

By: Hochberg, Herrero, et al.

H.B. No. 439

Substitute the following for H.B. No. 439:

By: Hochberg

C.S.H.B. No. 439

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the statewide plan for delivery of services to public  
3 school students with disabilities and resources for teachers of  
4 public school students with special health needs.

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

6 SECTION 1. Section 29.001, Education Code, is amended to  
7 read as follows:

8 Sec. 29.001. STATEWIDE PLAN. (a) The agency shall develop,  
9 and modify as necessary, a statewide design, consistent with  
10 federal law, for the delivery of services to children with  
11 disabilities in this state that includes rules for the  
12 administration and funding of the special education program so that  
13 a free appropriate public education is available to all of those  
14 children between the ages of three and 21. The statewide design  
15 shall include the provision of services primarily through school  
16 districts and shared services arrangements, supplemented by  
17 regional education service centers. The agency shall also develop  
18 and implement a statewide plan with programmatic content that  
19 includes procedures designed to:

20 (1) ensure state compliance with requirements for  
21 supplemental federal funding for all state-administered programs  
22 involving the delivery of instructional or related services to  
23 students with disabilities;

24 (2) facilitate interagency coordination when other

1 state agencies are involved in the delivery of instructional or  
2 related services to students with disabilities;

3 (3) periodically assess statewide personnel needs in  
4 all areas of specialization related to special education and pursue  
5 strategies to meet those needs through a consortium of  
6 representatives from regional education service centers, local  
7 education agencies, and institutions of higher education and  
8 through other available alternatives;

9 (4) ensure that regional education service centers  
10 throughout the state maintain a regional support function, which  
11 may include direct service delivery and a component designed to  
12 facilitate the placement of students with disabilities who cannot  
13 be appropriately served in their resident districts;

14 (5) allow the agency to effectively monitor and  
15 periodically conduct site visits of all school districts to ensure  
16 that rules adopted under this section are applied in a consistent  
17 and uniform manner, to ensure that districts are complying with  
18 those rules, and to ensure that annual statistical reports filed by  
19 the districts and not otherwise available through the Public  
20 Education Information Management System under Section 42.006, are  
21 accurate and complete;

22 (6) ensure that appropriately trained personnel are  
23 involved in the diagnostic and evaluative procedures operating in  
24 all districts and that those personnel routinely serve on district  
25 admissions, review, and dismissal committees;

26 (7) ensure that an individualized education program  
27 for each student with a disability is properly developed,

1 implemented, and maintained in the least restrictive environment  
2 that is appropriate to meet the student's educational needs;

3 (8) ensure that, when appropriate, each student with a  
4 disability is provided an opportunity to participate in career and  
5 technology and physical education classes, in addition to  
6 participating in regular or special classes;

7 (9) ensure that each student with a disability is  
8 provided necessary related services; ~~and~~

9 (10) ensure that an individual assigned to act as a  
10 surrogate parent for a child with a disability, as provided by 20  
11 U.S.C. Section 1415(b) ~~[and its subsequent amendments]~~, is required  
12 to:

13 (A) complete a training program that complies  
14 with minimum standards established by agency rule;

15 (B) visit the child and the child's school;

16 (C) consult with persons involved in the child's  
17 education, including teachers, caseworkers, court-appointed  
18 volunteers, guardians ad litem, attorneys ad litem, foster parents,  
19 and caretakers;

20 (D) review the child's educational records;

21 (E) attend meetings of the child's admission,  
22 review, and dismissal committee;

23 (F) exercise independent judgment in pursuing  
24 the child's interests; and

25 (G) exercise the child's due process rights under  
26 applicable state and federal law;

27 (11) ensure that a school district provides to a

1 teacher who instructs a student with a disability in a regular  
2 classroom setting:

3 (A) on the request of the teacher and as soon as  
4 practicable, training in providing appropriate educational  
5 services to a student with a disability, including training in  
6 research-based best practices for meeting the academic and  
7 behavioral needs of a student with a disability assigned to the  
8 teacher's classroom;

9 (B) on the request of the teacher and as soon as  
10 practicable, assistance from appropriately trained personnel, as  
11 determined by the district, in meeting the academic and behavioral  
12 needs of a student with a disability assigned to the teacher's  
13 classroom;

14 (C) before the placement of a student with a  
15 disability in the teacher's classroom, relevant information in the  
16 student's individualized education program; and

17 (D) the opportunity to participate in staffing  
18 and intervention team meetings and, as determined by the district,  
19 the relevant portion of meetings of the student's admission,  
20 review, and dismissal committee regarding a student with a  
21 disability assigned to the teacher's classroom, including meetings  
22 of the admission, review, and dismissal committee as provided by  
23 Subdivision (12);

24 (12) on the request of a teacher for a revision of a  
25 student's individualized education program or a change of placement  
26 of a student with a disability assigned to the teacher's classroom,  
27 ensure that the district either:

1           (A) convenes the student's admission, review,  
2 and dismissal committee to review the teacher's request;

3           (B) requests that the revision or change be made  
4 without convening the student's admission, review, and dismissal  
5 committee as provided by 20 U.S.C. 1414(d)(3)(D); or

6           (C) if the district does not convene the  
7 student's admission, review, and dismissal committee under  
8 Paragraph (A) or make a revision or change as requested by the  
9 teacher under Paragraph (B), submits to the teacher and to the  
10 student's parent a written statement explaining the district's  
11 decision regarding the teacher's request;

12           (13) ensure that school health services for a student  
13 with a disability are performed by:

14                   (A) a qualified school nurse; or

15                   (B) other qualified and trained personnel; and

16           (14) ensure that, on request of the teacher, the  
17 teacher receives assistance from appropriately trained personnel,  
18 as determined by the school district, in performing necessary tasks  
19 that the teacher is required to perform related to the student's  
20 hygiene and care, including diapering needs.

21           (b) Subsection (a)(13) or (14) may not result in a change of  
22 classroom placement for a student with a disability unless the  
23 change in classroom placement is made in accordance with applicable  
24 federal and state laws.

25           SECTION 2. Subchapter J, Chapter 21, Education Code, is  
26 amended by adding Section 21.459 to read as follows:

27           Sec. 21.459. RESOURCES FOR TEACHERS OF STUDENTS WITH

1 SPECIAL HEALTH NEEDS. The agency, in coordination with the Health  
2 and Human Services Commission, shall establish and maintain an  
3 Internet website to provide resources for teachers who teach  
4 students with special health needs. The agency shall include on the  
5 website information about the treatment and management of chronic  
6 illnesses and how such illnesses impact a student's well-being or  
7 ability to succeed in school.

8 SECTION 3. This Act applies beginning with the 2007-2008  
9 school year.

10 SECTION 4. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.