree on a hearing officer and the school board fails to ask the commissioner to appoint a hearing officer within four business days of when the school board receives a request for a hearing.

10 Coordinating interagency services. Makes any state, county, or city government agency responsible for providing services or resources to disabled students under an interagency plan of care subject to the same dispute resolution processes applicable to school districts. Requires such an agency to comply with corrective action requirements that are part of the dispute resolution processes.

11 Special instruction; nonpublic schools. Directs parties serving students on a shared time basis to have access to due process hearing and complaint systems described under federal law. Allows the commissioner to withhold from the nonpublic school those public funds available for educational materials and tests that are applicable to the disabled student if the nonpublic school or its staff interferes with the ability of the school district to provide a free appropriate education to the student.

12 Third party reimbursement. Requires school districts beginning July 1, 2000, instead of July 1, 1999, to seek reimbursement from third party insurers when the costs of services provided by the district are covered by the child's health coverage.

13 Parent advisory councils. Strikes language making a state rule governing parent advisory committees applicable to local or cooperative boards. Requires school districts to incorporate a special education advisory council into the district's special education

system plan.

(1) Allows the district to establish an advisory council for the district or in cooperation with other districts that are members of the same special education cooperative.

(2) Allows the advisory council to be part of an existing board, council or committee.

(3) Requires at least one-half of council members to be parents of disabled students. Requires school districts to determine the number of council members, frequency of council meetings and council operating procedures.

14 Interagency early intervention committees. Strikes language requiring local interagency early intervention committees (IEICs) to prepare a yearly summary on the community's progress in serving young disabled children and their families including expenditures, which the local IEIC must organize according to a prescribed format and submit to each local agency and the state interagency coordinating council by October 1. Also strikes language requiring the departments of children, families and learning, health and human services to assist local agencies in developing cooperative plans for providing services.

15 Service coordination. Amends the list of service coordination activities charged to a service coordinator as part of an IFSP to require developing a transition plan at least 90 days, instead of six months, before the child is no longer eligible for early intervention services.

16 Complaint procedure. Directs the state agency committee (SAC) to develop and determine the disposition of corrective action orders for nonschool agencies violating federal special education law. Declares that failing to comply with corrective action orders may result in fiscal actions or other measures.

17 Educational screening. Strikes language directing the department to develop or identify an educational screening tool, which includes a life skills development component, for use in residential facilities.

18 Litigation and hearing costs. Includes interpreter and transliterator costs among the administrative costs of a due process hearing for which a district may be reimbursed from state funds. Strikes language reimbursing prevailing school districts for 50 percent of special education litigation costs related to attorney fees.

19 Special education rules. Directs the commissioner by July 1, 1999, to use the expedited rule making process to modify or repeal special education rules as follows:

- (1) repeal the definition of IEP (Minnesota Rules, part 3525.0200, subp. 6a);
- (2) repeal the definition of parent (Minnesota Rules, part 3525.0200, subp. 11a);
- (3) include children enrolled in nonpublic schools for child find purposes (Minnesota Rules, part 3525.0750);
- (4) amend district responsibility for choice options (Minnesota Rules, part 3525.0800, subp. 8);
- (5) amend district responsibility for the upper age limit (Minnesota Rules, part 3525.0800, subp. 9);
- (6) repeal the provision providing special education to shared-time pupils (Minnesota Rules, part 3525.1150);
- (7) add coordinating programs and facilitating due process procedures to the list of reimbursable activities (Minnesota Rules, part 3525.1310);
- (8) revise eligibility criteria for autism to reflect professional standards (Minnesota Rules, part 3525.1325);
- (9) update eligibility criteria for deaf-blindness (Minnesota Rules, part 3525.1327);
- (10) update eligibility criteria for deaf and hard of hearing (Minnesota Rules, part 3525.1331);
- (11) revise eligibility criteria for cognitive impairment to reflect professional standards (Minnesota Rules, part 3525.1333);
- (12) revise eligibility criteria for other health-impaired to reflect professional standards (Minnesota Rules, part 3525.1335);
- (13) update eligibility criteria for physical impairment (Minnesota Rules, part 3525.1337);
- (14) update eligibility criteria for specific learning disability (Minnesota Rules, part 3525.1341);
- (15) update eligibility criteria for speech and language impairment (Minnesota Rules, part 3525.1343);
- (16) update eligibility criteria for blind and vision impaired (Minnesota Rules, part 3525.1345);
- (17) update eligibility criteria for early childhood special education (Minnesota Rules, part 3525.1350);
- (18) update eligibility criteria for developmental adopted physical education in special education (Minnesota Rules, part 3525.1352);
- (19) eliminate the documentation requirement on override decisions (Minnesota Rules, part 3525.1354, subp. 2);
- (20) repeal exit procedures (Minnesota Rules, part

