

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 388  
HOUSE BILL 601

AN ACT TO AMEND THE PROVISIONS FOR DIAGNOSIS AND EVALUATION  
OF CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-113 reads as rewritten:

**"§ 115C-113. Diagnosis and evaluation; individualized education program.**

(a) Before taking any action described in subsection (b), below, each local educational agency shall cause a multi-disciplinary diagnosis and evaluation to be made of the child. 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. The local educational agency shall use the diagnosis and evaluation to determine if the child has special needs, diagnose and evaluate those needs, propose special education programs to meet those needs, and provide or arrange to provide such programs. A multi-disciplinary diagnosis and evaluation is one which includes, without limitation, medical (if necessary), psychological (if necessary) and educational assessments and recommendations; such an evaluation may include any other assessments as the Board may, by rule or regulation, require.

All testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with special needs will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(b) An initial multi-disciplinary diagnosis and evaluation based on rules developed by the Board shall be made before any such child is placed in a special education program, removed from such a program and placed in a regular school program, transferred from one type of special education program to another, removed from a school program for placement in a nonschool program, or otherwise tracked, classified, or treated as a child with special needs.

(c) Referral of any child shall be in writing, signed by the person requesting diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or delivered to one of the following: the child's teacher, the principal of the school to which the child is, has been or will be assigned, ~~and or~~ the superintendent ~~or other chief executive officer~~ of the affected local educational ~~agency~~ agency or his designee. The local educational agency shall send a written notice to the parent or guardian describing

the evaluation procedure to be followed and requesting consent for the evaluation. If the parents or guardian consent, the diagnosis and evaluation may be undertaken; if they do not, the local educational agency may obtain a due process hearing pursuant to G.S. 115C-116 on the failure of the parent or guardian to consent.

~~Within 30 days of such referral, the local educational agency shall send a written notice to the parents or guardian describing the evaluation procedure to be followed and requesting consent for the evaluation. If the parents or guardian consent, the diagnosis and evaluation may be undertaken; if they do not, the local educational agency may obtain a due process hearing on the failure of the parent to consent under G.S. 115C-116.~~

The local educational agency shall provide or cause to be ~~provided~~ provided, as soon as possible after receiving consent for evaluation, a diagnosis and evaluation appropriate to the needs of the child ~~within 30 calendar days after sending the notice unless the parents or guardian have objected to such evaluation.~~ If at the conclusion of the evaluation, the child is determined to be a child with special needs, the local educational agency shall offer a proposal for an educational program appropriate to the child's needs. ~~within 30 calendar days convene an individualized education program committee.~~ The purpose of the meeting shall be to propose the special education and related services for the child. An interpretation of the multi-disciplinary diagnosis and evaluation will be made to the parent or guardian during the meeting. The proposal ~~If this proposal calls for a special educational program, it shall~~ set forth the specific benefits expected from such a program, a method for monitoring the benefits, and a statement regarding conditions which will be considered indicative of the child's readiness for participation in regular classes.

After an initial referral is made, the provision of special education and related services shall be implemented within 90 calendar days to eligible students, unless the parents or guardian refuse to consent to evaluation or placement or the parent or local educational agency requests a due process hearing.

Within 12 months after placement in a special education program, and at least annually thereafter, those people responsible for developing the child's individualized education ~~program or program, group educational program or both, or educational program,~~ for the academically gifted, or educational program for the pregnant, shall ~~evaluate~~ review the child's progress and, on the basis of previously stated expected benefits, decide whether to continue or discontinue the placement or program. If the ~~reevaluation~~ review indicates that the placement or program does not benefit the child, the appropriate reassignment or ~~alteration~~ change in the prescribed program shall be recommended to the parents or ~~guardian~~ guardian, and their consent requested.

The local educational agency shall keep a complete written record of all diagnostic and evaluation procedures attempted, their results, the conclusions reached, and the proposals made.

(d) The local educational agency shall furnish the results, findings, and ~~proposals~~ proposals, as described in the individualized education program or group educational program based on the diagnosis and evaluation to the parents or guardian in writing in the parents' or guardian's native language or by their dominant mode of communication,

~~within 15 calendar days after the diagnosis and evaluation are completed. Within 20 days after the diagnosis and evaluation are completed, it shall cause a conference to be scheduled between one of its staff competent to interpret the report of the diagnosis and evaluation and the child's parents or guardian. The conference shall be held no later than 30 calendar days after the date it is scheduled. At the conference, the report shall be explained to the parents or guardian. The parents or guardian may waive the interpretive conference. prior to the parent or guardian giving consent for initial placement in special education and related services. Prior notice will be given to the parents or guardian by the local educational agency before any change in placement.~~

A reevaluation must be completed at least every three years to determine the appropriateness of the child's continuing to receive special education and related services.

(e) Each local educational agency shall make and keep current a list of all children evaluated and diagnosed pursuant to this section who are found to have special needs and of all children who are receiving home, hospital, institutional or other special education services, including those being educated within the regular classroom setting or in other special education programs.

(f) 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. The individualized educational program shall be developed in conformity with Public Law 94-142 and the implementing regulations issued by the United States Department of Education and shall be implemented in conformity with timeliness set by that Department. The term 'individualized educational program' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized educational program of each child with special needs ~~at the beginning of each school year~~ and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of Human Resources, the individualized educational program shall be planned in collaboration with those other individuals responsible for the design of the total treatment or habilitation plan or both; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent.

(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. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 1989.