

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

2

HOUSE BILL 318
Committee Substitute Favorable 4/24/03

Short Title: Children With Disabilities/Federal Law.-AB

(Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO ALIGN STATE LAW WITH FEDERAL LAW ON STUDENTS WITH
DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-106(b) reads as rewritten:

"(b) The policy of the State is to provide a free appropriate publicly supported education to every child with ~~special-needs-disabilities~~. The purpose of this Article is to (i) provide for a system of special educational opportunities for all children requiring special education, hereinafter called children with ~~special-needs-disabilities~~; (ii) provide a system for identifying and evaluating the educational needs of all children with ~~special-needs-disabilities~~; (iii) require evaluation of the needs of such children and the adequacy of special education programs before placing children in the programs; (iv) require periodic evaluation of the benefits of the programs to the children and of the nature of the children's needs after placement; (v) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (vi) assure that the rights of children with ~~special-needs-disabilities~~ and their parents or guardians are protected; (vii) ensure that there be no inadequacies, inequities, and discrimination with respect to children with ~~special-needs-disabilities~~; and (viii) bring State law, regulations, and practice into conformity with relevant federal law."

SECTION 2. G.S. 115C-107 reads as rewritten:

"§ 115C-107. **Children can learn.**

The General Assembly finds that all children with ~~special-needs-disabilities~~ are capable of ~~benefitting-benefiting~~ from ~~appropriate programs of special education and training and that they have the ability to be educated and trained and to learn and develop~~ access to the general curriculum and are best educated in the least restrictive environment. Accordingly, the State has a duty to provide them with a free appropriate public education."

SECTION 3. G.S. 115C-108 reads as rewritten:

"§ 115C-108. ~~Definition of special education and related services.~~ Definitions.

1 The term "special education" means specially designed instruction, at no cost to the
2 parents or guardians, to meet the unique needs of a special needs child, including
3 classroom instruction, instruction in physical education, home instruction, and
4 instruction in hospitals and institutions. The term also includes speech pathology,
5 audiology, occupational and physical therapy. The term "related services" means
6 transportation for handicapped children with special needs who are unable because of
7 their handicap to ride the regular school buses and such developmental, corrective and
8 other supportive services as are required to assist a special needs child to benefit from
9 special education and includes speech pathology and audiology, psychological services,
10 physical and occupational therapy, recreation, early identification and assessment of
11 disabilities in children, counseling services, and medical services for diagnostic or
12 evaluation purposes only. The term also includes school social work services, parent
13 counseling and training, providing parents with information about child development
14 and assisting parents in understanding the special needs of their child. Other similar
15 services, materials and equipment may be provided as approved by regulations adopted
16 by the State Board of Education. The following definitions apply in this Chapter:

17 (1) Child with a disability. – A child:

- 18 a. With mental retardation; hearing impairments, including
19 deafness; speech or language impairments; visual impairments,
20 including blindness; serious emotional disturbance; orthopedic
21 impairments; autism; traumatic brain injury; other health
22 impairments; or specific learning disabilities; and
23 b. Who, by reason of the disability, needs special education and
24 related services.

25 (2) Free appropriate public education. – Special education and related
26 services that:

- 27 a. Are provided at public expense, under public supervision and
28 direction, and without charge;
29 b. Meet the standards of the State Board of Education;
30 c. Include appropriate preschool, elementary, or secondary school
31 education in the State; and
32 d. Are provided in conformity with an individualized education
33 program.

34 (3) IDEA. – The Individuals with Disabilities Education Act, 20 U.S.C. §
35 1400 and regulations adopted under that Act.

36 (4) Individualized education program or IEP. – A written statement for
37 each child with a disability that is developed, reviewed, and revised in
38 accordance with section 614(d) of IDEA.

39 (5) Preschool child with a disability. – A child with a disability who has
40 reached the child's third birthday, who is not eligible to enroll in public
41 kindergarten, and who needs special education and related services.

42 (6) Related services. – Transportation and any developmental, corrective
43 and other supportive services that may be required to assist a child

1 with a disability to benefit from special education; and includes the
2 early identification and assessment of disabling conditions in children.

3 (7) Special education. – Specially designed instruction, at no cost to
4 parents or guardians, to meet the unique needs of a child with a
5 disability, including classroom instruction, instruction in physical
6 education, home instruction, and instruction in hospitals and
7 institutions.

8 (8) Supportive services. – Services that may include any one or more of
9 the following: speech-language pathology and audiology services;
10 psychological services; physical and occupational therapy; recreation,
11 including therapeutic recreation; social work services; counseling
12 services, including rehabilitation counseling, orientation and mobility
13 services; and medical services for diagnostic and evaluation purposes
14 only."

15 **SECTION 4.** G.S. 115C-109 is repealed.

16 **SECTION 5.** G.S. 115C-110 reads as rewritten:

17 **"§ 115C-110. Services mandatory; single-agency responsibility; State and local**
18 **plans; census and registration.**

19 (a) The Board shall cause to be provided by all local school administrative units
20 and by all other State and local governmental agencies providing special education
21 services or having children with ~~special-needs~~disabilities in their care, custody,
22 management, jurisdiction, control, or programs, special education and related services
23 appropriate to all children with ~~special-needs~~disabilities. In this regard, all local school
24 administrative units and all other State and local governmental agencies providing
25 special education and related services shall explore available local resources and
26 determine whether the services are currently being offered by an existing public or
27 private agency.

28 When a specified special education or related service is being offered by a local
29 public or private resource, any unit or agency described above shall negotiate for the
30 purchase of that service or shall present full consideration of alternatives and its
31 recommendations to the Board. In this regard, a new or additional program for special
32 education or related services shall be developed with the approval of the Board only
33 when that service is not being provided by existing public or private resources or the
34 service cannot be purchased from existing providers. Further, the Board shall support
35 and encourage joint and collaborative special education planning and programming at
36 local levels to include local administrative units and the programs and agencies of the
37 Departments of Health and Human Services, Correction, and Juvenile Justice and
38 Delinquency Prevention.

39 The jurisdiction of the Board with respect to the design and content of special
40 education programs or related services for children with ~~special-needs~~disabilities
41 extends to and over the Department of Health and Human Services, the Department of
42 Juvenile Justice and Delinquency Prevention, and the Department of Correction.

