

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 247
SENATE BILL 127

AN ACT TO MAKE CLARIFYING AND PROCEDURAL CHANGES TO THE LAW
REGARDING EDUCATION FOR CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-109 is amended in the second sentence by deleting the phrase "genetically impaired" and by substituting the phrase "other health impaired".

Sec. 2. G.S. 115C-109 is amended in the last sentence by deleting the phrase "and gifted and talented" and by substituting the phrase "and academically gifted".

Sec. 3. G.S. 115C-110(j) is amended by inserting a new sentence between the first and second sentences to read:

"Suspected children are those in the formal process of being identified, evaluated or diagnosed as children with special needs."

Sec. 4. (a) G.S. 115C-110(d)(2) is rewritten to read:

"(2) Minimum standards for the individualized educational program for all children with special needs other than for the academically gifted and the pregnant children, and for the group educational program for the academically gifted children and the educational program for the pregnant children, who receive special education and related services; and".

(b) G.S. 115C-110(k) is rewritten to read:

"(k) The Department shall monitor the effectiveness of individualized education programs in meeting the educational needs of all children with special needs other than the academically gifted and pregnant children, and of group educational programs in meeting the educational needs of the academically gifted children, and of educational programs in meeting the educational needs of the pregnant children".

(c) G.S. 115C-113(a) is amended by inserting between the first and second sentences a new sentence to read:

"The State Board of Education shall establish special, simplified procedures for the diagnosis and evaluation of the pregnant child, which procedures shall focus on the particular needs of the pregnant child and shall exclude those procedures which are not pertinent to the pregnant."

(d) G.S. 115C-113(c) is amended in the first sentence of the fourth paragraph by inserting between the phrase "individualized education program" and the phrase "shall evaluate" the phrase "or group educational program or both, or educational program,".

(e) G.S. 115C-113(f) is amended by rewriting the first sentence to read:

"Each local educational agency shall prepare individualized educational programs for all children found to be children with special needs other than the academically

gifted and pregnant children, and group educational programs prescribed in subsection (g) of this section for the academically gifted children, and educational programs prescribed in subsection (h) of this section for the pregnant children."

(f) G.S. 115C-113 is amended by adding new subsections (g) and (h) to the end to read:

"(g) Each local educational agency shall prepare group educational programs for the academically gifted children. The State Board of Education shall promulgate rules and regulations specifically to address the preparation of these group educational programs, which rules and regulations shall include specific grouping standards and specific program standards, and shall also include standards for ensuring that the individual educational needs of each child within the group are addressed.

(h) Each local educational agency shall prepare educational programs for the pregnant children. The State Board of Education shall promulgate rules and regulations specifically to address the preparation of these educational programs, which rules and regulations shall include specific standards for ensuring that the individual educational needs of each child are addressed."

Sec. 5. G.S. 115C-112 is rewritten to read:

"§ 115C-112. Disciplinary suspensions. – (a) In the event that a child with special needs exhibits behavior which, if the child were not a child with special needs, could result in the suspension or expulsion of the child from school for a period of more than 10 days or for consecutive periods that total more than 10 days, the local education agency shall require a multidisciplinary team promptly to review the evaluation already completed for the child and conduct any additional evaluations necessary to determine if the behavior is caused by the child's special needs, which evaluations shall include determining (1) whether the child is presently receiving appropriate education, and (2) whether medication is needed or present medication is appropriate. If the evaluation establishes no such relationship between the behavior and the special needs, the local education agency may initiate its normal disciplinary procedures. If the evaluation does establish such a relationship, the local education agency may not initiate its normal disciplinary procedures. The findings should be used in determining an appropriate program.

(b) In an emergency situation, the child may be immediately suspended for a period not to exceed 10 days. As soon as possible after the suspension has begun, and in no case beyond the end of the 10-day maximum period, except under extraordinary circumstances, the multidisciplinary team shall conduct the evaluation described above in subsection (a). To constitute an emergency situation, there must be a continuing threat to the child or to others due to the child's behavior.

(c) In all actions involving suspension of a special needs child whose behavior is determined to be caused by his/her handicapping condition or lack of proper medication, the parties have available all the due process rights of G.S. 115C-116 and 20 USC 1415."

Sec. 6. (a) G.S. 115C-116(b) is amended by adding a new sentence after the fourth sentence to read:

"The impartial hearing officer shall be approved by the State Board of Education and shall have demonstrated to the State Board a sufficient knowledge of and familiarity with pertinent federal law and regulations as well as State law and regulations and applicable provisions of the Administrative Procedure Act."

(b) G.S. 115C-116(b) is amended by adding a new sentence at the end to read:

"The hearing, the agency review and the judicial review shall be conducted in accordance with Articles 3 and 4 of Chapter 150A of the General Statutes unless this section or pertinent federal law or regulation specifies otherwise."

(c) G.S. 115C-116(b1) is rewritten to read:

"(b1) State officials or employees and officials or employees of a local board of education who are subpoenaed shall not be entitled to any witness fees, but they shall receive their normal salary and they shall not be required to take any annual leave for their witness days."

(d) G.S. 115C-116 is amended by deleting subsections (g), (h) and (i).

Sec. 7. This act shall become effective October 1, 1983.

In the General Assembly read three times and ratified, this the 28th day of April, 1983.