

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2536 Session of
2008

INTRODUCED BY D. O'BRIEN, ADOLPH, BAKER, BARRAR, BELFANTI,
BISHOP, CALTAGIRONE, CAPPELLI, COHEN, CURRY, DENLINGER,
DONATUCCI, J. EVANS, FABRIZIO, GEORGE, GODSHALL, GOODMAN,
GRUCELA, HALUSKA, HARHAI, HARHART, HARKINS, HENNESSEY,
HERSHEY, HORNAMAN, JAMES, KORTZ, KOTIK, LEACH, MAHONEY,
MANDERINO, MANN, MCGEEHAN, MCILVAINE SMITH, MENSCH, MICOZZIE,
MILLARD, MILNE, MURT, MYERS, M. O'BRIEN, PHILLIPS, QUIGLEY,
RAPP, READSHAW, REICHLEY, RUBLEY, SANTONI, SCAVELLO, SHAPIRO,
SIPTROTH, K. SMITH, SONNEY, SURRA, THOMAS, TRUE, VEREB,
WAGNER, WALKO, WATSON, J. WHITE, YEWCIC AND YOUNGBLOOD,
MAY 14, 2008

REFERRED TO COMMITTEE ON EDUCATION, MAY 14, 2008

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for dispute
6 resolution for the education of exceptional children.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 1372.2. Dispute Resolution for the Education of
13 Exceptional Children.--(a) There is hereby created an
14 independent Board of Dispute Resolution to administer a system
15 of dispute resolution regarding the education of exceptional

1 children. The board shall be an independent board under the
2 authority of the Governor. Those funds now appropriated to the
3 Office of Dispute Resolution under the Department of Education
4 shall be reappropriated to the board as of the effective date of
5 this section.

6 (b) The Secretary of Education, in consultation with the
7 board, shall, within one hundred eighty (180) days from the
8 effective date of this section, transfer all rights, duties and
9 responsibilities of the current administrative hearing structure
10 and supervision of the Office of Dispute Resolution to the
11 board. The Secretary of Education shall assist the board to
12 prepare for the transfer of funds and duties and to ensure a
13 smooth transition with as little disruption as possible to
14 impacted schools and citizens. Regulations, orders, policies and
15 procedures of the Office of Dispute Resolution shall remain in
16 effect until specifically amended, rescinded or altered by the
17 board, but in no case shall the old regulations be in effect
18 beyond one year from the effective date of this section. The
19 board shall ensure the establishment and maintenance of an
20 independent, impartial and efficient system of dispute
21 resolution for exceptional children.

22 (c) The board shall consist of the following members:

23 (1) Four members of the board shall be appointed by the
24 Governor. At least two of the members appointed by the Governor
25 shall be parents of a student currently being provided special
26 education services in this Commonwealth and at least two of the
27 members appointed by the Governor shall be persons with
28 professional knowledge in special education and the
29 administration of local education agencies or an intermediate
30 unit.

1 (2) Two members shall be appointed by the President pro
2 tempore of the Senate.

3 (3) Two members shall be appointed by the Speaker of the
4 House of Representatives.

5 (4) At least one appointee made by each of the appointing
6 authorities described in paragraphs (1), (2) and (3) shall be an
7 attorney at law licensed by the Supreme Court of Pennsylvania
8 for a period no less than five (5) years.

9 (d) All appointees to the board must have demonstrated
10 experience in special education, whether through professional
11 education or training or through sufficient experience to
12 indicate a full comprehension of the issues and needs attendant
13 to educating students with special needs.

14 (e) All appointees to the board shall serve without pay but
15 with reimbursement of necessary expenses and shall serve for
16 periods of three (3) years and may be reappointed for additional
17 terms.

18 (f) The board shall maintain such staff and facilities as
19 are necessary to fulfill the mandates of this statute.

20 (g) The board shall employ as full-time employees hearing
21 officers and such additional personnel necessary to properly
22 exercise its duties. Hearing officers shall be persons with
23 demonstrated training or experience in the statutes, regulations
24 and best practices associated with educating students entitled
25 to special education.

26 (h) At the time of their appointment, and prior to their
27 participation in decision of any case, hearing officers shall
28 successfully complete a training program that at a minimum
29 includes training on the following:

30 (1) The statutes, regulations and case law associated with

1 educating students entitled to special education.

2 (2) The Pennsylvania Rules of Evidence and the Pennsylvania
3 Rules of Practice and Procedure.

4 (3) Educational programs designed for children with
5 disabilities.

6 (4) Best practices for conducting administrative hearings
7 and writing administrative opinions.

8 (i) During each year of their service following appointment,
9 hearing officers shall participate successfully in twenty-four
10 (24) hours of continuing education for the issues described in
11 subsections (g) and (h). Hearing officers shall be appointed by
12 a two-thirds vote of the board. Hearing officers shall hear
13 administrative complaints as described more fully in 22 Pa. Code
14 Ch. 14 (relating to special education services and programs).
15 Hearing officers shall adhere to the rules of conduct contained
16 in 207 Pa. Code Chs. 33 (relating to conduct standards), 51
17 (relating to standards of conduct of district justices) and 61
18 (relating to rules governing the conduct of members of the court
19 of judicial discipline).

20 (j) Subject to the provisions of this act, the board shall
21 have all the powers and shall perform the duties generally
22 vested in and imposed upon independent administrative boards and
23 commissions by the act of April 9, 1929 (P.L.177, No.175), known
24 as "The Administrative Code of 1929," and its amendments and
25 shall be subject to all the provisions of such code that apply
26 generally to independent administrative boards and commissions.

27 (k) No member of the board, hearing officer or other employe
28 of the board shall hold any office or position, the duties of
29 which are incompatible with the duties of his office, or be
30 engaged in any business, employment or vocation which would

1 reasonably create an appearance of impropriety.

2 Section 2. This act shall take effect in 180 days.