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**HOUSE BILL 1914**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Couture, McClintock, Schmidt, Waters, Barkis, Rude, Klicker, Chambers, Eslick, Reed, Graham, Jacobsen, Cheney, Sandlin, Caldier, Hutchins, Corry, Pollet, and Griffey

AN ACT Relating to improving the education of students with varying abilities by enhancing special education services; amending RCW 43.06B.010, 28A.155.040, 28A.155.090, and 28A.155.100; and adding new sections to chapter 28A.155 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  With all correspondence and materials related to evaluation for and provision of special education services, a school district must provide the parent of a student who is or may be eligible for special education services a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds.

NEW SECTION. **Sec.**  For each student whose individualized education program includes provision of a related or supplementary special education service that is quantifiable, such as hours, minutes, or units, a school district must provide a monthly report, in writing, to the parent of the student that indicates the quantity of each service delivered to the student and the method in which the service was delivered. Identification of the delivery method includes whether the services were delivered in-person or virtually, whether the services were delivered one-on-one or in a group, and whether the services were delivered at the student's school or at another location. The report must be made available within five business days of a parent's request.

NEW SECTION. **Sec.**  Subject to the availability of amounts appropriated for this specific purpose, each educational service district shall contract for speech language pathologists, audiologists, psychologists, physical therapists, orientation and mobility specialists, occupational therapists, and behavior analysts for the purpose of providing services to local students eligible for special education services.

NEW SECTION. **Sec.**  (1) The school district has the burden of proof and the burden of production whenever it is a party to a due process hearing regarding the identification of, evaluation of, reevaluation of, classification of, educational placement of, disciplinary action of, or provision of a free appropriate public education to a student with a disability.

(2) In a due process hearing, evidence showing that a student has not failed or been retained in a course or grade, and is advancing from grade to grade, does not create the presumption that the school has provided the student with a free appropriate public education as required by the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq.

(3) In a due process hearing related to the lack of parent participation in the adoption of an individualized education program due to an interpreter-related issue, the superintendent of public instruction or the superintendent's designee may order the individualized education program team to reconvene with a qualified interpreter as defined in RCW 28A.183.010, so that the parent can fully participate in any adoption of an individualized education program.

(4) For purposes of this section, "due process hearing" means a due process hearing held in accordance with the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq.

**Sec.**  RCW 43.06B.010 and 2023 c 417 s 5 are each amended to read as follows:

(1) There is hereby created the office of the education ombuds within the office of the governor for the purposes of providing information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary education system, and advocating on behalf of elementary and secondary students.

(2)(a) The governor shall appoint an ombuds who shall be a person of recognized judgment, independence, objectivity, and integrity and shall be qualified by training or experience or both in the following areas:

(i) Public education law and policy in this state;

(ii) Dispute resolution or problem resolution techniques, including mediation and negotiation; and

(iii) Community outreach.

(b) The education ombuds may not be an employee of any school district, the office of the superintendent of public instruction, or the state board of education while serving as an education ombuds.

(3) Before the appointment of the education ombuds, the governor shall share information regarding the appointment to a six-person legislative committee appointed and comprised as follows:

(a) The committee shall consist of three senators and three members of the house of representatives from the legislature.

(b) The senate members of the committee shall be appointed by the president of the senate. Two members shall represent the majority caucus and one member the minority caucus.

(c) The house of representatives members of the committee shall be appointed by the speaker of the house of representatives. Two members shall represent the majority caucus and one member the minority caucus.

(4) If sufficient appropriations are provided, the education ombuds shall delegate and certify regional education ombuds. The education ombuds shall ensure that the regional ombuds selected are appropriate to the community in which they serve and hold the same qualifications as in subsection (2)(a) of this section. The education ombuds may not contract with the superintendent of public instruction, or any school, school district, or current employee of a school, school district, or the office of the superintendent of public instruction for the provision of regional ombuds services.