43 All provisions of this Article that are specifically applicable to local school
44 administrative units also are applicable to the Department of Health and Human

1 Services, the Department of Juvenile Justice and Delinquency Prevention, and the
2 Department of Correction and their divisions and agencies; all duties, responsibilities,
3 rights and privileges specifically imposed on or granted to local school administrative
4 units by this Article also are imposed on or granted to the Department of Health and
5 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and
6 the Department of Correction and their divisions and agencies. However, with respect to
7 children with ~~special-needs~~disabilities who are residents or patients of any
8 state-operated or state-supported residential treatment facility, including without
9 limitation, a school for the deaf, school for the blind, mental hospital or center, mental
10 retardation center, or in a facility operated by the Department of Juvenile Justice and
11 Delinquency Prevention, the Department of Correction or any of its divisions and
12 agencies, the Board shall have the power to contract with the Department of Health and
13 Human Services, the Department of Juvenile Justice and Delinquency Prevention, and
14 the Department of Correction for the provision of special education and related services
15 and the power to review, revise and approve any plans for special education and related
16 services to those residents.

17 The Departments of Health and Human Services, Correction, and Juvenile Justice
18 and Delinquency Prevention shall submit to the Board their plans for the education of
19 children with ~~special-needs~~disabilities in their care, custody, or control. The Board shall
20 have general supervision and shall set standards, by rule or regulation, for the programs
21 of special education to be administered by it, by local educational agencies, and by the
22 Departments of Health and Human Services, Correction, and Juvenile Justice and
23 Delinquency Prevention. The Board may grant specific exemptions for programs
24 administered by the Department of Health and Human Services, the Department of
25 Juvenile Justice and Delinquency Prevention, or the Department of Correction when
26 compliance by them with the Board's standards would, in the Board's judgment, impose
27 undue hardship on this department and when other procedural due process requirements,
28 substantially equivalent to those of G.S. 115C-116, are assured in programs of special
29 education and related services furnished to children with ~~special-needs~~disabilities served
30 by this department. Further, the Board shall recognize that inpatient and residential
31 special education programs within the Departments of Health and Human Services,
32 Correction, and Juvenile Justice and Delinquency Prevention may require more program
33 resources than those necessary for optimal operation of these programs in local school
34 administrative units.

35 Every State and local department, division, unit or agency covered by this section is
36 hereinafter referred to as a "local educational agency" unless the text of this Article
37 otherwise provides.

38 (b) The Board shall make and keep current a plan for the implementation of the
39 policy set forth in G.S. 115C-106(b). The plan shall include:

- 40 (1) A census of the children with ~~special-needs~~disabilities in the State, as
41 required by subsection (j) of this section;
- 42 (2) A procedure for ~~diagnosis-identification~~ and evaluation of each child;
- 43 (3) An inventory of the personnel and facilities available to provide
44 special education for these children;

- 1 (4) An analysis of the present distribution of responsibility for special
2 education between State and local educational agencies, together with
3 recommendations for any necessary or desirable changes in the
4 distribution of responsibilities;
- 5 (5) Standards for the education of children with ~~special needs;~~disabilities;
- 6 (6) Programs and procedures for the development and implementation of a
7 comprehensive system of personnel development; and
- 8 (7) Any additional matters, including recommendations for amendment of
9 laws, changes in administrative regulations, rules and practices and
10 patterns of special organization, and changes in levels and patterns of
11 education financial support.

12 (c) The Board shall annually submit amendments to or revisions of the plan
13 required by subsection (b) of this section to the Governor and General Assembly and
14 make it available for public comment ~~pursuant to~~ under subdivision (1) of subsection
15 (b) of this section and for public distribution no less than 30 days before January 15 of
16 each year. ~~All such~~ These submissions shall set forth in detail the progress made in the
17 implementation of the plan.

18 (d) The Board shall adopt rules covering:

- 19 (1) The qualifications of and standards for certification of teachers,
20 teacher assistants, speech clinicians, school psychologists, and others
21 involved in the education and training of ~~children with special needs;~~a
22 child with a disability;
- 23 (2) Minimum standards for the individualized educational program for all
24 children with ~~special needs~~ disabilities other than for the pregnant
25 children, and for the educational program for the pregnant children,
26 who receive special education and related services; and
- 27 (3) Any other rules as may be necessary or appropriate for carrying out the
28 purposes of this Article. Representatives from the Departments of
29 Health and Human Services, Correction, and Juvenile Justice and
30 Delinquency Prevention shall be involved in the development of the
31 standards outlined under this subsection.

32 (e) On or before October 15, each local educational agency shall report annually
33 to the Board the extent to which it is then providing special education for children with
34 ~~special needs~~ disabilities. The annual report also shall detail the means by which the
35 local educational agency proposes to secure full compliance with the policy of this
36 Article, including the following:

- 37 (1) A statement of the extent to which the required education and services
38 will be provided directly by the agency;
- 39 (2) A statement of the extent to which standards in force pursuant to G.S.
40 115C-110(b)(5) and 115C-110(d)(2) are being met by the agency; and
- 41 (3) The means by which the agency will contract to provide, at levels
42 meeting standards in force ~~pursuant to~~ under G.S. 115C-110(b)(5) and
43 115C-110(d)(2), all special education and related services not provided
44 directly by it or by the State.

1 (f) After submitting the report required by subsection ~~(e)~~, (e) of this section, the
2 local educational agency also shall submit such supplemental and additional reports as
3 the Board may require to keep the local educational agency's plan current.

4 (g) By rule, the Board shall prescribe due dates not later than October 15 of each
5 year, and all other necessary or appropriate matters relating to these annual and
6 supplemental and additional reports.

7 (h) The annual report shall be a two-year plan for providing appropriate special
8 education and related services to children with ~~special needs~~, disabilities. The agency
9 shall submit the plan to the Board for its review, approval, modification, or disapproval.
10 Unless thereafter modified with approval of the Board, the plan shall be adhered to by
11 the local educational agency. The procedure for approving, disapproving, establishing,
12 and enforcing the plan shall be the same as that set forth for the annual plan. The
13 long-range plan shall include such provisions as may be appropriate for the following,
14 without limitation:

15 (1) Establishment of classes, other programs of instruction, curricula,
16 facilities, equipment, and special services for children with special
17 needs; and

18 (2) Utilization and professional development of teachers and other
19 personnel working with children with special needs.

20 (i) Each local educational agency shall provide ~~free appropriate special~~
21 ~~education and related services in accordance with the provisions of this Article for all~~
22 ~~children with special needs who are residents~~ a free appropriate public education to each
23 child with a disability who is a resident of, or whose parents or guardians are residents
24 of, the agency's district, beginning with children aged five. No matriculation or tuition
25 fees or other fees or charges shall be required or asked of children with special needs or
26 their any child with a disability or that child's parents or guardians except those fees or
27 charges as are required uniformly of all public school pupils. The provision of free
28 appropriate special education a free appropriate public education within the facilities of
29 the Department of Health and Human Services ~~and~~ or the Department of Juvenile
30 Justice and Delinquency Prevention shall not prevent ~~that department~~ either Department
31 from charging for other services or treatment.

