



MASSACHUSETTS ADVOCATES *for* CHILDREN

AN ACT TO PROVIDE EQUAL ACCESS TO EVALUATIONS FOR CHILDREN WITH DISABILITIES S.58 – H.2866

Lead Sponsors: Sen. Barbara L'Etalien and Rep. Jim O'Day

- This bill establishes reasonable rates for independent educational evaluations, which are critically important to ensure appropriate special education services for children with disabilities. Rates would have to be reviewed every three years and adjusted as necessary to reflect changes in the rates typically charged by the professional community.
- The state rates for neuropsychological and independent educational evaluations have not been raised since 2007. Educators and parents rely on educational evaluations to determine the special education services necessary for the child's individualized education program (IEP). State and federal special education laws give parents the right to fully participate, as equal members of the IEP Team, in the development of their child's IEP. *Independent* educational evaluations provide the only way for parents to exercise those rights and participate effectively in this process in the unusual situation where they disagree with a school district evaluation.
- State and federal special education laws give parents the right to request an independent education evaluation, paid by the school district, if they disagree with the school district's evaluation, but currently, the rates set by the state for independent evaluations are far below the rates customarily charged by evaluators. This means that many low-income and middle-income parents cannot obtain the evaluation necessary to effectively participate on the IEP Team.
- For example, the state rate for a neuropsychological evaluation is set at an hourly rate that is 28% lower than Medicare and 38% lower than BlueCross/Blue Shield. The state maximum rate is \$900, while \$2,500 or more is the rate charged by private evaluators. Neuropsychological evaluations are often the most important evaluation in determining a student's educational needs, especially for children with comorbid and complex problems, and paramount to developing an appropriate IEP.
- The bill would require that rates be established at a level that allows parents to have a choice of qualified evaluators, as required by the United States Department of Education.¹ The bill also requires that rates include observation of the student and other critical aspects of a valid assessment.
- In addition, the Bureau of Special Education Appeals would be able to order a higher rate in extraordinary cases. Further, in the rare instances that parents prevail at a hearing and have paid expert fees, the parents would have the right to be reimbursed for these fees by the school district.
- This bill helps to level the playing field for low-income and middle-income families, with modest costs: increased rate costs are estimated at approximately \$500,000-\$750,000 statewide.

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¹ The United States Department of Education has explained that rates for independent educational evaluations must "allow[] parents to choose from among the qualified professionals in the area". *Letter to Anonymous*, Office of Special Education Programs, United States Department of Education, 22 IDELR 637 (February 2, 1995).