

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 470

By: Gumm

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5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,
8 Section 13-102, which relates to eligibility for
9 special education services; placing burden of proof
10 on local educational agencies in certain proceedings;
11 providing certain exception; providing an effective
12 date; and declaring an emergency.

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

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

16 Section 13-102. A. The determination of whether a child is
17 eligible for special education and related services shall be the
18 responsibility of the multidisciplinary evaluation team of the
19 school district in which such child has legal residence in
20 accordance with the provisions of the Individuals with Disabilities
21 Education Act (IDEA), P.L. No. 101-476 and the rules approved by the
22 State Board of Education. The eligibility of children with
23 disabilities shall be reevaluated at least once every three (3)
24 years or more frequently if conditions warrant or if the parent or

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

4 B. In all proceedings related to the provision of a free
5 appropriate public education for children with disabilities,
6 including whether children are being educated in the least
7 restrictive environment, the local educational agency responsible
8 for providing education to the student with disabilities shall have
9 the burden of proof, the burden of production, and the burden of
10 persuasion in any such proceeding, except with respect to any
11 determination of the appropriateness of any private school placement
12 unilaterally selected by a parent or guardian, the burden of proof,
13 production, and persuasion shall rest upon the student, the
14 student's parent, or the student's guardian.

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

23 SECTION 2. This act shall become effective July 1, 2009.
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1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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