

BILL ANALYSIS

C.S.H.B. 2057
By: Allen
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that there is currently no consistent statewide information provided to parents of students with disabilities about individualized education program facilitation, an alternative dispute resolution method regarding educational services for such students, despite the method being widely used and part of the array of methods recommended by certain national entities. The parties emphasize the importance of providing the information about the method and developing a statewide criteria for the method to ensure its availability and to allow the state to measure its effectiveness and quality.

C.S.H.B. 2057 seeks to build on the work of the Texas Education Agency and disability advocates across the state by defining individualized education program facilitation, detailing the related information to be made available to parents of a student with a disability, and outlining the basic structure that a school district must provide with regard to the method.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education and to the Texas Education Agency in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2057 amends the Education Code to require the Texas Education Agency (TEA) to provide information to parents regarding individualized education program facilitation as an alternative dispute resolution method that may be used to avoid a potential dispute between a school district and a parent of a student with a disability. The bill requires a district that chooses to use individualized education program facilitation to provide information to parents regarding such facilitation and sets out the manner in which the information is to be provided. The bill requires the information to indicate that individualized education program facilitation is an alternative dispute resolution method that some districts may choose to provide.

C.S.H.B. 2057 authorizes a school district, if a school district chooses to offer individualized education program facilitation, to determine whether to use independent contractors, district employees, or other qualified individuals as facilitators; requires the information provided by the district to include a description of any applicable procedures for requesting the facilitation; and requires the facilitation to be provided at no cost to a parent. The bill requires the use of any alternative dispute resolution method to be voluntary on the part of the participants and prohibits the use or availability of any such method from being used in any manner to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law. The bill clarifies that its provisions do not prohibit a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual admission, review, and dismissal committee meetings. The bill requires the commissioner of education to adopt rules necessary to implement individualized education program facilitation.

C.S.H.B. 2057 requires TEA to develop rules applicable to the administration of a state individualized education program facilitation project and requires the program to include the provision of an independent individualized education program facilitator to facilitate an admission, review, and dismissal committee meeting with parties who are in a dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. The bill requires facilitation implemented under the project to comply with TEA's developed rules and sets out certain matters that must be included in the rules. The bill authorizes the commissioner, if the commissioner determines that adequate funding is available, to use federal funds to implement the individualized education program facilitation project. The bill requires the commissioner to adopt rules necessary to implement the individualized education program facilitation project. The bill's provisions apply beginning with the 2014-2015 school year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2057 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter A, Chapter 29, Education Code, is amended by adding Sections 29.019 and 29.020 to read as follows:

Sec. 29.019. INDIVIDUALIZED EDUCATION PROGRAM

FACILITATION. (a) The agency shall provide information to parents regarding individualized education program facilitation as an alternative dispute resolution method that may be used to avoid a potential dispute between a school district and a parent of a student with a disability. A district that chooses to use individualized education program facilitation shall provide information to parents regarding individualized education program facilitation. The information:

(1) must be included with other information provided to the parent of a student with a disability, although it may be provided as a separate document; and

(2) may be provided in a written or electronic format.

(b) Information provided by the agency under this section must indicate that individualized education program facilitation is an alternative dispute resolution method that some districts may choose to provide.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 29, Education Code, is amended by adding Sections 29.019 and 29.020 to read as follows:

Sec. 29.019. INDIVIDUALIZED EDUCATION PROGRAM

FACILITATION. (a) The agency shall provide information to parents regarding individualized education program facilitation as an alternative dispute resolution method that may be used to avoid a potential dispute between a school district and a parent of a student with a disability. A district that chooses to use individualized education program facilitation shall provide information to parents regarding individualized education program facilitation. The information:

(1) must be included with other information provided to the parent of a student with a disability, although it may be provided as a separate document; and

(2) may be provided in a written or electronic format.

(b) Information provided by the agency under this section must indicate that individualized education program facilitation is an alternative dispute resolution method that some districts may choose to provide.

(c) If a school district chooses to offer individualized education program facilitation as an alternative dispute resolution method:

(1) the district may determine whether to use independent contractors, district employees, or other qualified individuals as facilitators;

(2) the information provided by the district under this section must include a description of any applicable procedures for requesting the facilitation; and

(3) the facilitation must be provided at no cost to a parent.

(d) The use of any alternative dispute resolution method, including individualized education program facilitation, must be voluntary on the part of the participants, and the use or availability of any such method may not in any manner be used to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.

(e) Nothing in this section prohibits a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual admission, review, and dismissal committee meetings.

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

Sec. 29.020. INDIVIDUALIZED EDUCATION PROGRAM FACILITATION PROJECT. (a) The agency shall develop rules in accordance with this section applicable to the administration of a state individualized education program facilitation project. The program shall include the provision of an independent individualized education program facilitator to facilitate an admission, review, and dismissal committee meeting with parties who have requested independent individualized education program facilitation because of a potential dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. Facilitation implemented under the project must comply with rules developed under this subsection.

(b) The rules must include:

(1) a definition of independent individualized education program facilitation;

(2) forms and procedures for requesting,

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(1) the district may determine whether to use independent contractors, district employees, or other qualified individuals as facilitators;

(2) the information provided by the district under this section must include a description of any applicable procedures for requesting the facilitation; and

(3) the facilitation must be provided at no cost to a parent.

(d) The use of any alternative dispute resolution method, including individualized education program facilitation, must be voluntary on the part of the participants, and the use or availability of any such method may not in any manner be used to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.

(e) Nothing in this section prohibits a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual admission, review, and dismissal committee meetings.

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

Sec. 29.020. INDIVIDUALIZED EDUCATION PROGRAM FACILITATION PROJECT. (a) The agency shall develop rules in accordance with this section applicable to the administration of a state individualized education program facilitation project. The program shall include the provision of an independent individualized education program facilitator to facilitate an admission, review, and dismissal committee meeting with parties who are in a dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. Facilitation implemented under the project must comply with rules developed under this subsection.

(b) The rules must include:

(1) a definition of independent individualized education program facilitation;

(2) forms and procedures for requesting,

conducting, and evaluating independent individualized education program facilitation;

(3) training, knowledge, experience, and performance requirements for independent facilitators; and

(4) conditions required to be met in order for the agency to provide individualized education program facilitation at no cost to the parties.

(c) If the commissioner determines that adequate funding is available, the commissioner may authorize the use of federal funds to implement the individualized education program facilitation project in accordance with this section.

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

SECTION 2. This Act applies beginning with the 2014-2015 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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(3) training, knowledge, experience, and performance requirements for independent facilitators; and

(4) conditions required to be met in order for the agency to provide individualized education program facilitation at no cost to the parties.

(c) If the commissioner determines that adequate funding is available, the commissioner may authorize the use of federal funds to implement the individualized education program facilitation project in accordance with this section.

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

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.