

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1405: IEP meetings; authorize parents to record or opt to have school districts provide written record or recording.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

11 **SECTION 1.** Section 37-23-137, Mississippi Code of 1972, is
12 amended as follows:
13 37-23-137. (1) Consent shall be obtained:
14 (a) Prior to initial evaluation;
15 (b) Prior to implementation of the initial
16 individualized educational program for a child with a disability;
17 (c) Prior to reevaluation, except that such consent is
18 not required, if the local educational agency can demonstrate that
19 it had taken reasonable measures to obtain such consent and the
20 parent failed to respond; and
21 (d) Prior to the release of educational records as
22 required under the Family Educational Rights and Privacy Act and
23 IDEA.
24 (2) If the parent of a child with a disability refuses
25 consent for the evaluation, the local educational agency may
26 continue to pursue an evaluation by utilizing the due process
27 hearing procedures under IDEA, except to the extent these are not
28 in conflict with Mississippi law relating to parental consent.
29 (3) Written prior notice shall be provided to the parents of
30 the child whenever a local educational agency proposes to initiate
31 or change or refuses to initiate or change the identification,



32 evaluation, or educational placement of the child, or the
33 provision of a free appropriate public education to that child.

34 (4) Written prior notice shall be provided in the native
35 language of the parents, unless it clearly is not feasible to do
36 so.

37 (5) Written prior notice shall include:

38 (a) A description of the action proposed or refused by
39 the local educational agency;

40 (b) An explanation of why the local educational agency
41 proposes or refuses to take the action;

42 (c) A description of any other options that the local
43 educational agency considered and the reasons why those options
44 were rejected;

45 (d) A description of any other factors that are
46 relevant to the local educational agency's proposal or refusal;

47 (e) A description of each evaluation procedure, test,
48 record, or report the local educational agency used as a basis for
49 the proposed or refused action;

50 (f) A description of any factors that are relevant to
51 the local educational agency's proposal or refusal;

52 (g) A statement that the parents of a child with a
53 disability have protection under the procedural safeguards under
54 IDEA and, if the notice is not an initial referral for evaluation,
55 notification of an individualized educational program meeting or
56 notice for reevaluation, the means by which a copy of a
57 description of procedural safeguards can be obtained; and

58 (h) Sources for parents to contact to obtain assistance
59 in understanding the provisions under IDEA.

60 (6) A copy of the procedural safeguards established by the
61 State Department of Education shall be given to the parents upon:

62 (a) Initial referral for evaluation, reevaluation or
63 parent request for evaluation;



64 (b) The child's initial IEP meeting;
65 (c) Registration of a complaint under IDEA to the State
66 Department of Education;
67 (d) Upon a request by a parent; and
68 (e) If there is no circumstance giving rise to the
69 purpose of parents receiving a copy of the procedural safeguards
70 under paragraphs (a), (b) and (c) of this subsection, then the
71 parents shall be provided with a copy of the procedural safeguards
72 at least once on an annual basis.

73 The procedural safeguards shall include provisions which
74 allow parents to be informed of the parental right to record IEP
75 meetings by means of an audio or visual recording device or
76 written transcript at the parent's own expense if they so desire a
77 record of the meeting.

78 (7) The State Department of Education and each local
79 educational agency shall establish procedures to ensure parents of
80 children with disabilities have the opportunity to participate in
81 meetings with respect to the identification, evaluation, and
82 education placement of the child, and the provision of a free
83 appropriate public education of such child. Local educational
84 agencies shall provide parents of children with disabilities an
85 opportunity to provide input in the development of the agencies'
86 application for funding, as required under IDEA.

87 (8) The parent or guardian or local educational agency shall
88 have the right to audio record the proceedings of individualized
89 education program team meetings. The parent or guardian or local
90 educational agency shall notify the members of the individualized
91 education program team of his, her, or its intent to audio record
92 a meeting at least twenty-four (24) hours prior to the meeting.

93 (9) In conducting the evaluation, the local educational
94 agency shall:



95 (a) Use a variety of assessment tools and strategies to
96 gather relevant functional and developmental information,
97 including information provided by the parent, that may assist in
98 determining whether the child is a child with a disability and the
99 content of the child's individualized education program including
100 information related to enabling the child to be involved in and
101 progress in the general curriculum or, for preschool children, to
102 participate in appropriate activities;

103 (b) Not use any single procedure as the sole criterion
104 for determining whether a child is a child with a disability or
105 determining an appropriate educational program for the child; and

106 (c) Use technically sound instruments that may assess
107 the relative contribution of cognitive and behavioral factors, in
108 addition to physical or developmental factors.

