



HOUSE BILL No. 4497

March 16, 1993, Introduced by Reps. Joe Young, Sr. and Joe Young, Jr. and referred to the Committee on Education.

A bill to amend sections 1703, 1711, and 1751 of Act No. 451 of the Public Acts of 1976, entitled as amended "The school code of 1976," being sections 380.1703, 380.1711, and 380.1751 of the Michigan Compiled Laws; and to add section 1704.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1703, 1711, and 1751 of Act No. 451 of
2 the Public Acts of 1976, being sections 380.1703, 380.1711, and
3 380.1751 of the Michigan Compiled Laws, are amended and
4 section 1704 is added to read as follows:

5 Sec. 1703. (1) Special education personnel shall meet the
6 qualifications and requirements of the rules promulgated by the
7 state board. THE QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY
8 STATE BOARD RULE FOR SPECIAL EDUCATION TEACHERS WHO TEACH PUPILS
9 WHO ARE BLIND OR VISUALLY IMPAIRED SHALL INCLUDE AT LEAST A

1 REQUIREMENT THAT THE TEACHER DEMONSTRATE COMPETENCE IN READING
2 AND WRITING BRAILLE. THE STATE BOARD SHALL ESTABLISH PROCEDURES
3 AND STANDARDS TO ASSESS THAT COMPETENCY THAT ARE CONSISTENT WITH
4 THOSE ADOPTED BY THE NATIONAL LIBRARY SERVICE FOR THE BLIND AND
5 PHYSICALLY HANDICAPPED OF THE UNITED STATES LIBRARY OF CONGRESS.

6 (2) Curriculum, eligibility of specific persons for special
7 education programs and services and for each particular program
8 or service, review procedures regarding the placement of persons
9 in the programs or services, size of classes, size of programs,
10 quantity and quality of equipment, supplies and housing, adequacy
11 of methods of instruction, and length and content of school day
12 shall be in accordance with rules promulgated by the state board
13 relative to special education programs and services.

14 SEC. 1704. (1) THE EVALUATION OF EACH BLIND PUPIL BY AN
15 INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE SHALL INCLUDE AN
16 ASSESSMENT UNDER THIS SUBSECTION OF THE APPROPRIATENESS OF
17 INSTRUCTION IN BRAILLE FOR THE BLIND PUPIL. THE EVALUATION SHALL
18 PROCEED UNDER THE PRESUMPTION THAT PROFICIENCY IN BRAILLE READING
19 AND WRITING IS ESSENTIAL FOR THE BLIND PUPIL TO ACHIEVE SATISFAC-
20 TORY EDUCATIONAL PROGRESS. THE ASSESSMENT SHALL INCLUDE AT LEAST
21 ALL OF THE FOLLOWING:

22 (A) A BRAILLE SKILLS INVENTORY WITH A STATEMENT OF STRENGTHS
23 AND DEFICIENCIES.

24 (B) A LOW VISION ASSESSMENT AND EVALUATION PROVIDED THROUGH
25 THE MICHIGAN COMMISSION FOR THE BLIND.

26 (C) A PRINT SKILLS INVENTORY WITH A STATEMENT OF STRENGTHS
27 AND DEFICIENCIES.

1 (2) IF A BLIND PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING
2 COMMITTEE UNANIMOUSLY DETERMINES AFTER THE ASSESSMENT DESCRIBED
3 IN SUBSECTION (1), AND USING A STANDARD EVALUATION GUIDELINE
4 DEVELOPED BY THE STATE BOARD, THAT A BLIND PUPIL'S VISUAL IMPAIR-
5 MENT DOES NOT AFFECT HIS OR HER READING AND WRITING PERFORMANCE
6 COMMENSURATE WITH HIS OR HER ABILITY, THE BLIND PUPIL'S INDIVIDU-
7 ALIZED EDUCATION PROGRAM IS NOT REQUIRED TO INCLUDE BRAILLE
8 INSTRUCTION PURSUANT TO SUBSECTION (3). HOWEVER, THE BLIND
9 PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE SHALL SPEC-
10 IFY IN WRITING THE EVIDENCE USED TO DETERMINE THAT THE BLIND
11 PUPIL'S ABILITY TO READ AND WRITE EFFECTIVELY WITHOUT BRAILLE
12 INSTRUCTION IS NOT IMPAIRED. THE STATE BOARD SHALL DEVELOP AND
13 MAKE AVAILABLE A STANDARD EVALUATION GUIDELINE FOR USE UNDER THIS
14 SUBSECTION, AND SHALL INCLUDE IN THE STANDARD EVALUATION A
15 REQUIREMENT THAT THE INDIVIDUALIZED EDUCATIONAL PLANNING COMMIT-
16 TEE MUST REVIEW PERTINENT LITERATURE DESCRIBING THE EDUCATIONAL
17 BENEFITS OF BRAILLE INSTRUCTION AND USE.

