

EHB 2126

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THE STATE SENATE  
Wednesday, April 1, 2009

ENGROSSED  
House Bill No. 2126  
As Amended

ENGROSSED HOUSE BILL NO. 2126 - By: Shelton of the House and Eason McIntyre of the Senate.

[ schools - special education services - requests - parental contact - time period - effective date - 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, shall have procedures in place to document the requests for initial evaluation, including the date of the request, the names of the referred children, and by whom they were referred.

2. Upon receipt of a request for an initial evaluation, the local education agency shall begin a review of existing data using a group of qualified individuals knowledgeable about the education of the child, including the parent. In addition, the local education agency shall determine if interventions by the regular or general

1 education teacher should be attempted with the child. Also upon  
2 receipt of a request for an initial evaluation, the local education  
3 agency shall notify the parent of the referral, explain the concerns  
4 with the education of the child, and obtain consent of the parent  
5 for the initial evaluation. When notifying the parent, the local  
6 education agency shall contact the parent in person or by telephone  
7 to explain the request for initial evaluation, the evaluation  
8 process, and procedural safeguards. Each local education agency  
9 shall have procedures in place to document the parent contact.  
10 After reviewing the data and interventions as provided for in this  
11 paragraph, the local education agency shall make a determination of  
12 whether or not to refer the child for an immediate evaluation. The  
13 process, including contacting the parent for consent, required of a  
14 local education agency as provided for in this paragraph shall be  
15 completed within thirty (30) school days of the documented date of  
16 the request for initial evaluation.

17 3. The initial evaluation shall be completed within forty-five  
18 (45) school days of receiving parental consent for the evaluation.  
19 The forty-five-day time period shall be followed whether the school  
20 district is using the severe discrepancy method or the Response to  
21 Intervention (RtI) method for determining the eligibility of a child  
22 under a specific learning disability category. In accordance with  
23 the provisions of the Individuals with Disabilities Education Act

1 (IDEA), the forty-five-day time period shall not apply if the parent  
2 of a child repeatedly fails or refuses to produce the child for the  
3 evaluation or if the child enrolls in a school of another local  
4 education agency after the time period has begun and prior to a  
5 determination by the previous local education agency as to whether  
6 the child is a child with a disability. This exception to the  
7 forty-five-day time period applies only if the subsequent local  
8 education agency is making sufficient progress to ensure prompt  
9 completion of the evaluation and the parent and the subsequent local  
10 education agency agree to a specific time period for when the  
11 evaluation will be completed.

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

16 B. The determination whether a child is eligible for special  
17 education and related services shall be the responsibility of the  
18 multidisciplinary evaluation team of the school district in which  
19 ~~such~~ the child has legal residence in accordance with the provisions  
20 of the Individuals with Disabilities Education Act (IDEA), ~~P.L. No.~~  
21 ~~101-476~~ and the rules approved by the State Board of Education. The  
22 eligibility of children with disabilities shall be reevaluated at  
23 least once every three (3) years or more frequently if conditions

1 warrant or if the parent or teacher of the child requests an  
2 evaluation as required under the ~~Individuals with Disabilities~~  
3 ~~Education Act (IDEA), P.L. No. 101-476~~ IDEA.

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

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION, dated 3-30-09 - DO  
19 PASS, As Amended.