32 (j) The Board shall require an annual census of children with ~~special needs~~,
33 disabilities, subdivided for "identified" and "suspected" children with ~~special needs~~,
34 disabilities, to be taken in each school year. Suspected children are those in the formal
35 process of being identified, evaluated or ~~diagnosed~~ eligible as children with ~~special~~
36 ~~needs~~, disabilities. The census shall be conducted annually and shall be completed not
37 later than October 15, and shall be submitted to the Governor and General Assembly
38 and be made available to the public no later than January 15 annually.

39 In taking the census, the Board shall require the cooperation, participation, and
40 assistance of all local educational agencies and all other State and local governmental
41 departments and agencies providing or required to provide special education services to
42 children with ~~special needs~~, disabilities, and those departments and agencies shall
43 cooperate and participate with and assist the Board in conducting the census.

1 The census shall include the number of children identified and suspected with
2 ~~special needs, disabilities,~~ their age, the nature of their disability, their county or city of
3 residence, their local school administrative unit residence, whether they are being
4 provided special educational or related services and if so by what department or agency,
5 whether they are not being provided special education or related services, the identity of
6 each department or agency having children with ~~special needs disabilities~~ in its care,
7 custody, management, jurisdiction, control, or programs, the number of children with
8 ~~special needs disabilities~~ being served by each department or agency, and such other
9 information or data as the Board shall require. The census shall be of children with
10 ~~special needs disabilities~~ between the ages of three and 21, inclusive.

11 (k) The Department shall monitor the effectiveness of individualized education
12 programs in meeting the educational needs of all children with ~~special needs disabilities~~
13 other than pregnant children, and of educational programs in meeting the educational
14 needs of the pregnant children.

15 (l) The Board shall provide for procedures assuring that in carrying out the
16 requirements of this Article procedures are established for consultation with individuals
17 involved in or concerned with the education of children with ~~special needs, disabilities,~~
18 including parents or guardians of such children, and there are public hearings, adequate
19 notice of such hearings, and an opportunity for comment available to the general public
20 prior to the adoption of the policies, procedures, and rules or regulations required by this
21 Article.

22 (m) Children with ~~special needs disabilities~~ shall be educated in the least
23 restrictive appropriate setting, as defined by the State Board of Education.

24 (n) **(Effective July 1, 2003)** Each interpreter or transliterator employed by a local
25 educational agency, to provide services to hearing-impaired students, must annually
26 complete 15 hours of job-related training that has been approved by the local
27 educational agency."

28 **SECTION 6.** G.S. 115C-111 reads as rewritten:

29 **"§ 115C-111. Free appropriate public education for all children with special**
30 **needs disabilities.**

31 No child with ~~special needs~~ a disability between the ages ~~specified by G.S. 115C-109~~
32 of three years through 20 years shall be denied a free appropriate public education or be
33 prevented from attending the public schools of the local educational agency in which he
34 or his parents or legal guardian resides or from which he receives services or from
35 attending any other public program of free appropriate public education because he is a
36 child with ~~special needs~~ a disability. If it appears that a child should receive a ~~program~~
37 ~~of~~ free appropriate public education in a program operated by or under the supervision
38 of the Department of Health and Human Services or the Department of Juvenile Justice
39 and Delinquency Prevention, the local educational agency shall confer with the
40 appropriate Department of Health and Human Services or Department of Juvenile
41 Justice and Delinquency Prevention staff for their participation and determination of the
42 appropriateness of placement in said program and development of the child's
43 individualized education program. The individualized education program may then be
44 challenged under the due process provisions of G.S. 115C-116. Every child with ~~special~~

1 ~~needs~~a disability shall be entitled to attend these nonresidential schools or programs and
2 receive from them free appropriate public education."

3 SECTION 7. G.S. 115C-113 reads as rewritten:

4 "**§ 115C-113. ~~Diagnosis and evaluation;~~ Evaluation and identification;**
5 **individualized education program.**

6 (a) Before taking any action described in subsection ~~(b), below,~~ (b) of this
7 section, each local educational agency shall ~~cause a multi-disciplinary diagnosis and~~
8 ~~evaluation to be made of the child.~~ The State Board of Education shall establish special,
9 ~~simplified procedures for the diagnosis and evaluation of the pregnant child, which~~
10 ~~procedures shall focus on the particular needs of the pregnant child and shall exclude~~
11 ~~those procedures which are not pertinent to the pregnant.~~ conduct evaluations and
12 determine eligibility consistent with IDEA. The local educational agency shall use the
13 ~~diagnosis and evaluation to determine if the child has special needs, diagnose and~~
14 ~~disability, evaluate those that child's individual needs, propose special education~~
15 ~~programs and related services to meet those needs, and provide or arrange to provide~~
16 ~~such programs. that special education and related services.~~ A multi-disciplinary
17 ~~diagnosis and evaluation~~ is one which includes, without limitation, medical (if
18 necessary), psychological (if necessary) and educational assessments and
19 recommendations; such an evaluation may include any other assessments as the Board
20 may, by rule or regulation, require.

21 All testing and evaluation materials and procedures utilized for the purposes of
22 evaluation and placement of children with ~~special needs~~disabilities will be selected and
23 administered so as not to be racially or culturally discriminatory. Such materials or
24 procedures shall be provided and administered in the child's native language or mode of
25 communication, unless it clearly is not feasible to do so, and no single procedure shall
26 be the sole criterion for determining an appropriate educational program for a child.

27 (b) An initial ~~multi-disciplinary diagnosis and full and individual~~ evaluation
28 ~~based on rules developed by the Board consistent with IDEA~~ shall be made before any
29 ~~such child with a disability~~ is placed in a special education program, removed from such
30 a program and placed in a regular school program, transferred from one type of special
31 education program to another, or removed from a school program for placement in a
32 nonschool program, or otherwise tracked, classified, or treated as a child with special
33 needs.

34 (c) Referral of any child shall be in writing, signed by the person requesting
35 diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or
36 delivered to one of the following: the child's teacher, the principal of the school to
37 which the child is, has been or will be assigned, or the superintendent of the affected
38 local educational agency or his designee. The local educational agency shall send a
39 written notice to the parent or guardian describing the evaluation procedure to be
40 followed and requesting consent for the evaluation. If the parents or guardian consent,
41 the ~~diagnosis and evaluation~~ may be undertaken; if they do not, the local educational
42 agency may obtain a due process hearing pursuant to G.S. 115C-116 on the failure of
43 the parent or guardian to consent.