(5)((~~(a) Subject to amounts appropriated for this specific purpose, the education ombuds shall delegate and certify at least one special education ombuds to serve each educational service district region. The education ombuds shall ensure that the special education ombuds selected are appropriate to the community in which they serve and hold the same qualifications as in subsection (2)(a) of this section. The education ombuds may not contract with the superintendent of public instruction, or any school, school district, educational service district, or current employee of a school, school district, educational service district, or the office of the superintendent of public instruction for the provision of special education ombuds services.~~

~~(b) Special~~)) The education ombuds must serve as a resource for students eligible for special education services and their parents, including:

((~~(i)~~)) (a) Advocating on behalf of the student for a free and appropriate public education from the public school system that emphasizes special education and related services that are:

((~~(A)~~)) (i) Provided in the least restrictive environment;

((~~(B)~~)) (ii) Designed to meet the student's unique needs;

((~~(C)~~)) (iii) Appropriately ambitious and reasonably calculated to enable a student to make progress in light of the student's circumstances; and

((~~(D)~~)) (iv) Addressing the student's further education, employment, and independent living goals.

((~~(ii)~~)) (b) Assisting students and parents with individualized education program development, including:

((~~(A)~~)) (i) Preparing for a meeting to develop or update a student's individualized education program;

((~~(B)~~)) (ii) Attending individualized education program meetings to help present the parents' concerns, negotiate components that meet the parents' goals and requests, or otherwise assist the parent in understanding and navigating the individualized education program process; and

((~~(C)~~)) (iii) Attending an individualized education program meeting to assist in writing an appropriate program when a parent opts out or otherwise cannot attend.

**Sec.**  RCW 28A.155.040 and 2007 c 115 s 4 are each amended to read as follows:

The board of directors of each school district, for the purpose of compliance with the provisions of RCW 28A.150.390, 28A.160.030, ((~~and~~)) 28A.155.010 through 28A.155.160, and sections 1 and 2 of this act, and chapter 28A.190 RCW, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity to children with disabilities, as defined in RCW 28A.155.020, in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW 28A.155.060 or shall participate in an interdistrict arrangement in accordance with RCW 28A.335.160 and 28A.225.220 and/or 28A.225.250 and 28A.225.260.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to students with disabilities.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those students with disabilities eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those students with disabilities not eligible under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: PROVIDED, That no school district shall be financially responsible for special education programs for students who are attending residential schools operated by the department of social and health services: PROVIDED FURTHER, That the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 shall not preclude the extension by the superintendent of public instruction of special education opportunities to students with disabilities in residential schools operated by the department of social and health services.

**Sec.**  RCW 28A.155.090 and 2023 c 436 s 2 are each amended to read as follows:

The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with disabilities, to:

(1) Assist school districts in the formation of programs to meet the needs of children with disabilities;

(2) Develop interdistrict cooperation programs for children with disabilities as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of children with disabilities, information as to the special education programs for students with disabilities offered within the state;

(4) Assist, upon request, the parent or guardian of any child with disabilities in the placement of any child with disabilities who is eligible for but not receiving special educational services for children with disabilities;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to students with disabilities;

(6) Establish standards for authorizing, monitoring, and investigating private schools approved by the state board of education under RCW 28A.305.130, other private in-state entities, and any out-of-state entities, that contract with school districts under RCW 28A.155.060 to provide special education and related services to children with disabilities. The standards must ensure that any children with disabilities placed in authorized entities by school districts have the same rights, protections, and access to special education and related services that they would have if served by a school district;

(7) Consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, and part B of the federal individuals with disabilities education improvement act, administer administrative hearings and other procedures to ensure procedural safeguards of children with disabilities; and

(8) Promulgate such rules as are necessary to implement part B of the federal individuals with disabilities education improvement act or other federal law providing for special education services for children with disabilities and the several provisions of RCW 28A.150.390, 28A.160.030, ((~~and~~)) 28A.155.010 through 28A.155.160, and sections 1 through 4 of this act, and to ensure appropriate access to and participation in the general education curriculum and participation in statewide assessments for all students with disabilities.

**Sec.**  RCW 28A.155.100 and 2007 c 115 s 12 are each amended to read as follows:

The superintendent of public instruction is hereby authorized and directed to establish appropriate sanctions to be applied to any school district of the state failing to comply with the provisions of RCW 28A.150.390, 28A.160.030, ((~~and~~)) 28A.155.010 through 28A.155.060 ((~~and~~)), 28A.155.080 through 28A.155.160, and sections 1, 2, and 4 of this act to be applied beginning upon the effective date thereof, which sanctions shall include withholding of any portion of state aid to such district until such time as compliance is assured.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act are each added to chapter 28A.155 RCW.

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