


Councilmember David A. Catania

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the State Education Office Establishment Act of 2000 to provide for special education service enhancements; and, to amend the Placement of Students with Disabilities in Nonpublic Schools Amendment Act of 2006 to change the number of days by which an evaluation must occur and to make clarifying amendments to ensure applicability to all public school students.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Enhanced Special Education Services Act of 2014.”

TITLE I. OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION.

Sec. 101. Short title.

This title may be cited as the “State Education Office Establishment Act Amendment Act of 2014”.

Sec. 102. The State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601, *et seq.*), is amended as follows:

(a) Section 2b is amended by inserting new paragraphs (2A) and (2B) to read as follows:

“(2A) “IDEA” means the Individuals with Disabilities Education Act, as approved April 13, 1970 (84 Stat. 175, 20 U.S.C. § 1400, *et seq.*), as amended, and its implementing regulations.

“(2B) Individualized education plan” or “IEP” means a written plan that specifies the special education programs and services to be provided to meet the unique educational needs of a student with a disability, as required under section 614(d) of the IDEA (20 U.S.C. § 1414(d).

(b) A new Section 7d is added to read as follows:

1 “Sec. 7d. Special education.

2 “(a) By October 1, 2015, OSSE shall issue regulations:

3 “(1) Requiring that the first IEP in effect when a child with a disability is 14
4 include transition assessments and services, including:

5 “(A) Appropriate measurable postsecondary goals based upon age-
6 appropriate transition assessments related to training, education, employment, and where
7 appropriate, independent living skills and the transition services needed to assist the child in
8 reaching those goals;

9 “(B) A statement of inter-agency responsibilities or any needed linkages
10 before the child leaves the school setting; and

11 “(C) If the IEP team determines that transition services are not needed, a
12 statement to that effect and the basis upon which the determination was made; and.

13 “(2) Requiring that not later than one year before a student’s anticipated high
14 school graduation or attainment of a certificate of IEP completion, the IEP team identify which
15 evaluations will be necessary in order to determine a student’s eligibility for adult services from
16 District agencies and incorporate a plan for their completion into the student’s IEP;

17 “(3) Governing the provision of transportation services to students with
18 disabilities, including maximum ride times, and the number of allowable pick-up and drop-off
19 locations; and

20 “(4) Establishing a process to allow for the appointment of an educational
21 representative to make educational decisions for an adult student with disabilities if that student
22 has been determined to be unable to provide informed consent.

23 “(b) By October 1, 2016, OSSE shall:

1 “(1) Issue regulations:

2 “(A) Expanding eligibility for early intervention services under IDEA Part
3 C to children between birth and age 3 to include the following:

4 “(i) The child demonstrates a delay of 25 percent, using
5 appropriate diagnostic instruments and procedures, in one of the following developmental areas:

6 “(I) Physical development, including vision or hearing;

7 “(II) Cognitive development;

8 “(III) Communication development;

9 “(IV) Social or emotional development; or

10 “(V) Adaptive development; or

11 “(ii) The child is at risk of substantial developmental delay; and

12 “(B) Allowing eligibility for services under IDEA Part B based on a child
13 with a disability having a developmental delay to extend up to age 9; and

14 “(2) Issue a report providing recommendations on how the District could best
15 align eligibility requirements for IDEA Part B and Part C.”

16 “(c) By July 1 of each year, OSSE shall make publicly available any assessments done
17 for the previous school year regarding LEA compliance with the requirements of IDEA.

18
19 **TITLE II. NON-PUBLIC PLACEMENTS**

20 Sec. 201. Short title.

21 This title may be cited as the “Placement of Students with Disabilities in Nonpublic
22 Schools Amendment Act of 2014”.

1 Sec. 202. The Placement of Students with Disabilities in Nonpublic Schools Amendment
2 Act of 2006, approved December 28, 2006 (D.C. Law 16-269; D.C. Official Code § 38-2561.02
3 *et seq.*), is amended as follows:

4 (a) Section 101 (D.C. Official Code § 38-2561.01) is amended as follows:

5 (1) Paragraph (2) is amended to read as follows:

6 “(2) "DCPS" means the District of Columbia Public Schools, established by
7 section 102 of the District of Columbia Public Schools Agency Establishment Act of 2007,
8 effective June 12, 2007 (D.C. Law 17-9; D. C. Official Code § 38-171).”

