

SECOND REGULAR SESSION

HOUSE BILL NO. 3238

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REUTER.

7137H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 162.961 and 167.027, RSMo, and to enact in lieu thereof three new sections relating to elementary and secondary education.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 162.961 and 167.027, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 162.106, 162.961, and 167.027, to read as
3 follows:

- 162.106. 1. As used in this section, the following terms mean:
- 2 (1) "Member", an individual elected or appointed to serve on a school board;
3 (2) "School board", a local school board, special administrative board, board of
4 education, board of directors, or governing board of a charter school that has general
5 control of the property and affairs of a school district or charter school.
- 6 2. Each member shall engage in conduct in the service of a school board in a
7 manner that complies with all provisions of law relating to conflicts of interest.
8 Members shall at all times make good-faith efforts to avoid the appearance of a conflict
9 of interest. Each member shall declare such member's interest in any instance in which
10 such member may have a potential conflict of interest arises and, as applicable, shall
11 refrain from debating or voting upon a question of engaging or using a business entity
12 that is the subject of the potential conflict of interest.
- 13 3. Each school board shall make public the disclosure of potential member and
14 employee conflicts of interest. The board's disclosure of such potential conflicts of
15 interest shall exclude compensation received as an employee, the payment of any tax,
16 fee, or penalty due to the school district, and any payment for providing utility services

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

17 to the school district. The board's disclosure of such potential conflicts of interest shall
18 contain at least the following information:

19 (1) Each transaction in excess of five hundred dollars per calendar year between
20 the school district and:

21 (a) A member;

22 (b) An employee;

23 (c) A superintendent;

24 (d) A chief purchasing officer or the equivalent;

25 (e) A general counsel employed full time; or

26 (f) Any individual related within the first degree of consanguinity to the
27 individuals listed in paragraphs (a) to (e) of this subdivision;

28 (2) Each transaction between the school district and a business entity in which
29 the individuals listed in paragraphs (a) to (f) of subdivision (1) of this subsection have a
30 substantial interest in excess of five hundred dollars;

31 (3) The identities of the parties in each transaction; and

32 (4) The dates of each transaction.

33 4. Each school superintendent, administrative staff school employee, chief
34 purchasing officer or the equivalent, and general counsel employed full time shall
35 disclose in writing the following information:

36 (1) The name and address of each employer or contractor from whom such
37 individual received income of one hundred dollars or more;

38 (2) The name and address of each sole proprietorship owned by such individual,
39 if any;

40 (3) The name, address, and general nature of business conducted by each
41 general partnership or joint venture in which such individual is or was a partner or
42 participant;

43 (4) The name and address of each partner or coparticipant in the general
44 partnership or joint venture unless the information is already filed with the Missouri
45 secretary of state;

46 (5) The name, address, and general nature of business of any closely held
47 corporation or limited partnership of which the individual owns or owned ten percent
48 or more;

49 (6) The name, address, and general nature of any publicly traded corporation or
50 limited partnership that is listed on a regulated stock exchange or automated quotation
51 system of which the individual owned two percent or more of any class of outstanding
52 stock, limited partnership units, or other equity interests; and

53 **(7) The name and address of each corporation the individual served for the last**
54 **five years or for which the individual is serving in the capacity of director, officer, or**
55 **receiver.**

56 **5. No school district shall retain any attorney or law firm for the purpose of**
57 **providing counsel or litigating any administrative or legal proceeding concerning a**
58 **school district's decision regarding the evaluation or an individualized education**
59 **program of a student if such attorney or law firm employs or contracts with the school**
60 **district's members or employees.**

162.961. 1. A parent, guardian or the responsible educational agency may request a
2 due process hearing before the administrative hearing commission with respect to any matter
3 relating to identification, evaluation, educational placement, or the provision of a free
4 appropriate public education of the child. Such request shall include the child's name,
5 address, school, issue, and suggested resolution of dispute if known. Except as provided in
6 subsection 4 of this section, the administrative hearing commission shall within fifteen days
7 after receiving notice assign a commissioner who is not an employee of the state board of
8 education or department of elementary and secondary education to hear the case.
9 Commissioners shall have some knowledge or training involving children with disabilities,
10 shall not have a personal or professional interest which would conflict with his or her
11 objectivity in the hearing, and shall meet the training and assessment requirements pursuant to
12 state regulations, federal law and regulation requirements of the Individuals With Disabilities
13 Education Act, and the requirements in section 621.253. No commissioner who conducts a
14 due process hearing shall have been employed within the last five years by a school district or
15 by an organization engaged in special education parent and student advocacy, performed
16 work for a school district or for a parent or student as a special education advocate within the
17 last five years as an independent contractor or consultant, been employed within the last five
18 years by the state board of education or department of elementary and secondary education,
19 or performed work for the state board of education or department of elementary and
20 secondary education within the last five years as an independent contractor or consultant, or
21 been party to a special education proceeding as an attorney, parent, or child. During the
22 pendency of any hearing, or prior to the assignment of the commissioner, the parties may, by
23 mutual agreement, submit their dispute to a mediator pursuant to section 162.959.