1 The local educational agency shall provide or cause to be provided, as soon as
2 possible after receiving consent for evaluation, ~~a diagnosis and an~~ evaluation
3 appropriate to the needs of the child unless the parents or guardian have objected to
4 such evaluation. If at the conclusion of the evaluation, the child is determined to be a
5 child with ~~special needs,~~ a disability, the local educational agency shall within 30
6 calendar days convene an individualized education program committee. The purpose of
7 the meeting shall be to propose the special education and related services for the child.
8 An interpretation of the multi-disciplinary ~~diagnosis and~~ evaluation will be made to the
9 parent or guardian during the meeting. The proposal shall set forth the specific benefits
10 expected from such a program, a method for monitoring the benefits, and a statement
11 regarding conditions which will be considered indicative of the child's readiness for
12 participation in regular classes.

13 After an initial referral is made, the provision of special education and related
14 services shall be implemented within 90 calendar days to eligible students, unless the
15 parents or guardian refuse to consent to evaluation or placement or the parent or local
16 educational agency requests a due process hearing.

17 Within 12 months after placement in a special education program, and at least
18 annually thereafter, those people responsible for developing the child's individualized
19 education program, or educational program for the pregnant, shall review the child's
20 progress and, on the basis of previously stated expected benefits, decide whether to
21 continue or discontinue the placement or program. If the review indicates that the
22 placement or program does not benefit the child, the appropriate reassignment or change
23 in the prescribed program shall be recommended to the parents or guardian.

24 The local educational agency shall keep a complete written record of all ~~diagnostic~~
25 ~~and~~ evaluation procedures attempted, their results, the conclusions reached, and the
26 proposals made.

27 (d) The local educational agency shall furnish the results, findings, and
28 proposals, as described in the individualized education program based on the ~~diagnosis~~
29 ~~and~~ evaluation to the parents or guardian in writing in the parents' or guardian's native
30 language or by their dominant mode of communication, prior to the parent or guardian
31 giving consent for initial placement in special education and related services. Prior
32 notice will be given to the parents or guardian by the local educational agency before
33 any change in placement.

34 A reevaluation must be completed at least every three years to determine the
35 appropriateness of the child's continuing to receive special education and related
36 services.

37 (e) Each local educational agency shall make and keep current a list of all
38 children evaluated ~~and diagnosed pursuant to~~ under this section who are found to have
39 ~~special needs~~ disabilities and of all children who are receiving home, hospital,
40 institutional or other special education services, including those being educated within
41 the regular classroom setting or in other special education programs.

42 (f) Each local educational agency shall prepare ~~individualized educational~~
43 ~~programs for all children found to be children with special needs other than the pregnant~~
44 ~~children,~~ an IEP for each child with a disability who requires special education and

1 related services and educational programs prescribed in subsection (h) of this section for
2 the pregnant children. ~~The individualized educational program shall be developed in~~
3 ~~conformity with Public Law 94-142 and the implementing regulations issued by the~~
4 ~~United States Department of Education and shall be implemented in conformity with~~
5 ~~timeliness set by that Department. The term "individualized educational program"~~
6 ~~means a written statement for each such child developed in any meeting by a~~
7 ~~representative of the local educational agency who shall be qualified to provide, or~~
8 ~~supervise the provision of, specially designed instruction to meet the unique needs of~~
9 ~~such children, the teacher, the parents or guardian of such child, and, whenever~~
10 ~~appropriate, such child, which statement shall be based on rules developed by the~~
11 ~~Board. The development of an IEP, including its timelines, shall meet the requirements~~
12 ~~of IDEA.~~ Each local educational agency shall establish, develop or revise, whichever is
13 appropriate, the individualized educational program of each child with special
14 needs/disabilities each school year and will then review and, if appropriate revise, its
15 provisions periodically, but not less than annually. In the facilities and programs of the
16 Department of Health and Human Services and the Department of Juvenile Justice and
17 Delinquency Prevention, the individualized educational program shall be planned in
18 collaboration with those other individuals responsible for the design of the total
19 treatment or habilitation plan or both; the resulting educational, treatment, and
20 habilitation plans shall be coordinated, integrated, and internally consistent.

21 (g) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 18.24(e).

22 (h) Each local educational agency shall prepare educational programs for the
23 pregnant children. The State Board of Education shall promulgate rules and regulations
24 specifically to address the preparation of these educational programs, which rules and
25 regulations shall include specific standards for ensuring that the individual educational
26 needs of each child are addressed."

27 **SECTION 8.** G.S. 115C-114(a) reads as rewritten:

28 "(a) No local educational agency may release to any persons other than the
29 eligible student, his parents or guardian or any surrogate parent any records, data or
30 information on any child with special needs a disability except (i) as permitted by the
31 prior written consent of the student, his parents or guardian or surrogate parent, (ii) as
32 required or permitted by federal law, (iii) school officials within the local education
33 agency who have legitimate educational interest, (iv) school officials of other local
34 educational agencies in which the student intends to enroll, or (v) certain authorized
35 representatives of the State and federal government who are determining eligibility of
36 the child for aid, as provided under Public Law 93-380 or other federal law."

37 **SECTION 9.** G.S. 115C-115(3) reads as rewritten:

38 "(3) If the placement of the child in a private school, out-of-state school or
39 a school in another local educational agency determined by the
40 Superintendent of Public Instruction to be the most cost-effective way
41 to provide an appropriate education to that child and the child is not
42 currently being educated by the Department of Health and Human
43 Services, the Department of Juvenile Justice and Delinquency
44 Prevention, or the Department of Correction, the State will bear a

1 portion of the cost of the placement of the child. The local school
2 administrative unit shall pay an amount equal to what it receives per
3 pupil from the State Public School Fund and from other State and
4 federal funds for children with ~~special-needs~~disabilities for that child.
5 The State shall pay the full cost of any remainder up to a maximum of
6 fifty percent (50%) of the total cost."

7 **SECTION 10.** G.S. 115C-116(a) reads as rewritten:

8 "(a) Prior Notice. – The parent, guardian, or surrogate parent of a child shall be
9 notified promptly when the local educational agency proposes to initiate or change, or
10 refuses to initiate or change, the identification, evaluation, or educational placement of a
11 child as a child with ~~special-needs~~disabilities. The written notice shall contain a full
12 explanation of all the procedural safeguards available to the parent, guardian, or
13 surrogate parent including the right to review the proposed decision, and a statement
14 offering the parent, guardian, or surrogate parent the opportunity for mediation. The
15 local educational agency shall document that all required notices have been sent to and
16 received by parents, guardians, or surrogate parents."