3525.1356);

(21) update standards for early childhood program options and repeal a portion of that rule related to pupils who are not yet five years old (Minnesota Rules, part 3525.2335, repealing subp. 2, item C);

(22) revise the caseload standard for young children to clarify how caseload is determined and to reflect the supervision and safety needs of small children in various settings (Minnesota Rules, part 3525.2340);

(23) repeal reimbursement standards for special education directors (Minnesota Rules, part 3525.2405, subps. 2, 3);

(24) repeal variance request for special education directors (Minnesota Rules, part 3525.2420);

(25) repeal duplicative notice requirements (Minnesota Rules, part 3525.2650);

(26) repeal periodic reviews and a documentation requirement (Minnesota Rules, part 3525.3000);

(27) repeal duplicative diploma requirements (Minnesota Rules, part 3525.3150);

(28) repeal a duplicative notice requirement (Minnesota Rules, part 3525.3200);

(29) repeal duplicative notice requirements and a district mandate to initiate a hearing when refusing a request for an assessment (Minnesota Rules, part 3525.3500); and

(30) make due process hearing procedures consistent with state and federal law (Minnesota Rules, parts 3525.3800 to 3525.4700).

20 Special education rules. Directs the commissioner to adopt special education rules that exceed federal requirements for providing special instruction and services to disabled children. Directs the commissioner to modify the rules as follows:

(1) add a definition of caseload (Minnesota Rules, part 3525.0200);

(2) update the role of the individual education plan manager (Minnesota Rules, part 3525.0550);

(3) repeal a duplicative parent advisory council provision (Minnesota Rules, part 3525.1100, subp. 2, item D);

(4) amend the eligibility criteria for emotional or behavior disorders (EBD) so that standards reflect severe emotional disorder and professional standards (Minnesota Rules, part 3525.1329);

(5) revise outdated standards for students placed for

care and treatment consistent with related legislation (Minnesota Rules, part 3525.2325);

(6) repeal the requirement on conduct before assessment with one exception relating to conducting the assessment within a reasonable time (Minnesota Rules, part 3525.2550, except subp. 2, item C);

(7) make individual education plan team responsibilities for assessment, individual education plan development, and placement decisions consistent with federal requirements;

(8) repeal a duplicative provision on educational assessment (Minnesota Rules, part 3525.2750);

(9) repeal a provision on individual education plan development and content, except the portions governing transition planning by grade 9 or age 14 and regulated interventions (Minnesota Rules, part 3525.2900, except subps. 4 and 5); and

(10) repeal a duplicative provision on contents of notice with one exception relating to informing parents of this right and the procedure to receive interpretations in a private conference (Minnesota Rules, part 3525.3300, except item B).

21 Repealer. Repeals a 1998 law directing the state board of education to amend all special education rules using the expedited rule making process so that state rules do not impose requirements that exceed federal law, and declaring invalid as of July 1, 1999, any existing state special education rules that exceed federal requirements, unless a state law is enacted to the contrary before July 1, 1999. Repeals a state special education rule governing the suspension, exclusion and expulsion of a disabled student.

22 Effective date. Makes sections 1 and 2, 5 to 18 and 20 to 21 effective July 1, 1999, except that the requirement under section 5, paragraph (b), to provide special instruction and services until a disabled child becomes 21 years old, instead of 22 years old, is effective July 1, 2000. Makes section 19 immediately effective. Makes sections 3 and 4 effective July 1, 2000.