109 (10) Each local educational agency shall ensure that:

110 (a) Tests and other evaluation materials used to assess
111 a child are:

112 (i) Selected and administered so as not to be
113 discriminatory on a racial or cultural basis; and

114 (ii) Provided and administered in the child's
115 native language or other mode of communication, unless it is
116 clearly not feasible to do so;

117 (b) Any standardized tests that are given to the child:

118 (i) Have been validated for the specific purpose
119 for which they are used;

120 (ii) Are administered by trained and knowledgeable
121 personnel; and

122 (iii) Are administered in accordance with any
123 instructions provided by the producer of such tests;

124 (c) The child is assessed in all areas of suspected
125 disability; and



126 (d) Assessment tools and strategies that provide
127 relevant information that directly assist persons in determining
128 the educational needs of the child are provided.

129 (11) Upon completion of administration of tests and other
130 evaluation materials:

131 (a) The determination of whether the child is a child
132 with a disability as defined under IDEA and state regulations
133 established by the State Board of Education shall be made by a
134 team of qualified professionals and the parent of the child and
135 certified by a Screening Team as defined by the State Board of
136 Education;

137 (b) In making such a determination of eligibility, a
138 child shall not be determined to be a child with a disability if
139 the determinant factor for such determination is lack of
140 instruction in reading or math or limited English proficiency; and

141 (c) A copy of the evaluation report and the
142 documentation of determination of eligibility will be given to the
143 parent.

144 (12) Parents shall have an opportunity to obtain an
145 independent educational evaluation of their child in accordance
146 with the requirements under IDEA.

147 (13) An outside individual or entity contracting with a
148 local educational agency for the purpose of performing an
149 observation in order to make recommendations of possible changes
150 in a child's IEP, or any outside individual or entity making an
151 observation of a child which results in such recommendations,
152 shall submit a report of the observation to the local educational
153 agency. The local educational agency shall notify the parent upon
154 receipt of this report.

155 (14) Parents and guardians shall have the right of review or
156 to receive copies of all educational records, as such records are
157 defined by the Family Educational Rights and Privacy Act and the



158 Individuals with Disabilities Education Act, pertaining to their
159 child. The local educational agency shall be responsible for
160 making the educational records available to the parent or
161 guardian. The cost of providing a copy of any information
162 contained in a student's educational record to the parents or
163 guardians shall be established by the local school board in
164 accordance with the requirements of the Family Educational Rights
165 and Privacy Act and the Individuals with Disabilities Education
166 Act.

167 **SECTION 2.** Section 37-23-31, Mississippi Code of 1972, is
168 amended as follows:

169 37-23-31. (1) When five (5) or more children under
170 twenty-one (21) years of age who because of deafness, aphasia,
171 emotional disturbance and/or other low-incidence conditions, are
172 unable to have their educational needs met in a regular public
173 school program, and a special education program in their
174 particular areas of exceptionality is not available in their
175 respective local public school districts, a state-supported
176 university or college shall be authorized and empowered, in its
177 discretion, to provide a program of education, instruction and
178 training to such children, provided that such program shall
179 operate under rules, regulations, policies and standards adopted
180 by the State Department of Education as provided for in Section
181 37-23-33. The opinion of a parent or guardian in regard to the
182 provision of an appropriate special education program in or by
183 their respective local public school district shall be considered
184 before a placement decision is finalized. Parents shall have any
185 and all rights as provided in the Individuals with Disabilities
186 Education Act, including, but not limited to, the right to equal
187 participation in their child's Individualized Education Program
188 (IEP), the right to require review of their child's IEP, and the
189 right to appeal an IEP Committee decision immediately. The parent



190 or guardian or local educational agency shall have the right to
191 audio record the proceedings of individualized education program
192 team meetings. The parent or guardian or local educational agency
193 shall notify the members of the individualized education program
194 team of his, her, or its intent to audio record a meeting at least
195 twenty-four (24) hours prior to the meeting.