17 **SECTION 11.** G.S. 115C-116(b) reads as rewritten:

18 "(b) Mediation. – It is the policy of this State to encourage local educational
19 agencies and parents, guardians, surrogate parents, custodians, and eligible students to
20 seek informal resolution of disputes or disagreements regarding the identification of
21 children with ~~special-needs~~disabilities and the provision of special education and related
22 services before filing a request for a formal administrative review of the matter. To that
23 end, the following provisions apply to the mediation of these disputes:

- 24 (1) Purpose. – The purpose of mediation is to clarify the concerns of the
25 parents and to resolve disputes.
- 26 (2) Definitions. – As used in this subsection, the following terms have the
27 following meanings:
- 28 a. "Dispute" means a disagreement between the parties that is
29 subject to review under subsection (c) of this section.
- 30 b. "Mediation" means an informal process conducted by a
31 mediator with the objective of helping parties voluntarily settle
32 their dispute.
- 33 c. "Mediator" means a neutral person who acts to encourage and
34 facilitate a resolution of a dispute.
- 35 d. "Parents" means parents, guardians, surrogate parents,
36 custodians, and eligible students.
- 37 e. "Parties" means the local educational agency and the parents.
- 38 (3) Nonadversarial. – The mediation shall be informal and nonadversarial
39 as provided in G.S. 150B-22.
- 40 (4) Rules of procedure. – The mediator is encouraged to follow applicable
41 procedures provided in G.S. 7A-38.1, G.S. 7A-38.2, and applicable
42 rules adopted by the Supreme Court under G.S. 7A-38.1. The mediator
43 may establish other procedures to facilitate an informal resolution of

- 1 the dispute. The mediator shall not render a decision or judgment as to
2 the merits of the dispute.
- 3 (5) Request for mediation. – Before a request for formal administrative
4 review is filed, mediation shall commence upon the request of either
5 party, so long as the other party consents.
- 6 (6) Selection of mediator. – The parties shall agree to the selection of the
7 mediator. The Exceptional Children Division of the Department of
8 Public Instruction shall maintain a list of mediators who are certified
9 or trained in resolving disputes under this subsection.
- 10 (7) Notice of right to mediation. – The local educational agency shall
11 notify parents of their right to request mediation under this subsection.
- 12 (8) Time periods tolled. – Notwithstanding G.S. 150B-23, time periods
13 related to the filing of a formal administrative review or the taking of
14 any other action with respect to the dispute, including any applicable
15 statutes of limitations, are tolled upon the filing of a request for
16 mediation under this subsection until the mediation is completed or the
17 mediator declares an impasse.
- 18 (9) Good cause for continuance. – A good faith effort by both parties to
19 mediate the dispute is presumed to constitute good cause for a
20 continuance so long as the administrative law judge does not find that
21 the time delay for mediation would likely result in irreparable harm to
22 one of the parties or to the child.
- 23 (10) Inadmissibility of negotiations. – Evidence of statements made and
24 conduct occurring in a mediation shall not be subject to discovery and
25 shall be inadmissible in any proceeding in the action or other actions
26 on the same claim. However, no evidence otherwise discoverable shall
27 be inadmissible merely because it is presented or discussed in a
28 mediation. Mediators shall not be compelled in any civil proceeding to
29 testify or produce evidence concerning statements made and conduct
30 occurring in a mediation.
- 31 (11) Mediator's fees. – If mediation is requested before a request for formal
32 administrative review is filed, the local educational agency shall pay
33 the mediator's fees for one mediation session. If resolution is not
34 reached in that session, the parties must agree to continue the
35 mediation. The local educational agency shall pay any mediator fees
36 for subsequent mediation sessions unless the parties agree otherwise.
- 37 (12) Mediated settlement conference after a request for administrative
38 review. – In addition to mediation as provided by this subsection, the
39 parties may participate in a mediated settlement conference as
40 provided by G.S. 150B-23.1.
- 41 (13) Promotion of other settlement procedures. – The parties may agree to
42 use other dispute resolution methods or to use mediation in other
43 circumstances, including after a request for formal administrative
44 review is filed, to the extent permitted under State and federal law."

1 **SECTION 12.** G.S. 115C-116(c) reads as rewritten:

2 "(c) Right of Review. – The parent, guardian, or surrogate parent may obtain
3 review of proposed decisions ~~on the following grounds:~~ relating to the following:

- 4 (1) The child has not been identified or has been incorrectly identified as a
5 child with ~~special needs;~~ a disability;
6 (2) The child's individualized education ~~plan-program and placement~~ is
7 not appropriate to meet ~~his-~~ the child's needs;
8 (3) The child's individualized education ~~plan-program~~ is not being
9 implemented; or
10 (4) The child is ~~otherwise-~~ being denied a free, appropriate education.

11 In addition, a local educational agency may obtain review as provided by this section if
12 a parent, guardian, or surrogate parent refuses to consent to the evaluation of the child
13 for the purpose of determining whether the child is a child with ~~special needs~~ a disability
14 or for the purpose of developing a free appropriate educational program for the child."

15 **SECTION 13.** G.S. 115C-122 reads as rewritten:

16 **"§ 115C-122. Early childhood development program; evaluation and placement of**
17 **children.**

18 The General Assembly of North Carolina declares that the public policy of North
19 Carolina is defined as follows to carry out the policies stated in G.S. 115C-106:

- 20 (1) The State shall provide for a comprehensive early childhood
21 development program by emphasizing preventative and remedial
22 measures designed to provide the services which will enable children
23 to develop to the maximum level their physical, mental, social, and
24 emotional potentials and to strengthen the role of the family as the first
25 and most fundamental influence on child development. The General
26 Assembly finds that the complexity of early childhood development
27 precludes the enactment of legislation which is of a sufficiently
28 comprehensive nature to encompass all possible implications. The
29 Departments of Public Instruction and Health and Human Services
30 shall, therefore, jointly develop an early childhood development
31 program plan with flexibility sufficient to meet the State's policy as set
32 forth in this subdivision. Said plan shall provide for the operation of a
33 statewide early childhood development program no later than June 30,
34 1983.
35 (2) The State requires a system of educational opportunities for all
36 children with ~~special needs~~ disabilities and requires the identification
37 and evaluation of the needs of children and the adequacy of various
38 education programs before placement of children, and shall provide for
39 periodic evaluation of the benefits of programs to the individual child
40 and the nature of the child's needs thereafter.
41 (3) The State shall prevent denial of equal educational and service
42 opportunity on the basis of national origin, sex, economic status, race,
43 religion, and physical, mental, social or emotional ~~handicap-~~ disability
44 in the provision of services to any child. Each local school

1 administrative unit shall develop program plans to meet the
2 educational requirements of children with ~~special needs~~disabilities and
3 each local human services agency shall develop program plans to meet
4 the human service requirements of children with ~~special~~
5 ~~needs~~disabilities in accordance with program standards and in a
6 planning format as shall be prescribed by the State Board of Education
7 and the Department of Health and Human Services respectively.

