

SPECIAL EDUCATION HEARINGS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marsha Judkins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a training program for an attorney to be certified in special education hearings.

Highlighted Provisions:

This bill:

- ▶ creates a training program to certify an attorney to provide special education legal services;
- ▶ requires the court administrator to implement the training program;
- ▶ requires the State Board of Education (state board) and the Utah State Bar to be consulted for the program; and
- ▶ establishes the criteria for the training program curriculum.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53E-7-501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section 53E-7-501 is enacted to read:

29 **Part 5. Special Education Legal Advocate Program**

30 **53E-7-501. Special Education Legal Advocate Program.**

31 (1) As used in this section:

32 (a) "Court administrator" means the state court administrator described in Section
33 78A-2-105.

34 (b) "IDEA" means the Individuals with Disabilities Education Act, 20 U.S.C. Sec.
35 1400, et seq.

36 (c) "Special education legal advocate program" or "program" means the program
37 established in Subsection (2).

38 (d) "State board" means the same as the term is defined in Section 53E-1-102.

39 (2) There is established the Special Education Legal Advocate Program to develop a
40 group of attorneys who can represent families in IDEA special education dispute resolution
41 including state complaints, mediation, and due process hearings when families do not
42 otherwise have legal representation.

43 (3) In consultation with the state board and the Utah State Bar, the court administrator
44 shall contract with a third party to develop a curriculum to train an attorney in developing the
45 following skills necessary for representation of a client with special education needs:

46 (a) conducting a resolution session with an LEA;

47 (b) drafting a comprehensive due process complaint;

48 (c) developing hearing strategy;

49 (d) planning witnesses and evidence; and

50 (e) presenting arguments in a simulated due process hearing.

51 (4) The court administrator in consultation with the state board shall ensure the
52 curriculum for the program covers key topics related to effectively representing parents and
53 students in special education matters including:

54 (a) IDEA procedural safeguards including student and parent's rights;

55 (b) IEPs, free appropriate public education requirements, and related student
56 accommodations including the least restrictive environment with a continuum of placements;

57 (c) dispute resolution processes including mediation, complaints, resolution sessions,
58 and due process hearings;

- 59 (d) private school placement reimbursement claims;
- 60 (e) detriment to child educational standard and compensatory education awards;
- 61 (f) discipline procedures for removals, suspensions, and expulsions;
- 62 (g) information about appeals and the appeals process for a special education hearing
- 63 including the required timelines for filing an appeal; and
- 64 (h) relevant case law regarding special education proceedings.

65 (5) The court administrator shall administer the program in collaboration with the Utah
66 State Bar including:

- 67 (a) enrolling attorneys with good standing for the training;
- 68 (b) establishing a list of certified attorneys who have completed the training;
- 69 (c) maintaining a list of certified attorneys on the court's website;
- 70 (d) sharing the list described in Subsection (5)(c) with the state board; and
- 71 (e) connecting prospective clients with a certified attorney who has volunteered to be
- 72 available.

73 (6) The state board shall provide a link on the state board's website to the court's list of
74 certified attorneys for the program.

75 (7) If a parent is referred to the program, the court administrator may solicit the list of
76 certified attorneys for a volunteer to take the referral.

77 (8) An attorney that is trained under this program:

- 78 (a) may charge for the legal services provided or represent a client pro bono; and
- 79 (b) shall be able to recover legal fees as allowed under state law if the attorney prevails
- 80 in a case.

81 (9) In consultation with the state board and the Utah State Bar, the court administrator
82 shall review the effectiveness of the training curriculum at least once every three years.

83 (10) In addition to the program and subject to legislative appropriation, the state board
84 may contract with a third party to provide parent advocates within an LEA to provide support
85 to a parent of a child with a disability.

86 **Section 2. Effective date.**

87 This bill takes effect on May 1, 2024.