9 (2) Insert a new paragraph (6A) to read as follows:

10 “(6A) “Local education agency” or “LEA” means an educational institution at the
11 local level that exists primarily to operate a publicly funded school or schools in the District of
12 Columbia, including the District of Columbia Public Schools and a District of Columbia public
13 charter school.”

14 (3) Insert a new paragraph (8A) to read as follows:

15 “(8A) “Public charter school” means a publicly funded school in the District of
16 Columbia that is established pursuant to D.C. Official Code §38-1802 *et seq.* and is not part of
17 DCPS.”

18 (b) Section 102 (D.C. Official Code § 38-2561.02) is amended as follows:

19 (1) Subsection (a) is amended to read as follows:

20 “(a) An LEA shall assess or evaluate a student who may have a disability and who
21 may require special education services within 60 days from the date that the student was referred
22 for an evaluation or assessment.”

1 (2) Subsection (b) is amended by striking the word “DCPS” and inserting the
2 phrase “an LEA” in its place.

3 (c) Section 103 (D.C. Official Code § 38-2561.03) is amended as follows:

4 (1) Subsection (a) is amended to read as follows:

5 “(a) An LEA shall be responsible for the placement and funding of a student with
6 a disability in a nonpublic special education school or program when:

7 “(1) The LEA cannot implement the student’s IEP or provide an
8 appropriate placement in conformity with LEA policies, the IDEA, and any other applicable laws
9 or regulations; and

10 “(2) The nonpublic special education school or program to which the
11 student has been referred:

12 “(A) Has been approved by the SEA in accordance with section
13 107;

14 “(B) Can implement the student’s IEP; and

15 “(C) Represents the least restrictive environment of the student.”

16 (2) Subsection (c) is amended to read as follows:

17 “(c) In conformity with the IDEA, an LEA is not responsible for paying the cost
18 of education, including special education and related services, of a student with a disability who
19 attends a nonpublic special education school or program if:

20 “(1) The LEA made a free and appropriate public education available to
21 the student; and

22 “(2) The student’s parent or guardian elected to place the student in a
23 nonpublic special education school or program.”

1 (d) Section 105 (D.C. Official Code § 38-2561.05) is amended as follows:

2 (1) Subsection (a) is amended to read as follows:

3 “(a) The due process procedures set forth in the Special Education Student Rights
4 Act of 2014, Chapter 30 of Title 5 of the District of Columbia Municipal Regulations and the
5 IDEA shall govern any disputes between a student’s parent or guardian and the LEA regarding
6 the assessment, evaluation, placement, and funding of a student with a disability in a nonpublic
7 special education school or program.

8 (2) Subsection (b) is amended by striking the term “DCPS” and inserting the
9 phrase “an LEA” in its place.

10 (e) Section 106 (D.C. Official Code § 38-2561.06) is amended to read as follows:

11 “Sec. 106. Participation of an LEA in development or review of the IEP.

12 “When a student is receiving education and related services from a nonpublic special
13 education school or program that is approved by the SEA under § 38-2561.07 and receives
14 funding from the District of Columbia government, the LEA shall participate in the initial
15 meeting to develop an IEP. For any subsequent meeting to review or revise the IEP, the failure or
16 inability of a representative from the LEA to attend the IEP meeting after the meeting has been
17 set shall not prevent the meeting from taking place as planned.”

18 (f) Section 111(a) (D.C. Official Code § 38-2561.11(a)) is amended as follows:

19 (1) Paragraph (1) is amended by striking the phrase “or DCPS”.

20 (2) Paragraph (6) is amended by striking the word “DCPS” and inserting the
21 phrase “an LEA” in its place.

22 (g) Section 112(b) (D.C. Official Code § 38-2561.12(b)) is amended by striking the phrase

23 “and administrative costs.” and replacing it with the phrase “and administrative costs; provided,

1 that the rates paid to nonpublic special education schools and programs within the District of
2 Columbia shall not be so disparate from the rates paid to nonpublic institutions in surrounding
3 jurisdictions as to dis-incentivize the establishment of non-public special education schools and
4 programs within the District of Columbia.”

5 Sec. 4. Fiscal Impact Statement.

6 The Council adopts the fiscal impact statement in the committee report as the fiscal
7 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
8 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

9 Sec. 5. Effective Date.

10 Unless otherwise noted in this act, this act shall take effect following approval by the
11 Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-
12 day period of Congressional review as provided in section 602(c)(1) of the District of Columbia
13 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
14 206.02(c)(1)), and publication in the District of Columbia Register.

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