8 The General Assembly intends that the educational program and
9 human service program requirements of Session Laws 1973, Chapter
10 1293, shall be realized no later than June 30, 1982. The General
11 Assembly further intends that currently imposed barriers to
12 educational and human service opportunities for children with ~~special~~
13 ~~needs~~disabilities by reason of a single standardized test, income,
14 federal regulations, conflicting statutes, or any other barriers are
15 hereby abrogated; except that with respect to barriers caused by reason
16 of income, it shall be permissible for the State or any local education
17 agency or local human services agency to charge fees for special
18 services rendered, or special materials furnished to a child with ~~special~~
19 ~~needs~~disabilities, his parents, guardian or persons standing in loco
20 parentis unless the imposition of such fees would prevent or
21 substantially deter the child, his parents, guardian, or persons standing
22 in loco parentis from availing themselves of or receiving such services
23 or materials.

- 24 (4) It is recognized that children have a variety of characteristics and
25 needs, all of which must be considered if the potential of each child is
26 to be realized; that in order to accomplish this the State must develop a
27 full range of service and education programs, and that a program must
28 actually benefit a child or be designed to benefit a particular child in
29 order to provide such child with appropriate educational and service
30 opportunities. The General Assembly requires that all programs
31 employ least restrictive alternatives as shall be defined by the
32 Departments of Public Instruction and Health and Human Services."

33 **SECTION 14.** G.S. 115C-139 reads as rewritten:

34 **"§ 115C-139. Interlocal cooperation.**

35 (a) The Board, any two or more local educational agencies and any such agency
36 and any State department, agency, or division having responsibility for the education,
37 treatment or habilitation of children with ~~special needs~~disabilities are authorized to enter
38 into interlocal cooperation undertakings pursuant to the provisions of Chapter 160A,
39 Article 20, Part 1 of the General Statutes or into undertakings with a State agency such
40 as the Departments of Public Instruction, Health and Human Services, Juvenile Justice
41 and Delinquency Prevention, or Correction, or their divisions, agencies, or units, for the
42 purpose of providing for the special education and related services, treatment or
43 habilitation of such children within the jurisdiction of the agency or unit, and shall do so
44 when it itself is unable to provide the appropriate public special education or related

1 services for these children. In entering into such undertakings, the local agency and
2 State department, agency, or division shall also contract to provide the special education
3 or related services that are most educationally appropriate to the children with ~~special~~
4 ~~needs~~disabilities for whose benefit the undertaking is made, and provide these services
5 by or in the local agency unit or State department, agency, or division located in the
6 place most convenient to these children.

7 (b) Local educational agencies may establish special education and related
8 programs for children with ~~special-needs~~disabilities aged birth through four and 19
9 through 21 inclusive."

10 **SECTION 15.** G.S. 115C-140 reads as rewritten:

11 "**§ 115C-140. Contracts with private service-providers.**

12 State departments, agencies and divisions and local educational agencies furnishing
13 special education and related services to children with ~~special-needs~~disabilities may
14 contract with private special education facilities or service providers to furnish such
15 services as the public providers are unable to furnish. No contract between any public
16 and private service provider shall be effective until it has received the prior written
17 approval of the Board. The Board shall not withhold its approval of the contract unless
18 the private facilities and providers do not meet the Board's standards established
19 pursuant to G.S. 115C-110(a), 115C-110(b)(5), and 115C-110(d)(2)."

20 **SECTION 16.** G.S. 115C-140.1 reads as rewritten:

21 "**§ 115C-140.1. Cost of education of children in group homes, foster homes, etc.**

22 (a) **(Effective until July 1, 2003)** Notwithstanding the provisions of any other
23 statute and without regard for the place of domicile of a parent or guardian, the cost of a
24 free appropriate public education for a child with ~~special-needs~~a disability who is placed
25 in or assigned to a group home, foster home or other similar facility, pursuant to State
26 and federal law, shall be borne by the local board of education in which the group home,
27 foster home or other similar facility is located. Nothing in this section obligates any
28 local board of education to bear any cost for the care and maintenance of a child with
29 ~~special-needs~~a disability in a group home, foster home or other similar facility.

30 (a) **(Effective July 1, 2003)** Notwithstanding the provisions of any other statute
31 and without regard for the place of domicile of a parent or guardian, the cost of a free
32 appropriate public education for a child with ~~special-needs~~a disability who is placed in
33 or assigned to a group home, foster home or other similar facility, pursuant to State and
34 federal law, shall be borne by the local board of education in which the group home,
35 foster home or other similar facility is located. However, the local school administrative
36 unit in which a child is domiciled shall transfer to the local school administrative unit in
37 which the institution is located an amount equal to the actual local cost in excess of
38 State and federal funding required to educate that child in the local school
39 administrative unit for the fiscal year. Nothing in this section obligates any local board
40 of education to bear any cost for the care and maintenance of a child with ~~special-needs~~
41 a disability in a group home, foster home or other similar facility.

42 (b) The State Board of Education shall use State and federal funds appropriated
43 for children with ~~special-needs~~disabilities to establish a reserve fund to reimburse local

1 boards of education for the education costs of children assigned to group homes or other
2 facilities as provided in subsection (a) of this section."

3 **SECTION 17.** G.S. 115C-142 reads as rewritten:

4 "**§ 115C-142. Nonreduction.**

5 Notwithstanding any of the other provisions of this Article, it is the intent of the
6 General Assembly that funds appropriated by it for the operation of programs of special
7 education and related services by local school administrative units not be reduced;
8 rather, that adequate funding be made available to meet the special educational and
9 related services needs of children with ~~special-needs~~disabilities, without regard to
10 which State or local department, agency, or unit has the child in its care, custody,
11 control, or program."

12 **SECTION 18.** G.S. 115C-145 reads as rewritten:

13 "**§ 115C-145. Allocation of federal funds.**

14 At such time as any federal moneys for the special education and related services for
15 children with ~~special-needs~~disabilities are made available, these funds shall be allocated
16 according to a formula designed by the Board not inconsistent with federal laws and
17 regulations. Such formula shall insure equitable distribution of resources based upon the
18 number of children with ~~special-needs~~disabilities served by the respective agencies, and
19 shall be implemented as funds are made available from federal and State
20 appropriations."

21 **SECTION 19.** The title of Part 14 of Article 9 of Chapter 115C of the
22 General Statutes reads as rewritten:

23 "Part 14. ~~Handicapped Children, Children With Disabilities, Ages Three to Five.~~"

24 **SECTION 20.** G.S. 115C-146.1 is repealed.

25 **SECTION 21.** G.S. 115C-146.2 reads as rewritten:

26 "**§ 115C-146.2. Entitlement to services.**

27 Preschool ~~handicapped~~-children with disabilities are entitled, at no cost to their
28 parents or guardians, to individualized education programs specifically designed to meet
29 their unique needs for special education and related services."

