

ASSEMBLY BILL

No. 164

Introduced by Assembly Member Harman

January 31, 2001

An act to amend Section 56502 of the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 164, as introduced, Harman. Special education: due process hearings.

Existing law provides procedural safeguards, including due process hearings for the resolution of complaints regarding alleged violations of the Individuals with Disabilities Act.

This bill would require, at least 30 days prior to filing a request for a due process hearing with the Superintendent of Public Instruction, the party initiating the request to prepare and file, by certified mail, return receipt requested, with the superintendent, a written notice of intent to file a request for a due process hearing, as specified.

The bill would authorize, within 10 business days of receipt of the notice, the superintendent, at his or her discretion, to contact the party initiating the request and arrange to meet with the party, on an informal basis, to make a good faith attempt to resolve the issues.

The bill would require preparation and filing of the notice as a condition precedent to the right of the initiating party to a due process hearing.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56502 of the Education Code is
2 amended to read:

3 56502. (a) (1) *At least 30 days prior to filing a request for a*
4 *due process hearing with the superintendent, the party initiating*
5 *the request shall prepare and file, by certified mail, return receipt*
6 *requested, with the superintendent, a written notice stating all of*
7 *the following:*

8 (A) *The intention of the initiating party to file a request for a*
9 *due process hearing.*

10 (B) *A brief description of the issues in dispute.*

11 (C) *The relief requested.*

12 (2) *Within 10 business days of receipt of the notice prepared*
13 *and filed pursuant to paragraph (1), the superintendent may, at his*
14 *or her discretion, contact the party initiating the request and*
15 *arrange to meet with the party, on an informal basis, to make a*
16 *good faith attempt to resolve the issues.*

17 (3) *The preparation and filing of the notice required pursuant*
18 *to paragraph (1) shall be a condition precedent to the right of the*
19 *initiating party to a due process hearing. However, technical*
20 *deficiencies in the manner of filing shall not deprive the initiating*
21 *party of the right to a due process hearing where the*
22 *superintendent had actual notice.*

23 (b) All requests for a due process hearing shall be filed with the
24 superintendent. The party initiating a due process hearing by filing
25 a written request with the superintendent shall provide the other
26 party to the hearing with a copy of the request at the same time as
27 the request is filed with the superintendent. The superintendent
28 shall take steps to ensure that within 45 days after receipt of the
29 written hearing request the hearing is immediately commenced
30 and completed, including, any mediation requested at any point
31 during the hearing process pursuant to paragraph (2) of
32 subdivision (b) of Section 56501, and a final administrative
33 decision is rendered, unless a continuance has been granted
34 pursuant to Section 56505.

35 ~~(b)~~

36 (c) Notwithstanding any procedure set forth in this chapter, a
37 public education agency and a parent may, if the party initiating the
38 hearing so chooses, meet informally to resolve any issue or issues



1 relating to the identification, assessment, or education and
2 placement of the child, or the provision of a free, appropriate
3 public education to the child, to the satisfaction of both parties
4 prior to the hearing. The informal meeting shall be conducted by
5 the district superintendent, county superintendent, or director of
6 the public education agency or his or her designee. Any designee
7 appointed pursuant to this subdivision shall have the authority to
8 resolve the issue or issues.

9 ~~(e)~~

10 (d) Upon receipt by the superintendent of a written request by
11 the parent or public education agency, the superintendent or his or
12 her designee or designees shall immediately notify, in writing, all
13 parties of the request for the hearing and the scheduled date for the
14 hearing. The notice shall advise all parties of all their rights
15 relating to procedural safeguards. The superintendent or his or her
16 designee shall provide both parties with a list of persons and
17 organizations within the geographical area that can provide free or
18 reduced cost representation or other assistance in preparing for the
19 due process hearing. This list shall include a brief description of
20 the requirement to qualify for the services. The superintendent or
21 his or her designee shall have complete discretion in determining
22 which individuals or groups shall be included on the list.

