

By: Senator(s) Harden, Williamson

To: Education

SENATE BILL NO. 2407

1 AN ACT TO AMEND SECTION 37-23-143, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A HEARING OFFICER'S DECISION REGARDING SPECIAL
3 EDUCATION STUDENTS MAY BE APPEALED WITHIN 45 DAYS FROM THE DATE OF
4 THE DECISION; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 37-23-143, Mississippi Code of 1972, is
7 amended as follows:

8 37-23-143. (1) When any public agency directly responsible
9 for the education of children with disabilities initiates or
10 refuses to initiate or change the identification, evaluation, or
11 educational placement of the child or the provision of a free
12 appropriate public education to the child, the parent of a child
13 with a disability or the agency shall have the opportunity to
14 request a state-level impartial due process hearing.

15 (2) The State Department of Education shall promulgate rules
16 and regulations consistent with the requirements under IDEA to
17 establish a system for the provision of state-level impartial due
18 process hearings. Such provisions shall include:

19 (a) At least five (5) business days prior to a hearing
20 being conducted, each party shall disclose to all other parties
21 all evaluations completed by that date and recommendations based
22 on the offering party's evaluations that the party intends to use
23 at the hearing. A hearing officer may bar any party that fails to
24 comply with this requirement from introducing the relevant
25 evaluation or recommendation at the hearing without the consent of
26 the other party.



27 (b) A hearing may not be conducted by an employee of
28 the State Department of Education or the local educational agency
29 involved in the education or care of the child.

30 (c) The right of either party to be accompanied and
31 advised by counsel and by individuals with special knowledge or
32 training with respect to the problems of children with
33 disabilities.

34 (d) The right of either party to present evidence and
35 confront and cross-examine witnesses.

36 (e) The right, at the option of parents, to a written
37 or electronic verbatim record of such hearing.

38 (f) The right, at the option of parents, to electronic
39 findings of fact and decisions.

40 (g) Findings and facts shall be made available to the
41 public and transmitted to the advisory panel consistent with the
42 requirements under IDEA.

43 (3) The decision made by the hearing officer shall be final,
44 except that any party aggrieved by the findings and decision made
45 by the hearing officer shall have the right to bring a civil
46 action with respect to the issues of the due process hearing.
47 Such civil action may be brought in any court of competent
48 jurisdiction within forty-five (45) days from the date of the
49 decision of the impartial due process hearing officer.

50 (4) Except as provided under IDEA, during the pendency of
51 any proceedings conducted pursuant to this section, unless the
52 local educational agency and the parents otherwise agree, the
53 child will remain in the then-current educational placement of
54 such child, or, if applying for initial admission to a public
55 school, shall, with the consent of the parents, be placed in the
56 public school program until all such proceedings have been
57 completed. This requirement does not limit the local educational
58 agency from obtaining a temporary restraining order from any court
59 of competent jurisdiction, as deemed necessary by the agency.



60 **SECTION 2.** This act shall take effect and be in force from
61 and after July 1, 2003.

