

2023 -- S 0609

LC001056

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

Introduced By: Senators F. Lombardi, DiMario, Lawson, Ciccone, Britto, and Acosta

Date Introduced: March 07, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-24-1 of the General Laws in Chapter 16-24 entitled "Children  
2 With Disabilities [See Title 16 Chapter 97 — The Rhode Island Board of Education Act]" is hereby  
3 amended to read as follows:

4 **16-24-1. Duty of school committee to provide special education.**

5 (a) In any city or town where there is a child with a disability within the age range as  
6 designated by the regulations of the state board of education who is functionally limited to such an  
7 extent that normal educational growth and development is prevented, the school committee of the  
8 city or town where the child resides shall provide the type of special education that will best satisfy  
9 the needs of the child with a disability, as recommended and approved by the state board of  
10 education in accordance with its regulations governing the education of children with disabilities.

11 (b) Notwithstanding any other federal or state law or regulation, the school committee  
12 where a parentally placed child who has, or develops, a disability in private school resides, shall  
13 provide the child with the same free and appropriate education as it provides to children in public  
14 schools. These children and their parents shall have all the same rights and remedies in the  
15 regulations of the board of education governing the education of children with disabilities and as  
16 are provided in the federal Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., as  
17 children in public school relative to initially determining eligibility, implementation, and/or any  
18 other rights and remedies relative to any special education services the child may be eligible to  
19 receive from the public school district: as well as the rights and remedies set forth in subsections

1 (a) through (j) of 29 U.S.C. § 1415, entitled "procedural safeguards." Provided, however, that for  
2 purposes of subsection (b) of this section, the jurisdiction which the Individuals with Disabilities  
3 Education Act confers on the district courts of the United States shall be conferred on the superior  
4 courts of the State of Rhode Island. With respect to parentally placed children in private schools  
5 and their parents or guardians, the superior courts of the State of Rhode Island shall thus have  
6 jurisdiction, under the same standards as those set forth in 29 U.S.C. § 1415(j), to hear civil actions  
7 brought by any party aggrieved by a decision rendered in an impartial due process hearing, and to  
8 award attorneys' fees to a prevailing party who is a state educational agency, a local educational  
9 agency, or the parent or guardian of a parentally placed child with a disability.

10 (c) For the purpose of this statute, a parentally placed child who has, or develops, a  
11 disability in private school is defined as a child enrolled or placed in a private school by the  
12 unilateral decision of his or her parents and without consultation of the public school district, who  
13 either has, or at some point while at the private school is diagnosed with, a learning disability.  
14 Parents who unilaterally enroll their child in a private school are required to pay the tuition costs  
15 related to the child's education that are unrelated to the child's disability, and the public school  
16 district where the child resides is responsible for payment of the services related to the child's  
17 disability as developed and determined in the child's individual education plan.

18 (d) For the purpose of this statute, a free and appropriate education is defined as special  
19 education services and related services that:

20 (1) Are provided at public expense, under public supervision and direction, and without  
21 charge;

22 (2) Meet all of the standards and requirements of the state of Rhode Island department of  
23 education and requirements of the regulations of the board of education governing the education of  
24 children with disabilities, which shall include initial evaluation and determination procedures;

25 (3) Include preschool, elementary school, or secondary school education in the state; and

26 (4) Are provided in conformity with an individualized education program that meets the  
27 requirements of the regulations of the board of education governing the education of children with  
28 disabilities.

29 (e) In those cases that an individual education plan has been adopted for a child and the  
30 child moves to another town or city, the plan shall remain in effect until a new plan is adopted for  
31 the child in the new town or city.

32 (f) A child with a disability as referenced in subsection (a) of this section shall have  
33 available to them any benefits provided by this section up to their twenty-first birthday, in  
34 accordance with the student's individualized education program (IEP). Provided, in the event such

1 a child with a disability is enrolled in a postsecondary or transitional educational program as part  
2 of the services provided to the child by the school committee or local education agency (LEA), and  
3 such child reaches twenty-one (21) years of age during a school or program year, then the school  
4 committee's or LEA's obligation to pay for the postsecondary or transitional program shall  
5 continue through to the conclusion of the school or program's academic year, in accordance with  
6 the student's individualized education program. Not later than sixty (60) calendar days prior to the  
7 child turning twenty-one (21) years of age, the local educational agency (LEA) shall provide the  
8 child and the parent or guardian with notice explaining the rights under this section that remain in  
9 effect at age twenty-one (21). Further, not later than sixty (60) calendar days prior to the child  
10 turning twenty-one (21) years of age, the state adult service agencies responsible for planning,  
11 funding and providing services and supports for adults with developmental disabilities, including  
12 the state office of rehabilitation services (ORS) and the state department of behavioral healthcare,  
13 developmental disabilities and hospitals (BHDDH), shall provide the child and the parent or  
14 guardian with notice of the obligations and responsibilities that the respective agency owes to  
15 eligible recipients along with a level of funding and/or an individual support plan for the child  
16 twenty-one (21) years of age to receive. This section shall not be used to delay or defer the  
17 obligation of a state agency responsible for providing services to this population.

18 (g) For purposes of providing services under this chapter, "special education" shall have  
19 the same meaning as used in 34 C.F.R. § 300.39 and includes speech-language pathology services  
20 for students among the other services and supports provided for therein. The provision of speech-  
21 language pathology services shall not cease or be terminated solely because a child has attained  
22 nine (9) years of age or greater, if those services are still warranted.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would make explicit that parents and guardians of children with disabilities in  
2 private schools have the same rights and remedies as parents/guardians of children in public  
3 schools. This act would also provide a procedure in superior court to enforce these rights and  
4 remedies.

5           This act would take effect upon passage.

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