

CHAPTER 158
HB 581 - FINAL VERSION

7Apr2021... 0823h

2021 SESSION

21-0702
06/05

HOUSE BILL ***581***

AN ACT relative to the burden of proof in special education hearings and establishing a committee to study special education IEP and dispute resolution processes.

SPONSORS: Rep. Cordelli, Carr. 4; Rep. Verville, Rock. 2; Rep. Thomas, Rock. 5; Rep. Spillane, Rock. 2; Rep. McLean, Hills. 44; Rep. Rouillard, Hills. 6; Sen. Reagan, Dist 17

COMMITTEE: Education

AMENDED ANALYSIS

This bill provides that the burden of proving the appropriateness of a child's special education placement or program is on the school district or other public agency. This bill also establishes a committee to study special education dispute resolution options and the burden of proof in due process hearings conducted by the department of education.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~.
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the burden of proof in special education hearings and establishing a committee to study special education IEP and dispute resolution processes.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 158:1 New Paragraph; Special Education; Due Process Hearing; Burden of Proof. Amend RSA
2 186-C:16-b by inserting after paragraph III the following new paragraph:

3 III-a. In all hearings the school district shall have the burden of proof, including the burden
4 of persuasion and production, of the appropriateness of the child's program or placement, or of the
5 program or placement proposed by the public agency. This burden shall be met by a preponderance
6 of the evidence.

7 158:2 Committee Established. There is established a committee to study special education
8 dispute resolution options and the burden of proof in due process hearings conducted by the
9 department of education.

10 158:3 Membership and Compensation.

11 I. The members of the committee shall be as follows:

12 (a) Three members of the house of representatives, appointed by the speaker of the
13 house of representatives.

14 (b) One member of the senate, appointed by the president of the senate.

15 II. Members of the committee shall receive mileage at the legislative rate when attending to
16 the duties of the committee.

17 158:4 Duties. The committee shall:

18 I. Examine "child find" IDEA requirements.

19 II. Examine the IEP process under IDEA including team participants, roles, and
20 responsibilities, time frames, and parental consent.

21 III. Familiarize itself with federal IDEA and department of education options for dispute
22 resolution in special education cases.

23 IV. Examine department and other agency supports for parents including information for
24 parents on procedural safeguards and available remedies.

25 V. Examine department of education monitoring of:

26 (a) District compliance with IDEA, state law and rules.

27 (b) IDEA parental complaints leading to state administrative hearings.

28 VI. Opportunities and best practices for dispute resolution processes at the "early stages."

29 VII. Consult with parents, other state agencies, and experts, as needed.

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1 VIII. Develop findings and recommendations based upon federal IDEA, parental and expert
2 input, and best practices from districts as well as other states.

3 158:5 Chairperson; Quorum. The members of the study committee shall elect a chairperson
4 from among the members. The first meeting of the committee shall be called by the first-named
5 house member. The first meeting of the committee shall be held within 45 days of the effective date
6 of this section. Three members of the committee shall constitute a quorum.

7 158:6 Report. The committee shall report its findings and any recommendations for proposed
8 legislation to the speaker of the house of representatives, the president of the senate, the house
9 clerk, the senate clerk, the governor, and the state library on or before November 1, 2021.

 158:7 Effective Date. This act shall take effect upon its passage.

Approved: July 29, 2021
Effective Date: July 29, 2021