

Amend **HB 171** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Subchapter A, Chapter 29, Education Code, is amended by adding Sections 29.020 and 29.021 to read as follows:

Sec. 29.020. OPTIONAL DISPUTE RESOLUTION METHODS. (a) A school district shall make available and provide information to parents regarding optional dispute resolution methods that may be used when a dispute arises between the district and a parent of a student with a disability regarding:

(1) identification of the student as a student entitled to special education services;

(2) evaluation or educational placement of the student; or

(3) the provision of a free appropriate public education to the student.

(b) A school district's optional dispute resolution methods:

(1) must include:

(A) requesting mediation through the agency in accordance with 20 U.S.C. Section 1415(e) and 34 C.F.R. Section 300.506;

(B) requesting independent individualized education program facilitation, as described by Section 29.021, if the district is included within the boundaries of a regional education service center participating in the pilot program implemented under that section; and

(C) filing a complaint with the agency in accordance with 34 C.F.R. Section 300.153; and

(2) may include:

(A) convening a meeting of a student's admission, review, and dismissal committee;

(B) meeting with a student's teachers;

(C) meeting with one or more of the following:

(i) a campus administrator;

(ii) the district special education director or the director of a shared services arrangement under

Section 29.007 to which the district is a party;

(iii) the district superintendent; or

(iv) the board of trustees of the district;

and

(D) requesting individualized education program facilitation similar to the facilitation provided under the pilot program implemented under Section 29.021, except that facilitation may be provided by either an independent facilitator or a district employee serving as the facilitator.

(c) The use of an optional dispute resolution method made available under this section and the availability of those methods may not in any manner be used to deny or delay the right to a special education due process hearing in accordance with federal law.

(d) Notwithstanding Subsection (c), on the filing of a request for a special education due process hearing in accordance with federal law, the school district and the parent shall be provided with the opportunity to attempt to resolve the dispute between the district and the parent through the agency's mediation process, provided that both the school district and the parent agree to participate in the mediation.

(e) If a school district and a parent participate in mediation under this section:

(1) the fact that the mediation occurred is not admissible into evidence in any subsequent proceeding involving the subject matter of the mediation;

(2) the mediator may not be subpoenaed to testify regarding the subject matter of the mediation at any subsequent special education due process hearing or civil action arising under federal special education law; and

(3) the school district and parent are not entitled to access to any records created by the mediator in connection with the mediation.

(f) Unless specifically provided otherwise by federal or other state law, the participation of an individualized education program facilitator in the development of a student's individualized education program does not violate confidentiality provisions under federal or state law.

(g) If a school district chooses to offer individualized education program facilitation under Subsection (b)(2)(D), the facilitation must be provided at no cost to a parent.

(h) The commissioner shall adopt rules necessary to implement this section.

Sec. 29.021. PILOT PROGRAM FOR INDEPENDENT INDIVIDUALIZED EDUCATION PROGRAM FACILITATION. (a) The agency shall develop an independent individualized education program facilitation process as a method of alternative dispute resolution.

(b) The agency shall implement the process developed under Subsection (a) on a pilot program basis within the boundaries of three regional education service centers selected by the commissioner for that purpose. Not more than 500 facilitations may be conducted under the pilot program.

(c) Notwithstanding Subsection (b), if the commissioner determines that adequate funding is available, the commissioner may authorize:

(1) the expansion of the pilot program to additional areas; or

(2) a greater number of facilitations than the limit specified under that subsection.

(d) The commissioner shall select the participating regional education service centers based on criteria established by the commissioner. The selection criteria must include criteria relating to:

(1) the geographic location of a center;

(2) student enrollment within the boundaries of a center;

(3) the number of formal complaints regarding special education issues filed by persons within the boundaries of a center; and

(4) the number of mediations and special education due process hearings requested by persons within the boundaries of a center.

(e) The facilitation process may be used when a school district located within the boundaries of a participating regional education service center and the parents of a student with a

disability agree on the value of involving an impartial facilitator in the procedures used to develop the student's individualized education program.

(f) The role of a facilitator under the facilitation process developed under this section is to assist in creating an atmosphere for fair communication and the successful development of a student's individualized education program.

(g) Each participating regional education service center shall develop a network of impartial facilitators to be made available on request to school districts and parents that choose to use the facilitation process developed under this section. Facilitators must be provided at no cost to a school district or parent.

(h) The commissioner shall adopt rules necessary to implement this section.

(i) Not later than January 1, 2011, the agency shall submit a report to the legislature regarding the implementation and effectiveness of the pilot program. This subsection expires September 1, 2011.

SECTION \_\_\_\_\_. Sections 29.020 and 29.021 of this Act apply beginning with the 2009-2010 school year.

SECTION \_\_\_\_\_. Sections 29.020 and 29.021 of this Act do not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision, unless funding is provided from another source such as federal funds.