30 **SECTION 22.** G.S. 115C-146.3(a) reads as rewritten:

31 "(a) The General Assembly finds:

- 32 (1) That preschool ~~handicapped~~-children with disabilities will benefit from
33 the special education and related services required by this Part;
- 34 (2) That the General Assembly has evaluated the known needs of the State
35 and has endeavored to satisfy those needs in comparison to the social
36 and economic problems of the State;
- 37 (3) That the funds appropriated to serve these preschool ~~handicapped~~
38 ~~children~~-children with disabilities are a reasonable amount to provide
39 such children with special education and related services; and
- 40 (4) That, therefore, (i) State funds appropriated to implement this Part are
41 the only State funds for public schools that may be used to provide
42 special education and related services to preschool ~~handicapped~~
43 ~~children~~children with disabilities; and (ii) preschool ~~handicapped~~

1 children with disabilities will continue to be served by all other State
2 funds ~~they are otherwise entitled to~~ to which they are entitled."

3 **SECTION 23.** G.S. 115C-146.3(b) reads as rewritten:

4 "(b) The State Board of Education shall cause local school administrative units to
5 make available special education and related services to all preschool ~~handicapped~~
6 children with disabilities whose parents or guardians request these services. These
7 services shall start no later than the beginning of the school year immediately following
8 the child's third birthday."

9 **SECTION 24.** G.S. 115C-174.11(b)(2) reads as rewritten:

10 "(2) The tests shall be administered annually to all ninth grade students in
11 the public schools. Students who fail to attain the required minimum
12 standard for graduation in the ninth grade shall be given remedial
13 instruction and additional opportunities to take the test up to and
14 including the last month of the twelfth grade. Students who fail to pass
15 parts of the test shall be retested on only those parts they fail. ~~Students~~
16 ~~in the ninth grade who are enrolled in special education programs or~~
17 ~~who have been officially designated as eligible for participation in~~
18 ~~such programs may be excluded from the testing programs."~~

19 **SECTION 25.** G.S. 115C-81(b)(4) reads as rewritten:

20 "(4) Standards for student performance and promotion based on the
21 mastery of competencies, including standards for graduation, that take
22 into account children with ~~special needs~~ disabilities and, in particular,
23 include appropriate modifications;"

24 **SECTION 26.** G.S. 115C-105.25(b)(4) reads as rewritten:

25 "(b) Subject to the following limitations, local boards of education may transfer
26 and may approve transfers of funds between funding allotment categories:

27 ...

28 (4) Funds allocated for children with ~~special needs~~ disabilities, for
29 students with limited English proficiency, and for driver's education
30 shall not be transferred.

31"

32 **SECTION 27.** G.S. 115C-149 reads as rewritten:

33 **"§ 115C-149. Policy. Chemically dependent children excluded from provisions of**
34 **Article 9.**

35 The General Assembly of North Carolina hereby declares that the policy of the State
36 is to ensure that an appropriate education is provided for drug and alcohol addicted
37 children; however, drug and alcohol addicted children are not "children with ~~special~~
38 ~~needs~~" disabilities" within the meaning of ~~G.S. 115C-109~~ G.S. 115C-108 unless
39 because of some other condition they meet that definition."

40 **SECTION 28.** G.S. 115C-238.29F(d)(4) reads as rewritten:

41 "(4) The school shall comply with policies adopted by the State Board of
42 Education for charter schools relating to the education of children with
43 ~~special needs~~ disabilities."

44 **SECTION 29.** G.S. 115C-238.29H(a) reads as rewritten:

1 (a) The State Board of Education shall allocate to each charter school:

- 2 (1) An amount equal to the average per pupil allocation for average daily
3 membership from the local school administrative unit allotments in
4 which the charter school is located for each child attending the charter
5 school except for the allocation for children with ~~special~~
6 ~~needs~~disabilities and for the allocation for children with limited
7 English proficiency;
8 (2) An additional amount for each child attending the charter school who
9 is a child with ~~special needs~~a disability; and
10 (3) An additional amount for children with limited English proficiency
11 attending the charter school, based on a formula adopted by the State
12 Board.

13 In accordance with G.S. 115C-238.29D(d), the State Board shall allow for annual
14 adjustments to the amount allocated to a charter school based on its enrollment growth
15 in school years subsequent to the initial year of operation.

16 In the event a child with ~~special needs~~a disability leaves the charter school and
17 enrolls in a public school during the first 60 school days in the school year, the charter
18 school shall return a pro rata amount of funds allocated for that child to the State Board,
19 and the State Board shall reallocate those funds to the local school administrative unit in
20 which the public school is located. In the event a child with ~~special needs~~a disability
21 enrolls in a charter school during the first 60 school days in the school year, the State
22 Board shall allocate to the charter school the pro rata amount of additional funds for
23 children with ~~special needs~~disabilities."

24 **SECTION 30.** G.S. 115C-242(1) reads as rewritten:

- 25 (1) A school bus may be used for the transportation of pupils enrolled in
26 and employees in the operation of the school to which such bus is
27 assigned by the superintendent of the local school administrative unit.
28 Except as otherwise herein provided, such transportation shall be
29 limited to transportation to and from such school for the regularly
30 organized school day, and from and to the points designated by the
31 principal of the school to which such bus is assigned, for the receiving
32 and discharging of passengers. No pupil or employee shall be so
33 transported upon any bus other than the bus to which such pupil or
34 employee has been assigned pursuant to the provisions of this Article:
35 Provided, that children enrolled in a Headstart program which is
36 housed in a building owned and operated by a local school
37 administrative unit where school is being conducted may be
38 transported on public school buses, so long as the contractual
39 arrangements made cause no extra expense to the State: Provided
40 further, that children with ~~special needs~~disabilities may be transported
41 to and from the nearest appropriate private school having a special
42 education program approved by the State Board of Education if the
43 children to be transported are or have been placed in that program by a
44 local school administrative unit as a result of the State or the unit's

1 duty to provide such children with a free appropriate public
2 education."

3 **SECTION 31.** G.S. 115C-242(5) reads as rewritten:

4 "(5) Local boards of education, under rules and regulations adopted by the
5 State Board of Education, may permit the use and operation of school
6 buses for the transportation of pupils and instructional personnel as the
7 board deems necessary to serve the instructional programs of the
8 schools. Included in the use permitted by this section is the
9 transportation of children with ~~special-needs,~~disabilities, such as
10 mentally retarded children and children with physical defects, and
11 children enrolled in programs that require transportation from the
12 school grounds during the school day, such as special vocational or
13 occupational programs. On any such trip, a city or county-owned
14 school bus shall not be taken out of the State.