18 (3) THE INDIVIDUALIZED EDUCATION PROGRAM OF EACH BLIND PUPIL
19 WHO IS NOT EXEMPTED UNDER SUBSECTION (2) SHALL INCLUDE INSTRUCC-
20 TION IN BRAILLE READING AND WRITING THAT IS SUFFICIENT TO ENABLE
21 THE BLIND PUPIL TO COMMUNICATE EFFECTIVELY AND EFFICIENTLY WITH
22 THE SAME LEVEL OF PROFICIENCY EXPECTED OF HIS OR HER SIGHTED
23 PEERS OF COMPARABLE ABILITY IN THE SAME GRADE LEVEL. THE INDI-
24 VIDUALIZED EDUCATION PROGRAM FOR EACH BLIND PUPIL RECEIVING
25 BRAILLE INSTRUCTION SHALL SPECIFY IN WRITING AT LEAST ALL OF THE
26 FOLLOWING:

1 (A) THE RESULTS OF THE ASSESSMENT DESCRIBED IN
2 SUBSECTION (1).

3 (B) HOW BRAILLE WILL BE IMPLEMENTED AS THE PRIMARY MODE FOR
4 LEARNING AND INTEGRATED WITH OTHER CLASSROOM ACTIVITIES.

5 (C) THE DATE ON WHICH BRAILLE INSTRUCTION WILL BEGIN FOR THE
6 PUPIL.

7 (D) THE LENGTH OF THE PERIOD OF BRAILLE INSTRUCTION AND THE
8 FREQUENCY AND LENGTH OF EACH BRAILLE INSTRUCTIONAL SESSION.

9 (E) THE LEVEL OF COMPETENCY IN BRAILLE READING AND WRITING
10 TO BE ACHIEVED BY THE CONCLUSION OF THE BRAILLE INSTRUCTION AND
11 THE ASSESSMENT MEASURES TO BE USED TO OBJECTIVELY ASSESS
12 COMPETENCY.

13 (4) THIS SECTION DOES NOT REQUIRE THE EXCLUSIVE USE OF
14 BRAILLE IF OTHER SPECIAL EDUCATION METHODS ARE APPROPRIATE TO A
15 BLIND PUPIL'S EDUCATIONAL NEEDS, AS DETERMINED BY HIS OR HER
16 INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE. A DETERMINATION
17 TO PROVIDE OTHER APPROPRIATE SPECIAL EDUCATION METHODS TO A BLIND
18 PUPIL DOES NOT PRECLUDE BRAILLE USE OR INSTRUCTION FOR THE BLIND
19 PUPIL.

20 (5) AS USED IN THIS SECTION:

21 (A) "BLIND PUPIL" MEANS A HANDICAPPED PERSON WHO HAS A
22 VISUAL ACUITY OF 20/200 OR LESS IN THE BETTER EYE WITH CORRECTIVE
23 LENSES OR HAS A LIMITED FIELD OF VISION SUCH THAT THE WIDEST
24 DIAMETER SUBTENDS AN ANGULAR DISTANCE OF 20 DEGREES OR LESS, OR
25 WHO HAS A MEDICALLY INDICATED EXPECTATION OF VISUAL DETERIORATION
26 TO 1 OR BOTH OF THOSE CONDITIONS.

1 (B) "BRAILLE" MEANS THE SYSTEM OF READING WRITING THROUGH
2 TOUCH COMMONLY KNOWN AS STANDARD ENGLISH BRAILLE.

3 (C) "INDIVIDUALIZED EDUCATION PROGRAM" AND "INDIVIDUALIZED
4 EDUCATIONAL PLANNING COMMITTEE" MEAN THOSE TERMS AS DEFINED IN
5 R 340.1701A OF THE MICHIGAN ADMINISTRATIVE CODE.

6 Sec. 1711. (1) The intermediate school board shall:

7 (a) Develop, establish, and continually evaluate and modify
8 in cooperation with its constituent districts, a plan for special
9 education ~~which shall provide~~ THAT PROVIDES for the delivery of
10 special education programs and services designed to develop the
11 maximum potential of each handicapped person of whom the interme-
12 diate school board is required to maintain a record under subdi-
13 vision (f). The plan shall coordinate the special education pro-
14 grams and services operated or contracted for by the constituent
15 districts and shall be submitted to the state board for its
16 approval.

17 (b) Contract for the delivery of a special education program
18 or service, in accordance with the intermediate school district
19 plan in compliance with ~~section~~ SECTIONS 1701 AND 1704. Under
20 the contract the intermediate school board may operate special
21 education programs or services and furnish transportation serv-
22 ices and room and board.

23 (c) Employ or engage special education personnel in accord-
24 ance with the intermediate school district plan, and appoint a
25 director of special education meeting the qualifications and
26 requirements of the rules promulgated by the state board.

1 (d) Accept and use available funds or contributions from
2 governmental or private sources for the purpose of providing
3 special education programs and services consistent with this
4 article.

