

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1259  
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Education  
5/1/2015  
Committee Report (Substituted)

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

S.B. 1259 seeks to preserve important practices that support parents' and teachers' ability to participate in the process of determining services for their special education students.

S.B. 1788, 82nd Legislature, Regular Session, 2011, added Section 29.005(f) to the Education Code, which provides that the written statement of a student's Individualized Education Program (IEP) may be required to include only information included in a model IEP form developed by the Texas Education Agency (TEA) and posted on TEA's website. The provision was intended to give school districts some reasonable ability to limit accommodations that would be included in an IEP, while retaining their discretion to include more accommodations than in the model. In fact, federal law requires the IEP planning committees to consider other factors in addition to what is included in the model IEP.

However, interested parties contend that in rulemaking, which went into force January 2015, TEA stated that due to the passage of the 2011 legislation they lacked authority to continue to require school districts to develop the written report of the ARD (admission, review, and dismissal) Committee and thus eliminated other certain rules relating to the IEP planning process. Some of these rules have been in place more than a decade.

S.B. 1259 restores several provisions previously adopted by rule. Specifically, the bill would do the following:

- Requires districts to provide a teacher who instructs a student with a disability in a regular classroom setting the ability to provide input in the development of the student's IEP. (School districts would retain discretion on how they incorporate that input, and no teacher would have the ability to unilaterally convene a new IEP planning committee.)
- Requires that the regular education teacher who serves as a member of the IEP planning committee, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP.
- Requires that the committee develop a written report of the IEP planning committee which shall document the decisions of the committee, as well as indicate:
  - o the date of the meeting;
  - o the name, position, and signature of each member participating in the meeting;
  - and
  - o an indication of whether the child's parents, adult student, (if applicable), and the administrator agreed or disagreed with the decisions of the committee.
- Requires that the member or members who disagree with the committee's IEP is entitled to include a written statement of disagreement.

Finally, the bill cleans up an outdated reference to federal law, replacing reference to 20 U.S.C. Section 1401(11) with 1414(d).

C.S.S.B. 1259 amends current law relating to the development of an individualized education program for a child in public school.

## **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 29.001, Education Code, to require the Texas Education Agency, in addition to developing a statewide design as described in this section, to also develop and implement a statewide plan with programmatic content that includes procedures designed to ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting to provide input in the development of the student's individualized education program. Makes nonsubstantive changes.

SECTION 2. Amends Section 29.005, Education Code, by amending Subsections (a) and (c) and adding Subsection (b-1), as follows:

(a) Requires a school district, before a child is enrolled in a special education program of the school district, to establish a committee composed of the persons required under 20 U.S.C. Section 1414(d), rather than under 20 U.S.C. Section 1401(11), to develop the child's individualized education program. Requires the regular education teacher included, if a committee is required to include a regular education teacher, to be a teacher who is responsible for implementing a portion of the child's individualized education program.

(b-1) Requires that the written statement of the individualized education program document the decisions of the committee with respect to issues discussed at each committee meeting. Requires that the written statement include:

(1) the date of the meeting;

(2) the name, position, and signature of each member participating in the meeting; and

(3) an indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the committee.

(c) Requires that the written statement of the program required under 20 U.S.C. Section 1414(d), rather than under 20 U.S.C. Section 1401(11), if the individualized education program is not developed by agreement, include the basis of the disagreement. Entitles each member of the committee who disagrees with the individualized education program developed by the committee to include a statement of disagreement in the written statement of the program.

SECTION 3. Provides that this Act applies beginning with the 2015-2016 school year.

SECTION 4. Effective date: upon passage or September 1, 2015.