

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 542
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Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Individualized education program (IEP) facilitation takes place as part of the admission, review, and dismissal committee meeting. IEP facilitation builds and improves relationships between IEP team members, parents, and schools, and provides opportunities to resolve conflicts.

The National Center for Appropriate Dispute Resolution in Special Education (CADRE) recommends that school districts provide a full array of alternative dispute resolution (ADR) options to help ensure a positive working relationship between districts and parents and provide students with an appropriate IEP. One of the most widely used optional ADR methods is IEP facilitation. IEP facilitation builds and improves relationships between IEP team members, parents, and schools, provides opportunities to resolve conflicts, and supports all committee members to fully participate.

Currently, there is no consistent statewide information provided to parents about IEP facilitation. There are no statewide definitions of independent IEP facilitation, nor consistent requirements or standards for independent facilitators. In order to ensure that IEP facilitation is available throughout the state, it is important to provide parents with relevant information and to develop statewide criteria for this option. This consistency and criteria will allow the state to measure effectiveness and quality.

C.S.S.B. 542 builds upon the work of the Texas Education Agency and disability advocates across the state. The bill defines IEP facilitation, details what information must be made available to parents of a student with a disability, and outlines the basic structure that a school district must provide. Effectively, the bill adds IEP facilitation to the continuum of ADR services.

C.S.S.B. 542 also establishes an independent IEP facilitation project. Independent IEP facilitation occurs if an independent facilitator, not employed by the school district, facilitates the meeting between the school, the student, and the student's family. Similarly, the bill outlines the procedures, criteria, and rule-making authority for this project.

This legislation would take effect with the 2014-2015 school year.

C.S.S.B. 542 amends current law relating to alternative dispute resolution methods regarding educational services for students with disabilities, including individualized education program facilitation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Sections 29.019 and 29.020, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 1 (Section 29.020, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 29, Education Code, by adding Sections 29.019 and 29.020, as follows:

Sec. 29.019. **INDIVIDUALIZED EDUCATION PROGRAM FACILITATION.** (a) Requires the Texas Education Agency (TEA) to provide information to parents regarding individualized education program facilitation as an alternative dispute resolution method that may be used to avoid a potential dispute between a school district and a parent of a student with a disability. Requires a district that chooses to use individualized education program facilitation to provide information to parents regarding individualized education program facilitation. Provides that the information:

(1) is required to be included with other information provided to the parent of a student with a disability, although it may be provided as a separate document; and

(2) is authorized to be provided in a written or electronic format.

(b) Requires that information provided by TEA under this section indicate that individualized education program facilitation is an alternative dispute resolution method that some districts are authorized to choose to provide.

(c) Provides that if a school district chooses to offer individualized education program facilitation as an alternative dispute resolution method:

(1) the district is authorized to determine whether to use independent contractors, district employees, or other qualified individuals as facilitators;

(2) the information provided by the district under this section is required to include a description of any applicable procedures for requesting the facilitation; and

(3) the facilitation is required to be provided at no cost to a parent.

(d) Requires that the use of any alternative dispute resolution method, including individualized education program facilitation, be voluntary on the part of the participants, and prohibits the use or availability of any such method from in any manner being used to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.

(e) Provides that nothing in this section prohibits a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual admission, review, and dismissal committee meetings.

(f) Requires the commissioner of education (commissioner) to adopt rules necessary to implement this section.

Sec. 29.020. **INDIVIDUALIZED EDUCATION PROGRAM FACILITATION PROJECT.** (a) Requires TEA to develop rules in accordance with this section applicable to the administration of a state individualized education program facilitation project. Requires that the program include the provision of an independent individualized education program facilitator to facilitate an admission, review, and dismissal committee meeting with parties who are in a dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. Requires that facilitation implemented under the project comply with rules developed under this subsection.

(b) Requires that the rules include:

(1) a definition of independent individualized education program facilitation;

(2) forms and procedures for requesting, conducting, and evaluating independent individualized education program facilitation;

(3) training, knowledge, experience, and performance requirements for independent facilitators; and

(4) conditions required to be met in order for the agency to provide individualized education program facilitation at no cost to the parties.

(c) Authorizes the commissioner, if the commissioner determines that adequate funding is available, to authorize the use of federal funds to implement the individualized education program facilitation project in accordance with this section.

(d) Requires the commissioner to adopt rules necessary to implement this section.

SECTION 2. Provides that this Act applies beginning with the 2014-2015 school year.

SECTION 3. Effective date: upon passage or September 1, 2013.