

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 2306\*  
Committee Substitute Favorable 6/18/08

Short Title: Students w/Disabilities & Special Ed Changes.

(Public)

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Sponsors:

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Referred to:

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May 21, 2008

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE DEFINITION OF "EDUCATIONAL SERVICES" FOR  
2 STUDENTS WITH DISABILITIES; TO AMEND THE LAW TO ALLOW A  
3 DESIGNEE OR DESIGNEES OF A STUDENT'S IEP TEAM TO EVALUATE  
4 THE CONTINUED APPROPRIATENESS OF HOMEBOUND INSTRUCTION  
5 FOR DISCIPLINE PURPOSES FOR STUDENTS WITH DISABILITIES AS  
6 RECOMMENDED BY THE JOINT LEGISLATIVE EDUCATION OVERSIGHT  
7 COMMITTEE; TO ADD A PROTECTION FOR CHILDREN NOT  
8 DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AS RECOMMENDED  
9 BY THE HOUSE SELECT COMMITTEE ON EDUCATION OF STUDENTS  
10 WITH DISABILITIES; AND TO DIRECT THE DEPARTMENT OF PUBLIC  
11 INSTRUCTION AND THE STATE BOARD OF EDUCATION TO REPORT ON  
12 CONTESTED CASES BASED ON THE ADDITIONAL PROTECTION.  
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14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** G.S. 115C-106.3(3a) reads as rewritten:

16 "(3a) 'Educational services' means all of the following:

- 17 a. The necessary instructional hours per week in the form and  
18 format as determined by the child's IEP team and consistent  
19 with federal and State law. The instruction shall be delivered by  
20 an appropriately qualified teacher to the extent required by  
21 federal and State law, which requires a free appropriate public  
22 education and the opportunity for a sound basic education.  
23 b. Related services included in the child's IEP.  
24 c. Behavior intervention services ~~designed to address the behavior~~  
25 ~~violation that caused the disciplinary change of placement in~~  
26 ~~order to prevent a recurrence.~~ to the extent required by federal  
27 law."

28 **SECTION 2.** G.S. 115C-107.7 reads as rewritten:

29 "§ 115C-107.7. Discipline and homebound instruction.

1 (a) The policies and procedures for the discipline of students with disabilities  
2 shall be consistent with federal laws and regulations.

3 (b) If a change of placement occurs under the discipline regulations of IDEA, a  
4 local educational agency shall not assign a student to homebound instruction without a  
5 determination by the student's IEP team that the homebound instruction is the least  
6 restrictive alternative environment for that student. If it is determined that the  
7 homebound instruction is the least restrictive alternative environment for the student,  
8 the student's IEP team shall meet to determine the nature of the homebound educational  
9 services to be provided to the student. In addition, the continued appropriateness of the  
10 homebound instruction shall be evaluated monthly by the ~~head of the student's IEP~~  
11 ~~team.~~designee or designees of the student's IEP team."

12 **SECTION 3.** G.S. 115C-107.7 is amended by adding a new subsection to  
13 read:

14 "(c) A local educational agency shall be deemed to have a 'basis of knowledge'  
15 that a child is a child with a disability if, prior to the behavior that precipitated the  
16 disciplinary action, the behavior and performance of the child clearly and convincingly  
17 establishes the need for special education. Prior disciplinary infractions shall not,  
18 standing alone, constitute clear and convincing evidence."

19 **SECTION 4.** The Department of Public Instruction and the State Board of  
20 Education shall report to the Joint Legislative Education Oversight Committee by  
21 January 15, 2011, on the number of contested cases that are filed based on Section 3 of  
22 this act and the disposition of those contested cases.

23 **SECTION 5.** Section 3 of this act becomes effective January 1, 2009, and  
24 expires March 1, 2011. The remainder of this act is effective when it becomes law.