

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 412
SENATE BILL 391

AN ACT TO IMPROVE THE SPECIAL EDUCATION HEARING PROCESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-116(b) is amended by deleting the last four sentences, beginning with the phrase "This hearing shall contain information".

Sec. 2. G.S. 115C-116 is amended by designating subsection (b1) as (b2) and by adding a new subsection (b1) to read:

"(b1) Hearings. If a hearing is requested by either a local education agency or parent or guardian, an impartial hearing officer approved by the State Board of Education shall be selected to hear the case. The State Department of Public Instruction, whose rules are established by the State Board of Education, shall provide a list of approved hearing officers to the parent and the local board. Both the parent and the local board shall have the privilege of striking an equal number of names from the list. After these strike-off privileges have been exercised the State Department of Public Instruction shall name the hearing officer from the remaining names. The hearing officer shall have no personal or professional interest that may interfere with his or her objectivity in a hearing. The State Board of Education shall establish procedures for training and monitoring of hearing officers and requirements that assure that hearing officers are knowledgeable concerning pertinent federal and State laws and regulations as well as the Administrative Procedure Act. The parent or guardian of a child of the local education agency may, upon written request, not more than 30 days from the date the hearing decision is received, appeal the decision to the State Superintendent of Public Instruction, who shall make an impartial and independent decision in the case. In the local hearing and the State review, technical rules of evidence shall not apply. The decision of the State Superintendent of Public Instruction may be appealed to the General Court of Justice within 30 days after notice of the decision. 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."

Sec. 2. This act shall become effective October 1, 1985.

In the General Assembly read three times and ratified, this the 17th day of June, 1985.