24 2. The parent or guardian, school official, and other persons affected by the action in
25 question shall present at the hearing all pertinent evidence relative to the matter under appeal.
26 All rights and privileges as described in section 162.963 shall be permitted. **In hearings**
27 **relating to a child with a disability that are held under the federal Individuals with**
28 **Disabilities Act (IDEA) (20 U.S.C. Section 1400 et seq.), applicable state law, or rules or**
29 **regulations promulgated under such federal or state law, the burden of proof and the**

30 **burden of production shall be on the school district in any due process hearing**
31 **regarding any matter related to the identification, evaluation, reevaluation,**
32 **classification, educational placement, disciplinary action, or the provision of a free**
33 **appropriate public education of the child.**

34 3. After review of all evidence presented and a proper deliberation, the commissioner,
35 within the ~~[time-lines]~~ **timelines** required by the Individuals With Disabilities Education Act,
36 20 U.S.C. Section 1415 and any amendments thereto, shall determine its findings,
37 conclusions, and decision in the matter in question and forward the written decision to the
38 parents or guardian of the child and to the president of the appropriate local board of
39 education or responsible educational agency and to the department of elementary and
40 secondary education. A specific extension of the ~~[time-line]~~ **timeline** may be made by the
41 commissioner assigned to the matter at the request of either party, except in the case of an
42 expedited hearing as provided in subsection 4 of this section.

43 4. An expedited due process hearing by the administrative hearing commission may
44 be requested by a parent to challenge a disciplinary change of placement or to challenge a
45 manifestation determination in connection with a disciplinary change of placement or by a
46 responsible educational agency to seek a forty-five school day alternative educational
47 placement for a dangerous or violent student. The administrative hearing commission shall
48 assign a commissioner to hear the case and render a decision within the ~~[time-line]~~ **timeline**
49 required by federal law and state regulations implementing federal law. A specific extension
50 of the ~~[time-line]~~ **timeline** is only permissible to the extent consistent with federal law and
51 pursuant to state regulations.

52 5. If the responsible public agency requests a due process hearing to seek a forty-five
53 school day alternative educational placement for a dangerous or violent student, the agency
54 shall show by substantial evidence that there is a substantial likelihood the student will injure
55 himself **or herself** or others and that the agency made reasonable efforts to minimize that risk,
56 and shall show that the forty-five school day alternative educational placement will provide a
57 free appropriate public education which includes services and modifications to address the
58 behavior so that ~~[it]~~ **such behavior** does not reoccur, and continue to allow progress in the
59 general education curriculum.

60 6. Any due process hearing request and responses to the request shall conform to the
61 requirements of the Individuals With Disabilities Education Act (IDEA). Determination of
62 the sufficiency shall be made by the commissioner. The commissioner shall enforce the
63 process and procedures, including ~~[time-lines]~~ **timelines**, required by the IDEA, related to
64 sufficiency of notice, response to notice, determination of sufficiency dispute, and
65 amendments of the notice.

66 7. A preliminary meeting, known as a resolution session, shall be convened by the
67 responsible public agency, under the requirements of the IDEA. The process and procedures
68 required by the IDEA in connection to the resolution session and any resulting written
69 settlement agreement shall be implemented. The responsible public agency or its designee
70 shall sign the agreement. The designee identified by the responsible public agency shall have
71 the authority to bind the agency. A local board of education, as a responsible public agency,
72 shall identify a designee with authority to bind the school district.

73 8. Notwithstanding any provision of law to the contrary, when conducting a due
74 process hearing, the administrative hearing commission shall conform all of its practices,
75 procedures, filing deadlines, and response times to the requirements of the Individuals With
76 Disabilities Education Act (IDEA).

77 **9. (1) As used in this subsection, the following terms mean:**

78 **(a) "Parent", a parent, guardian, or other person having control or custody of a**
79 **student;**

80 **(b) "Proceeding", a proceeding conducted under this section including, but not**
81 **limited to, mediation if the school district or other public entity voluntarily agrees to**
82 **participate in mediation;**

83 **(c) "Stay put", remain in the student's present educational placement and**
84 **continue in the student's present eligibility status and special education and related**
85 **services, if any.**

86 **(2) Except as otherwise provided in this subsection, a student shall stay put**
87 **during the pendency of a proceeding.**

88 **(3) A parent or student, if the student is at least eighteen years of age or**
89 **emancipated, shall have ten days after the mediation concludes or after a party declines**
90 **to use mediation to file a request for a due process hearing to continue to invoke the**
91 **stay-put provisions of this subsection if the parties:**

92 **(a) Participate in mediation but such mediation fails to resolve the dispute**
93 **between the parties; or**

94 **(b) Do not agree to use mediation.**

95 **(4) Subdivision (2) of this subsection shall not apply if the school district and the**
96 **parent or student, if the student is at least eighteen years of age or emancipated, agree**
97 **that the student should not stay put during the pendency of the proceeding.**

167.027. 1. As used in this section, "student special education record" means the
2 following:

3 (1) An individualized education program, or IEP, as such term is defined in 20 U.S.C.
4 Section 1401, as amended;

5 (2) An individualized family service plan, or IFSP, as such term is defined in 20
6 U.S.C. Section 1401, as amended; ~~and~~

7 (3) A 504 plan created under Section 504 of the federal Rehabilitation Act of 1973,
8 29 U.S.C. Section 794, as amended;

9 **(4) A record produced for a child with a disability, as such term is defined in 20**
10 **U.S.C. Section 1401, as amended; and**

11 **(5) Other records produced for a child under the federal Individuals with**
12 **Disabilities Education Act (IDEA), as amended.**

13 2. For the 2023-24 school year and all subsequent school years, a student special
14 education record shall be deemed a permanent record and shall be maintained as a part of a
15 child's cumulative scholastic record.

16 3. Notwithstanding any other provision of law, rule, regulation, or policy to the
17 contrary, no school district or public school shall destroy a child's most recent student special
18 education record.

✓