5 (e) Lease, purchase, or otherwise acquire vehicles, sites,
6 buildings, or portions ~~thereof~~ OF SITES OR BUILDINGS, and equip
7 them for its special education staff, programs, and services.

8 (f) Maintain a record of each handicapped person under 26
9 years of age ~~—~~ who is a resident of 1 of its constituent dis-
10 tricts and who has not completed a normal course of study and
11 graduated from high school, and the special education programs or
12 services in which the handicapped person is participating on the
13 fourth Friday after Labor day and Friday before Memorial day.
14 The sole basis for determining the local school district in which
15 a handicapped person is a resident ~~shall be~~ IS the rules
16 promulgated by the state board notwithstanding the provisions of
17 section 1148. The records shall be maintained in accordance with
18 rules promulgated by the state board.

19 (g) Have the authority to place in appropriate special edu-
20 cation programs or services a handicapped person for whom a con-
21 stituent district is required to provide special education pro-
22 grams or services under section 1751.

23 (h) Investigate special education programs and services
24 operated or contracted for by the intermediate school board or
25 constituent district boards and report in writing failures to
26 comply with the provisions of a contract, statute, or rule
27 governing the special education programs and services or with the

1 intermediate school district plan, to the local school district
2 board and to the state board.

3 (i) Operate the special education programs or services or
4 contract for the delivery of special education programs or serv-
5 ices by local school district boards, in accordance with
6 ~~section~~ SECTIONS 1702 AND 1704, as if a local school district
7 under section 1751. The contract shall provide for items
8 ~~stated~~ SPECIFIED in section 1751 and shall be approved by the
9 state board. The intermediate school board shall contract for
10 the transportation, or room and board, or both, ~~or~~ OF persons
11 participating in the program or service IN THE SAME MANNER as
12 ~~if~~ a local school district board under sections 1756 and 1757.

13 (j) Receive the report of a parent or guardian or, with the
14 consent of a parent or guardian, receive the report of a licensed
15 physician, registered nurse, social worker, or school or other
16 appropriate professional personnel whose training and relation-
17 ship to handicapped persons provide competence to ~~judge same~~
18 EVALUATE HANDICAPPED PERSONS and who in good faith believes that
19 a person under 26 years of age examined by the professional is or
20 may be handicapped, and immediately evaluate the person pursuant
21 to rules promulgated by the state board. A person making or
22 filing this report or a local school district board ~~shall~~ IS
23 not ~~incur liability~~ LIABLE to a person by reason of filing the
24 report or seeking the evaluation, unless lack of good faith is
25 proven.

26 (k) Evaluate pupils in accordance with section 1311.

1 (2) The intermediate school board may expend up to 10% of
2 ~~the~~ ITS annual budget but not to exceed \$12,500.00, for special
3 education programs approved by the intermediate school board
4 without having to secure the approval of the state board.

5 Sec. 1751. (1) The board of a local school district shall
6 provide special education programs and services designed to
7 develop the maximum potential of each handicapped person in its
8 district on record under section 1711 for whom an appropriate
9 educational or training program can be provided in accordance
10 with the intermediate school district special education plan AND
11 THIS ACT, in either of the following ways or a combination
12 ~~thereof~~ OF THEM:

13 (a) Operate the special education program or service.

14 (b) Contract with its intermediate school board, another
15 intermediate school board, another local school district board,
16 an adjacent school district board in a bordering state, the
17 Michigan school for the blind, the Michigan school for the deaf,
18 the department of mental health, the department of social serv-
19 ices, or any combination ~~thereof~~ OF THEM, for delivery of the
20 special education programs or services, or with an agency
21 approved by the state board for delivery of an ancillary profes-
22 sional special education service. The intermediate school dis-
23 trict of which the local school district is constituent shall be
24 a party to each contract even if the intermediate school district
25 does not participate in the delivery of the program or services.

1 (2) A local school district contract for the provision of a
2 special education program or service shall provide specifically
3 for:

4 (a) Special education buildings, equipment, and personnel
5 necessary for the operation of the subject program or service.

6 (b) Transportation or room and board, or both, for persons
7 participating in the programs or services as required under sec-
8 tions 1756 and 1757.

9 (c) The contribution to be made by the sending local school
10 district if the program or service is to be operated by another
11 party to the contract. The contribution shall be in accordance
12 with rules promulgated by the state board.

13 (d) Other matters which the parties ~~deem~~ CONSIDER
14 appropriate.

15 (3) Each program or service operated or contracted for by a
16 local school district shall be OPERATED in accordance with the
17 intermediate school district's plan established pursuant to
18 section 1711.

19 (4) A local school district may provide additional special
20 education programs and services not included in, or required by,
21 the intermediate school district plan.

22 (5) This section ~~shall be construed to allow~~ ALLOWS opera-
23 tion of programs by departments of state government without local
24 school district contribution.