

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1415 Session of
2008

INTRODUCED BY RHOADES, WASHINGTON AND RAFFERTY, JUNE 2, 2008

REFERRED TO EDUCATION, JUNE 2, 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," providing for dispute resolution for
6 educating 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 1383. Dispute Resolution for Educating Exceptional
13 Children.--(a) There is created an independent Board of Dispute
14 Resolution to administer a system of dispute resolution
15 regarding the education of exceptional children. The board shall
16 be an independent board under the authority of the Governor.
17 Those funds now appropriated to the Office of Dispute Resolution
18 under the Department of Education shall be reappropriated to the
19 board as of the effective date of this section.

20 (b) The Secretary of Education, in consultation with the

1 board, shall, within one hundred eighty (180) days from the
2 effective date of this section, transfer all rights, duties and
3 responsibilities of the current administrative hearing structure
4 and supervision of the Office of Dispute Resolution to the Board
5 of Dispute Resolution. The Secretary of Education shall assist
6 the board to prepare for the transfer of funds and duties and to
7 ensure a smooth transition with as little disruption as possible
8 to impacted schools and citizens, except that in no case shall
9 the Department of Education be involved in operations, other
10 than funding, beyond twelve (12) months after the effective date
11 of this section. Regulations, orders, policies and procedures of
12 the Office of Dispute Resolution shall remain in effect until
13 specifically amended, rescinded or altered by the board. The
14 board shall ensure establishment and maintenance of an
15 independent, impartial and efficient system of dispute
16 resolution for exceptional children.

17 (c) The board shall be governed by an advisory panel as
18 follows:

19 (1) Three members shall be appointed by the Governor, at
20 least two of whom shall be a parent of a student currently being
21 provided special education services in this Commonwealth who is
22 included in regular education at least sixty per centum (60%) of
23 the time. In addition, at least one of the members appointed by
24 the Governor shall be a person who has professional knowledge in
25 special education or who is in the administration of a local
26 education agency.

27 (2) Two members shall be appointed by the President pro
28 tempore of the Senate, at least one of whom is a parent of a
29 student who is included in regular education at least sixty per
30 centum (60%) of the time.

1 (3) Two members shall be appointed by the Speaker of the
2 House of Representatives, at least one of whom is a parent of a
3 student who is included in regular education at least sixty per
4 centum (60%) of the time.

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

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

13 (e) Appointees shall serve without pay but shall receive
14 reimbursement for necessary expenses.

15 (f) Appointees shall serve for periods of three (3) years
16 and may be reappointed for additional terms.

17 (g) The board shall maintain such staff and facilities as
18 are necessary to fulfill the mandates of this section.

19 (h) No member of the board or hearing officer shall hold any
20 office or position, the duties of which are incompatible with
21 the duties of his office, or be engaged in any business,
22 employment or vocation which would reasonably create an
23 appearance of impropriety. The board shall not contract out any
24 of its duties or responsibilities. Should the board require
25 legal representation, it shall not retain any firm or attorney
26 that appears before its hearing officers in special education
27 due process hearings.

28 (i) The board shall employ full-time employees, hearing
29 officers and additional personnel necessary to properly exercise
30 its duties. Hearing officers shall be persons having

demonstrated training or experience in the statutes, regulations and best practices associated with educating students entitled to special education.

(j) At the time of their appointment, and prior to participating in deciding any case, hearing officers shall successfully complete a training program that at a minimum includes training on the following:

(1) The statutes, regulations and case law associated with educating students entitled to special education.

(2) The Pennsylvania Rules of Evidence.

(3) Educational programs designed for children with disabilities.

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

(k) During each year of service following appointment, hearing officers shall participate successfully in twenty-four (24) hours of continuing education pertaining to the issues described in subsection (j). Hearing officers and appellate officers shall be appointed by a two-thirds vote of the advisory panel. Hearing officers shall hear administrative complaints as described more fully in 22 Pa. Code Ch. 14 (relating to special education services and programs). Hearing officers shall adhere to the rules of conduct contained in 207 Pa. Code Chs. 33 (relating to conduct standards), 51 (relating to standards of conduct of magisterial district judges) and 61 (relating to rules governing the conduct of members of the court of judicial discipline).

(l) Subject to the provisions of this section, the board shall have all powers and perform all duties generally vested in and imposed upon independent administrative boards and

1 commissions by the act of April 9, 1929 (P.L.177, No.175), known
2 as "The Administrative Code of 1929," and shall be subject to
3 all provisions of that act applicable generally to independent
4 administrative boards and commissions.

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