196 (2) Any state-supported university or college conducting a
197 full-time medical teaching program acceptable to the State Board
198 of Education may, at its discretion, enter into such contracts or
199 agreements with any private school or nonprofit
200 corporation-supported institution, the Mississippi School for the
201 Deaf, or any state-supported institution, providing the special
202 education contemplated by this section for such services, provided
203 the private school or institution offering such services shall
204 have conducted a program of such services at standards acceptable
205 to the State Department of Education for a period of at least one
206 (1) year prior to the date at which the university or college
207 proposes to enter into an agreement or contract for special
208 educational services as described above.

209 **SECTION 3.** Section 37-23-195, Mississippi Code of 1972, is
210 amended as follows:

211 37-23-195. Each appropriate educational entity shall provide
212 for the development of an IEP or 504 Plan for each blind or
213 visually impaired student eligible for educational services or
214 equipment, or both, under Sections 37-23-1 through 37-23-157. In
215 developing the written IEP or 504 Plan for each blind or visually
216 impaired student, there shall be a presumption that proficiency in
217 Braille reading and writing is essential for the student to
218 achieve satisfactory educational progress. The assessment
219 required for each student shall be conducted by a blindness
220 assessment specialist and shall include, at a minimum, a Braille
221 skills inventory, or if necessary in the determination of the IEP



222 Committee, a comprehensive assistive technology evaluation. The
223 assessment shall include a statement of the student's strengths
224 and deficits. If, in the course of developing a student's IEP or
225 504 Plan, the majority of members of the team concur that the
226 student's visual impairment does not affect reading and writing
227 performance commensurate with ability, Braille instruction and use
228 shall not be required by this section for that student. Nothing
229 in this section shall require the exclusive use of Braille if
230 other specialized educational services are appropriate to the
231 student's educational needs. However, the provision of other
232 appropriate services shall not preclude Braille use or
233 instruction, unless other assistive technology devices are
234 determined more appropriate by the assessment specialist.

235 The parent or guardian or local educational agency shall have
236 the right to audio record the proceedings of individualized
237 education program team meetings. The parent or guardian or local
238 educational agency shall notify the members of the individualized
239 education program team of his, her, or its intent to audio record
240 a meeting at least twenty-four (24) hours prior to the meeting.

241 **SECTION 4.** (1) The Legislature recognizes the necessity of
242 school districts to provide reasonable accommodations to students
243 and licensed employees of a school district who are diagnosed with
244 debilitating illnesses or disabilities, including, but not limited
245 to, diabetes and epilepsy.

246 (2) The school board of any school district shall authorize
247 the use, in all district facilities and property, of service or
248 assistance dogs which have been specifically trained to alert
249 people of symptoms or conditions resulting from a debilitating
250 illness or disability that threaten their health.

251 (3) In providing accommodations for students, the parent of
252 a child with such illness or disability, the teacher or teachers
253 of the student and the appropriate school administrator shall meet



254 and develop a written 504 Plan consistent with the provisions of
255 Chapter 23, Title 37, Mississippi Code of 1972, that would permit
256 the use of service dogs in the school facility. Also, in
257 providing accommodations for students, the teacher or teachers of
258 the student and the appropriate school administrator shall develop
259 a plan designed to educate other students of the appropriate
260 behavior in the presence of such dogs, as well as the proper
261 handling of such dogs in the presence of those students who may
262 have an allergic reaction to the dog and the reasonable care to be
263 taken in efforts to prevent contact by students who are allergic
264 with such dogs.

265 **SECTION 5.** This act shall take effect and be in force from
266 and after July 1, 2012.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 37-23-137, 37-23-31 AND 37-23-195,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A PARENT OF AN EXCEPTIONAL
3 CHILD TO RECORD INDIVIDUALIZED EDUCATION PROGRAM (IEP) MEETINGS
4 WITH AUDIO OR VISUAL RECORDING; TO REQUIRE THAT SUCH PARENTAL
5 RIGHT TO RECORD BE INCLUDED IN THE PROCEDURAL SAFEGUARDS; TO
6 PERMIT SCHOOL BOARDS, BOARDS OF SUPERVISORS AND MUNICIPAL
7 GOVERNING AUTHORITIES TO AUTHORIZE THE USE OF DOGS WITH THE
8 ABILITY TO DETECT DIABETES IN SCHOOLS AND PUBLIC PLACES; AND FOR
9 RELATED PURPOSES.

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

X (SIGNED)
Moore

X (SIGNED)
Tollison

X (SIGNED)
Crawford

X (SIGNED)
Burton

X (SIGNED)
Clarke

X (SIGNED)
Carmichael

