

1 ENGROSSED HOUSE  
2 BILL NO. 2126

By: Shelton of the House

and

Eason McIntyre of the  
Senate

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7 An Act relating to schools; amending 70 O.S. 2001,  
8 Section 13-102, which relates to the determination of  
9 eligibility for special education and related  
10 services; specifying who may request an initial  
11 evaluation; requiring a local education agency to  
12 have procedures to document requests; requiring local  
13 education agencies to conduct a certain review and  
14 determine interventions; providing for a  
15 determination of the need for an evaluation;  
16 providing for certain parental notification and  
17 consent; requiring documentation of parental contact;  
18 requiring referral process to be started within  
19 certain time period; requiring evaluation to be  
20 completed within certain time period; requiring time  
21 period for certain methods of evaluation; providing  
22 an exception to time period requirement; providing  
23 definition of evaluation; providing an effective  
24 date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2001, Section 13-102, is  
amended to read as follows:

Section 13-102. A. 1. Either a parent of a child, a teacher  
of a child, or school district may initiate a request for an initial  
evaluation to determine if the child has a disability. The school  
district, hereinafter referred to as the local education agency,

1 shall have procedures in place to document the requests for initial  
2 evaluation, including the date of the request, the names of the  
3 referred children, and by whom they were referred.

4 2. Upon receipt of a request for an initial evaluation, the  
5 local education agency shall begin a review of existing data using a  
6 group of qualified individuals knowledgeable about the education of  
7 the child, including the parent. In addition, the local education  
8 agency shall determine if interventions by the regular or general  
9 education teacher should be attempted with the child. Also upon  
10 receipt of a request for an initial evaluation, the local education  
11 agency shall notify the parent of the referral, explain the concerns  
12 with the education of the child, and obtain consent of the parent  
13 for the initial evaluation. When notifying the parent, the local  
14 education agency shall contact the parent in person or by telephone  
15 to explain the request for initial evaluation, the evaluation  
16 process, and procedural safeguards. Each local education agency  
17 shall have procedures in place to document the parent contact.  
18 After reviewing the data and interventions as provided for in this  
19 paragraph, the local education agency shall make a determination of  
20 whether or not to refer the child for an immediate evaluation. The  
21 process, including contacting the parent for consent, required of a  
22 local education agency as provided for in this paragraph shall be  
23 completed within thirty (30) school days of the documented date of  
24 the request for initial evaluation.

1       3. The initial evaluation shall be completed within forty-five  
2 (45) school days of receiving parental consent for the evaluation.  
3 The forty-five-day time period shall be followed whether the school  
4 district is using the severe discrepancy method or the Response to  
5 Intervention (RtI) method for determining the eligibility of a child  
6 under a specific learning disability category. In accordance with  
7 the provisions of the Individuals with Disabilities Education Act  
8 (IDEA), the forty-five-day time period shall not apply if the parent  
9 of a child repeatedly fails or refuses to produce the child for the  
10 evaluation or if the child enrolls in a school of another local  
11 education agency after the time period has begun and prior to a  
12 determination by the previous local education agency as to whether  
13 the child is a child with a disability. This exception to the  
14 forty-five-day time period applies only if the subsequent local  
15 education agency is making sufficient progress to ensure prompt  
16 completion of the evaluation and the parent and the subsequent local  
17 education agency agree to a specific time period for when the  
18 evaluation will be completed.

19       4. For purposes of this section, "evaluation" means procedures  
20 used, in accordance with federal and state requirements, to  
21 determine whether a child has a disability and the nature and extent  
22 of the special education and related services that the child needs.

23       B. The determination whether a child is eligible for special  
24 education and related services shall be the responsibility of the

1 multidisciplinary evaluation team of the school district in which  
2 ~~such~~ the child has legal residence in accordance with the provisions  
3 of the Individuals with Disabilities Education Act (IDEA), ~~P.L. No.~~  
4 ~~101-476~~ and the rules approved by the State Board of Education. The  
5 eligibility of children with disabilities shall be reevaluated at  
6 least once every three (3) years or more frequently if conditions  
7 warrant or if the parent or teacher of the child requests an  
8 evaluation as required under the ~~Individuals with Disabilities~~  
9 ~~Education Act (IDEA), P.L. No. 101-476~~ IDEA.

10 C. Any child determined to be eligible shall be permitted to  
11 receive ~~such~~ special education and related services for a minimum  
12 period of twelve (12) years. Successful completion of a secondary  
13 education program ~~must~~ shall be determined through the  
14 individualized education program (IEP) and transcript records of the  
15 student. Eligibility for special education and related services  
16 shall cease upon a determination and documentation of graduation or  
17 completion of a secondary education program in accordance with the  
18 IEP.

19 SECTION 2. This act shall become effective July 1, 2009.

20 SECTION 3. It being immediately necessary for the preservation  
21 of the public peace, health and safety, an emergency is hereby  
22 declared to exist, by reason whereof this act shall take effect and  
23 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 12th day of March, 2009.

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4 Presiding Officer of the House of  
Representatives

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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2009.

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9 Presiding Officer of the Senate