

2020 -- S 2752

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

Introduced By: Senators Lombardi, and McCaffrey

Date Introduced: March 04, 2020

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 or guardians](#) shall have [all](#) the same rights and remedies
15 in the regulations of the board of education governing the education of children with disabilities
16 [and as are provided in the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et](#)
17 [seq.](#) as children in public school relative to initially determining eligibility, implementation, and/or
18 any other rights and remedies relative to any special education services the child may be eligible to
19 receive from the public school district. [This shall include the rights and remedies set forth in](#)

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

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

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

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

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

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

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

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

33 (f) A child with a disability as referenced in subsection (a) of this section shall have
34 available to them any benefits provided by this section up to their twenty-first birthday, in

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

- 1 This act would make explicit that parents and guardians of children with disabilities in
- 2 private school have the same rights and remedies as parents/guardians of children in public school.
- 3 This act would also provide a procedure in superior court to enforce these rights and remedies.
- 4 This act would take effect upon passage.

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