

May 11, 2006

**H 1908. REWRITE SPECIAL ED LAWS.** Filed 5/11/06. *TO REWRITE THE LAWS GOVERNING THE EDUCATION OF CHILDREN WITH SPECIAL NEEDS, AND TO MAKE AN APPROPRIATION.* Repeals numerous parts of Article 9 of GS Chapter 115C, "Special Education," and rewrites the remainder of Article 9 of GS Chapter 115C, to reorganize the Article, rename it "Education of Children with Disabilities," and make the following substantive changes:

*Purpose and definitions.* Replaces provision in former GS 115C-106 which stated the policy of the State to "ensure every child a fair and full opportunity to reach his full potential" with statement that it is the State's policy to provide "full educational opportunity to all children with disabilities who reside in the State." Provides that it is the purpose of the Article to ensure that all children with disabilities ages three through 21 receive a free appropriate public education. Sets forth a definitions section, and replaces references to "child with special needs" with "child with a disability." Incorporates definitions contained in the federal Individuals with Disabilities Education Improvement Act (IDEA). Requires that if a child turns 22 during the school year, the child will continue to receive special education services through the end of that school year. Removes pregnancy and temporary disabilities from the list of disabilities covered by the Article and provides that children ages three through seven with developmental delays are entitled to receive special education services. States that act does not require that a free appropriate public education be provided to infants and toddlers with disabilities, but that early intervention services will be provided under GS 143B-139.61. Includes charter schools within the definition of local educational agency (LEA).

*Duties of school officials.* Prescribes the duties of the State Board of Education and LEAs. Requires interagency and interlocal cooperation. Requires that parents of children with disabilities receive a handbook for parents at least yearly and at designated times. Provides that all rights provided to parents under the Article will transfer to the child when the child turns 18 unless it is determined that the child does not have the ability to provide informed consent with respect to the educational program of the child.

*Due process hearings and mediation.* Makes the following modifications to the procedure for resolving disputes arising under the Article: (1) requires that the State Board and the Office of Administrative Hearings adopt a binding memorandum of understanding to address the timely processing of due process claims in accordance with required procedures by October 31, 2006, and report on that memorandum by November 15, 2006; (2) deletes requirement that mediators retained to resolve due process disputes comply with procedural requirements contained in GS Chapter 7A; (3) requires that the State Board pay for the cost of mediation unless the parties reject the mediator assigned by the Board (was, LEA paid for mediator). Requires that a petition for a due process hearing be filed within one year of date on which party became aware of action.

*Council on Educational Services for Exceptional Children/Miscellaneous.* Increases membership of Council to a minimum of 24 (was, 23) to include an additional member appointed by the State Board of Education. Act makes conforming changes throughout Chapter to replace references to "child with special needs" to "child with a disability" and to correct statutory references.

Enacts new GS 115C-375.5 ("Education for Pregnant and Parenting Students") effective beginning with the 2006-07 school year. New section requires that pregnant and parenting students receive the same educational instruction (or equivalent) as other students, and directs LEAs to follow certain requirements designed to ensure that those students are not discriminated against or excluded from school or school-related activities or programs. Enacts new GS 105B-22.1 to require that timeliness and procedural requirements set forth in IDEA and Article 9 are followed by the Office of Administrative Hearings (OAH) when conducting due process hearings and to require that OAH judges considering those cases be impartial and knowledgeable of special education law. Effective July 1, 2006, requires that LEAs use their State textbook funds to provide textbooks for students with disabilities to the same extent as to nondisabled students, but does not extend this accessibility standard to other instructional materials, such as captioned videos for the hearing impaired.

Effective July 1, 2006, appropriates \$10,981,776 from the General Fund to the State Board of Education for 2006-07 to increase the per child with disabilities allocation.

**Intro. by Glazier, Farmer-Butterfield, Preston,** GS 115C,122C, 143B, 150B, APPROP

and Wiley.

May 25, 2006

**H 1908. REWRITE SPECIAL ED LAWS.** Filed 5/15/06. House committee substitute makes the following changes to 1st edition. Enacts new GS 115C-106.2(c) to authorize the State Board of Education to set standards for the education of children with disabilities that are higher than those required by the Individual with Disabilities Education Improvement Act. Clarifies that a free appropriate public education must be made available to only those children with disabilities who have not graduated from high school, and that the child find census is not required to include high school graduates in census. Amends GS 115C-107.6(b) to provide that all educational agencies (was, local educational agencies) are prohibited from preventing a child from enrolling in public school solely on the basis of child's disability. Deletes provision in GS 115C-108.1(a) that required local educational agencies to explore available local resources for related services. Modifies GS 115C-109.2(b) to permit other individuals to represent a disabled child's interests if the child's parents are unavailable. Amends GS 115C-109.7(d)(2) to add reference to State administrative agencies to list of forums in which resolution agreements must be enforceable. Replaces "speech-language pathologists" in GS 115C-110.1 with "speech clinicians." Deletes requirement in GS 115C-111.2 that private service provider contracts be approved by the State Board of Education. Deletes requirement in GS 115C-111.5 that formula adopted by Board for the distribution of federal special education funds be based upon the number of children with disabilities served. Amends GS 115C-112.1(b) to provide that the parent appointed to Council of Educational Services for Exceptional Children by the Senate President Pro Tem. must have a child with a disability between the ages of birth and 26 (was, child with a disability). Deletes the GS 143B-216.40 requirement that the Board of Directors of the NC Schools for the Deaf advise the Department of Health and Human Services and deletes an obsolete statutory reference. Modifies GS 115C-375.5(b)(3) to also require that a homebound teacher be assigned to pregnant and parenting students to the extent necessary. Deletes appropriation. Makes technical changes to GS 115C-106.3(15), GS 115C-107.1(a)(3) and (b), and GS 115C-107.4(d)(3)b.

May 31, 2006

**H 1908. REWRITE SPECIAL ED LAWS.** Filed 5/11/06. House committee substitute makes the following changes to 1<sup>st</sup> edition. Adopts the committee substitute proposed by the Subcommittee on Pre-School, Elementary, and Secondary Education, digested in the 5/25/06 *Daily Bulletin*. In addition, revises the definition of "rules" in GS 115C-106.3(19) to require that rules included within the GS 150B-2(8a) definition of "rule" be adopted in accordance with the Administrative Procedure Act.

June 21, 2006

**H 1908. REWRITE SPECIAL ED LAWS.** Filed 5/11/06. Senate committee substitute makes the following changes to 2nd edition. Modifies proposed GS 115C-107.6(c) to provide that the provision of a free appropriate public education within the facilities of the Department of Health and Human Services and the Department of Juvenile Justice and Delinquency Prevention may (was, shall) not prevent that Department from charging for other services or treatment.

July 11, 2006

**SL 2006-69 (H 1908). REWRITE SPECIAL EDUCATION LAWS. AN ACT TO REWRITE THE LAWS GOVERNING THE EDUCATION OF CHILDREN WITH SPECIAL NEEDS.** Summarized in *Daily Bulletin* 5/11/06, 5/25/06, 5/31/06, and 6/21/06. Enacted July 10, 2006. Section 7 is effective July 1, 2006. The remainder is effective July 10, 2006.