

## **BILL ANALYSIS**

Senate Research Center

S.B. 816  
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Education  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 816 will improve the initial evaluation process to determine eligibility for special education services for students and parents, and significantly reduce costs incurred by school districts that must perform initial eligibility evaluations during the summer months when schools are not in operation.

Currently, Section 29.004(a), Education Code, requires the initial evaluation of a student to determine whether he or she is eligible for special education services to be completed within 60 calendar days of receiving written parental consent. The current law results in numerous problems.

Currently, 60 calendar days to do an initial evaluation actually results in 40 school days at most to perform the initial evaluation. That number is reduced if the period includes any district or state testing days. If the student is frequently absent, the testing schedule is interrupted, wherein more time is needed to schedule evaluation staff. The nature and complexity of evaluations has changed significantly over the past 10 years, resulting in more extensive assessments and the preparation of evaluation reports that may be as much as 50 pages long.

The federal Individuals with Disabilities Education Act requires the initial evaluation to be completed within 60 calendar days, but allows a state to set its own timeline for completion of the initial evaluation. Approximately one-half of the other states have taken advantage of this flexibility.

S.B. 816 amends current law relating to the date by which a school district must complete a report of an initial evaluation of a student for special education services.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 29.004, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 29.004, Education Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (c), as follows:

(a) Requires that a written report of a full individual and initial evaluation of a student for purposes of special education services be completed as follows, except as otherwise provided by this section, not later than:

(1) the 45th school day, rather than the 60th calendar day, following the date on which the school district, in accordance with 20 U.S.C. Section 1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian, except that if a student has been absent from school during that period on three or more days, that period is required to be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or

(2) the 45th school day following the date on which the school district receives written consent for the evaluation, signed by the student's parent or legal guardian, for students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or home school setting.

Makes nonsubstantive changes.

(a-1) Requires that the evaluation be completed and the written report of the evaluation be provided to the parent or legal guardian not later than June 30 of that year if a school district receives written consent signed by a student's parent or legal guardian for a full individual and initial evaluation of a student at least 35 but less than 45 school days before the last instructional day of the school year. Requires that the student's admission, review, and dismissal committee meet not later than the 15th school day of the following school year to consider the evaluation. Provides that Subsection (a)(1) applies to the date the written report of the full individual and initial evaluation is required if a district receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the district receives the written consent at least 35 but less than 45 school days before the last instructional day of the year but the student is absent from school during that period on three or more days.

(a-2) Provides that "school day," for purposes of Subsection (a), does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term. Authorizes the commissioner of education by rule to determine days during which year-round schools are recessed that, consistent with this subsection, are not considered to be school days for purposes of this subsection.

(a-3) Provides that Subsection (a) does not impair any rights or an infant or toddler with a disability who is receiving early intervention services in accordance with 20 U.S.C. Section 1431.

(c) Requires the school district, if a parent or legal guardian makes a written request to a school district's director of special education services or to a school district administrative employee for a full individual and initial evaluation of a student, to, not later than the 15th school day after the district receives the request:

(1) provide an opportunity for the parent or legal guardian to give written consent for the evaluation; or

(2) refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 U.S.C. Section 1415(b).

SECTION 2. Makes application of Section 29.004, Education Code, as amended by this Act, prospective to September 1, 2013.

SECTION 3. Effective date: September 1, 2013.