

By: Watson

S.B. No. 1489

A BILL TO BE ENTITLED

AN ACT

1
2 relating to optional dispute resolution methods for school
3 districts and parents of students seeking or receiving special
4 education services.

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

6 SECTION 1. Subchapter A, Chapter 29, Education Code, is
7 amended by adding Sections 29.020 and 29.021 to read as follows:

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

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

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

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

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

21 (1) must include:

22 (A) requesting mediation through the agency in
23 accordance with 20 U.S.C. Section 1415(e) and 34 C.F.R. Section
24 300.506;

1 (B) requesting individualized education program
2 facilitation, as described by Section 29.021; and

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

5 (2) may include:

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

8 (B) meeting with a student's teachers; and

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

10 (i) a campus administrator;

11 (ii) the district special education
12 director or the director of a shared services arrangement under
13 Section 29.007 to which the district is a party;

14 (iii) the district superintendent; or

15 (iv) the board of trustees of the district.

16 (c) A parent or school district is not required to use an
17 optional dispute resolution method made available under this
18 section, and the availability of those methods may not in any manner
19 be used to deny or delay the right to a special education due
20 process hearing in accordance with federal law.

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

1 (e) If a school district and a parent participate in
2 mediation or individualized education program facilitation under
3 this section:

4 (1) the fact that the mediation or facilitation
5 occurred is not admissible into evidence in any subsequent
6 proceeding involving the subject matter of the mediation or
7 facilitation;

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

13 (3) the school district and parent are not entitled to
14 access to any records created by the mediator or facilitator in
15 connection with the mediation or facilitation.

16 (f) Optional dispute resolution methods made available
17 under this section must be provided at no cost to a parent.

18 (g) The commissioner shall adopt rules necessary to
19 implement this section.

20 Sec. 29.021. INDIVIDUALIZED EDUCATION PROGRAM
21 FACILITATION. (a) The agency shall develop an individualized
22 education program facilitation process as a method of alternative
23 dispute resolution.

24 (b) The facilitation process may be used when a school
25 district and the parents of a student with a disability agree on the
26 value of involving an impartial facilitator in the procedures used
27 to develop the student's individualized education program.

1 (c) The role of a facilitator under this section is to
2 assist in creating an atmosphere for fair communication and the
3 successful development of a student's individualized education
4 program.

5 (d) The agency shall develop a statewide network of
6 impartial facilitators to be made available on request to school
7 districts and parents that choose to use the facilitation process
8 developed under this section. Facilitators must be provided at no
9 cost to a school district or parent.

10 (e) The commissioner shall adopt rules necessary to
11 implement this section.

12 SECTION 2. This Act applies beginning with the 2009-2010
13 school year.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.