

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1204 Session of 2010

INTRODUCED BY BROWNE, BAKER, LEACH, ERICKSON, O'PAKE, MENSCH,  
MUSTO AND WASHINGTON, JANUARY 26, 2010

REFERRED TO EDUCATION, JANUARY 26, 2010

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 exceptional  
6 children, education and training.

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

9 Section 1. Section 1372 of the act of March 10, 1949  
10 (P.L.30, No.14), known as the Public School Code of 1949, is  
11 amended by adding a clause to read:

12 Section 1372. Exceptional Children; Education and  
13 Training.--\* \* \*

14 (9) Burden of Proof and Time Limitations Relating to  
15 Exceptional Children.

16 (i) In all proceedings related to the provision of a free  
17 appropriate public education for exceptional children, including  
18 whether children are being educated in the least restrictive  
19 environment, the local educational agency responsible for  
20 providing education to the student with disabilities shall have

1 the burden of proof, the burden of production and the burden of  
2 persuasion in any such proceeding, except with respect to any  
3 determination of the appropriateness of any private school  
4 placement unilaterally selected by a parent or guardian, the  
5 burden of proof, production and persuasion shall rest upon the  
6 student, the student's parent or the student's guardian.

7 (ii) School districts and intermediate units that seek to  
8 evaluate a child under the Individuals with Disabilities  
9 Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) must  
10 complete the evaluation within sixty (60) calendar days of  
11 receipt of permission from the parent or guardian to perform the  
12 evaluation.

13 Section 2. This act shall take effect in 60 days.