

By: Eissler

H.B. No. 1225

A BILL TO BE ENTITLED

AN ACT

1
2 relating to time limits and notice related to a special education
3 due process hearing, the transfer of the functions of such a hearing
4 to the State Office of Administrative Hearings, and an appeal of a
5 special education hearing officer's decision.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter A, Chapter 29, Education Code, is
8 amended by adding Section 29.0165 to read as follows:

9 Sec. 29.0165. TRANSFER OF SPECIAL EDUCATION DUE PROCESS
10 HEARING FUNCTIONS TO STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a)
11 Not later than December 1, 2003, the agency and the State Office of
12 Administrative Hearings shall jointly determine whether it would be
13 cost-effective for the agency to transfer all or part of the
14 agency's special education due process hearings functions under
15 Section 29.016 to the State Office of Administrative Hearings by
16 interagency contract.

17 (b) If, in accordance with Subsection (a), the agency and
18 the State Office of Administrative Hearings jointly determine that
19 it would be cost-effective for the agency to transfer all or part of
20 the agency's special education due process hearings functions under
21 Section 29.016 to the State Office of Administrative Hearings, the
22 agency and the State Office of Administrative Hearings shall enter
23 into an interagency contract to transfer the appropriate functions
24 accordingly.

1 (c) An interagency contract entered into under Subsection
2 (b) shall specify that the agency retains the authority to issue an
3 order or decision authorizing an evaluation of a student's
4 eligibility for special education services based on a proposed
5 decision of the State Office of Administrative Hearings. An
6 interagency contract under this section may not transfer to the
7 State Office of Administrative Hearings the authority to issue an
8 order or decision authorizing the evaluation of a student.

9 SECTION 2. Subchapter A, Chapter 29, Education Code, is
10 amended by adding Section 29.018 to read as follows:

11 Sec. 29.018. TIME LIMITS AND NOTICE RELATED TO IMPARTIAL
12 DUE PROCESS HEARING REQUESTS AND APPEALS. (a) Except as otherwise
13 provided by this subsection, a person must request a special
14 education impartial due process hearing under 20 U.S.C. Section
15 1415, and its subsequent amendments, not later than the first
16 anniversary of the date on which the person knew or should have
17 known of the alleged failure or refusal to provide to a child with a
18 disability a free appropriate public education in accordance with
19 the Individuals with Disabilities Education Act (20 U.S.C. Section
20 1400 et seq.), and its subsequent amendments, including any failure
21 or refusal to identify, evaluate, or properly place the child. This
22 subsection does not prohibit a hearing involving an alleged failure
23 or refusal that initially occurred not more than two years before
24 the request for a hearing if the hearing officer determines that the
25 failure or refusal continued to occur during the year preceding the
26 request.

27 (b) A school district must provide a child's parent written

1 notice of the time limit for requesting a special education
2 impartial due process hearing under Subsection (a) if:

3 (1) the district and the parent do not agree on the
4 adequacy of the child's admission, review, and dismissal
5 committee's recommendations regarding identification, evaluation,
6 or educational placement of the child or the provision of a free
7 appropriate public education; or

8 (2) the district provides a parent notice under 34
9 C.F.R. Section 300.503, and its subsequent amendments.

10 (c) In addition to notice of the time limit, the notice
11 provided by a school district to a child's parent under Subsection
12 (b) must include:

13 (1) a sufficiently detailed report of the district's
14 final decision, including the date of the decision relating to the
15 identification, evaluation, or educational placement of the child
16 or the provision of a free appropriate public education to the
17 child; and

18 (2) a description of the applicable rights and
19 procedures relating to a request for a special education impartial
20 due process hearing under Subsection (a).

21 (d) A person must initiate a civil action to appeal a
22 decision of a hearing officer in a special education impartial due
23 process hearing under 20 U.S.C. Section 1415, and its subsequent
24 amendments, not later than the 180th day after the date on which the
25 hearing officer issues a written decision.

26 SECTION 3. (a) Section 29.018, Education Code, as added by
27 this Act, applies only to a special education impartial due process

1 hearing or an appeal of a hearing officer's decision related to an
2 action that occurs on or after September 1, 2003.

3 (b) A special education impartial due process hearing or an
4 appeal of a hearing officer's decision related to an action that
5 occurs before September 1, 2003, is governed by the law in effect
6 when the action occurred, and the former law is continued in effect
7 for that purpose.

8 SECTION 4. This Act takes effect September 1, 2003.