15 If State funds are inadequate to pay for the transportation approved
16 by the local board of education, local funds may be used for these
17 purposes. Local boards of education shall determine that funds are
18 available to such boards for the transportation of children to and from
19 the school to which they are assigned for the entire school year before
20 authorizing the use and operation of school buses for other services
21 deemed necessary to serve the instructional program of the schools.

22 Children with ~~special-needs~~disabilities may be transported to and
23 from the nearest appropriate private school having a special education
24 program approved by the State Board of Education if the children to be
25 transported have been placed in that program by a local school
26 administrative unit as a result of the State or the unit's duty to provide
27 such children with a free appropriate public education."

28 **SECTION 32.** G.S. 115C-250 reads as rewritten:

29 **"§ 115C-250. Authority to expend funds for transportation of children with ~~special~~
30 ~~needs.~~disabilities.**

31 (a) The State Board of Education and local boards of education may expend
32 public funds for transportation of handicapped children with ~~special-needs~~disabilities
33 who are unable because of their handicap to ride the regular school buses and who have
34 been placed in programs by a local school board as a part of its duty to provide such
35 children with a free appropriate education, including its duty under G.S. 115C-115. At
36 the option of the local board of education with the concurrence of the State Board of
37 Education, funds appropriated to the State Board of Education for contract
38 transportation of exceptional children may be used to purchase buses and minibuses as
39 well as for the purposes authorized in the budget. The State Board of Education shall
40 adopt rules and regulations concerning the construction and equipment of these buses
41 and minibuses.

42 The Departments of Health and Human Services, Juvenile Justice and Delinquency
43 Prevention, and Correction may also expend public funds for transportation of
44 handicapped children with ~~special-needs~~disabilities who are unable because of their

1 handicap to ride the regular school buses and who have been placed in programs by one
2 of these agencies as a part of that agency's duty to provide such children with a free
3 appropriate public education.

4 If a local area mental health center places a child with ~~special-needs~~a disability in an
5 educational program, the local area mental health center shall pay for the transportation
6 of the child, if handicapped and unable because of the handicap to ride the regular
7 school buses, to the program.

8 (b) Funds appropriated for the transportation of children with ~~special~~
9 ~~needs~~disabilities may be used to pay transportation safety assistants employed in
10 accordance with the provisions of G.S. 115C-245(e) for buses to which children with
11 ~~special-needs~~disabilities are assigned."

12 **SECTION 33.** G.S. 115C-397.1 reads as rewritten:

13 "**§ 115C-397.1. Management and placement of disruptive students.**

14 If, after a teacher has requested assistance from the principal two or more times due
15 to a student's disruptive behavior, the teacher finds that the student's disruptive behavior
16 continues to interfere with the academic achievement of that student or other students in
17 the class, then the teacher may refer the matter to a school-based committee. The
18 teacher may request that additional classroom teachers participate in the committee's
19 proceedings. For the purposes of this section, the committee shall notify the student's
20 parent, guardian, or legal custodian and shall encourage that person's participation in the
21 proceedings of the committee concerning the student. A student is not required to be
22 screened, evaluated, or identified as a child with ~~special-needs~~a disability under this
23 section. The committee shall review the matter and shall take one or more of the
24 following actions: (i) advise the teacher on managing the student's behavior more
25 effectively, (ii) recommend to the principal the transfer of the student to another class
26 within the school, (iii) recommend to the principal a multidisciplinary ~~diagnosis and~~
27 ~~evaluation~~ of the student, (iv) recommend to the principal that the student be assigned to
28 an alternative learning program, or (v) recommend to the principal that the student
29 receive any additional services that the school or the school unit has the resources to
30 provide for the student. If the student is suspected of being a child with a disability or
31 has been identified as a child with a disability, then the committee and the principal
32 shall follow rules as described in federal law and procedures adopted by the State Board
33 of Education for children with disabilities. If the principal does not follow the
34 recommendation of the committee, the principal shall provide a written explanation to
35 the committee, the teacher who referred the matter to the committee, and the
36 superintendent, of any actions taken to resolve the matter and of the reason the principal
37 did not follow the recommendation of the committee.

38 This section shall be in addition to the supplemental to disciplinary action taken in
39 accordance with any other law. The recommendation of the committee is final and shall
40 not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student
41 to refer a disciplinary matter to this committee or to have the matter of the student's
42 behavior referred to this committee before any discipline is imposed on the student."

43 **SECTION 34.** G.S. 110-91(11) reads as rewritten:

44 "**§ 110-91. Mandatory standards for a license.**

1 All child care facilities shall comply with all State laws and federal laws and local
2 ordinances that pertain to child health, safety, and welfare. Except as otherwise
3 provided in this Article, the standards in this section shall be complied with by all child
4 care facilities. However, none of the standards in this section apply to the school-age
5 children of the operator of a child care facility but do apply to the preschool-age
6 children of the operator. Children 13 years of age or older may receive child care on a
7 voluntary basis provided all applicable required standards are met. The standards in this
8 section, along with any other applicable State laws and federal laws or local ordinances,
9 shall be the required standards for the issuance of a license by the Secretary under the
10 policies and procedures of the Commission except that the Commission may, in its
11 discretion, adopt less stringent standards for the licensing of facilities which provide
12 care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time
13 basis.

14 ...

15 (11) Staff Development. – The Commission shall adopt minimum standards
16 for ongoing staff development for facilities but limited to the following
17 topic areas:

- 18 a. Planning a safe, healthy learning environment;
- 19 b. Steps to advance children's physical and intellectual
20 development;
- 21 c. Positive ways to support children's social and emotional
22 development;
- 23 d. Strategies to establish productive relationships with families;
- 24 e. Strategies to manage an effective program operation;
- 25 f. Maintaining a commitment to professionalism;
- 26 g. Observing and recording children's behavior;
- 27 h. Principles of child growth and development; and
- 28 i. Learning activities that promote inclusion of children with
29 ~~special needs-disabilities.~~

30 These standards shall include annual requirements for ongoing staff
31 development appropriate to job responsibilities. A person may carry
32 forward in-service training hours that are in excess of the previous
33 year's requirement to meet up to one-half of the current year's required
34 in-service training hours.

35"

36 **SECTION 35.** G.S. 143-318.14A(a)(13) is repealed.

37 **SECTION 36.** G.S. 143-683(6) reads as rewritten:

38 "(6) Report to each session of the General Assembly not later than the first
39 day of its convening. The report shall include a summary of the
40 Commission's work and any recommendations the Commission may
41 have on ways to improve the efficiency and effectiveness of health
42 services delivery to children with special health care needs in this
43 ~~State. The Commission shall provide a copy of its report to the General~~
44 ~~Assembly's Commission on Children With Special Needs;State;".~~

1

SECTION 37. This act is effective when it becomes law.