Bill as Introduced

2005 SESSION

05-0466
04/10

HOUSE BILL ***390***

AN ACT relative to the review and approval of individualized education plans.

SPONSORS: Rep. O'Brien, Hills 4; Rep. Mead, Hills 4; Rep. Slocum, Hills 6; Sen. Roberge, Dist 9

COMMITTEE: Education

ANALYSIS

This bill requires that an individualized education plan be reviewed by a school board or sub-committee of a school board and shall be approved by a school board.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

05-0466
04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT relative to the review and approval of individualized education plans.

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

1 Special Education; Individualized Education Plans. Amend RSA 186-C:7, I to read as follows:

I. The development of an individualized education plan for each educationally disabled child shall be the responsibility of the school district in which the child resides or of the school district which bears financial responsibility for the child's education. ***Each individualized education plan shall be reviewed by the school board or a subcommittee of a school board and shall be approved by the school board.***

2 Effective Date. This act shall take effect 60 days after its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 390 Date March 15, 2005

Committee Education

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
Rep David J. Bettencourt			Salem / Windham	✓	
Rep Paul Hopfgarten			Derry	✓	
Rep Pam Price			Hillsborough Dist 26	✓	
~~P. Alan Purdy~~	105 Loudon Rd Concord	~~224-7575~~	~~NH Assoc. of Spec. Ed. Administrators~~		✓
Laura Hainey		UNFT			X
CHRIS COLLIER	20 WINTER PLY.		SELF		X
Rep Robert J. Giuda			Warren / Grafton 5	✓	
Daniel C. Itse	20 Kelsey Dr Fremont		Rock Dist 9	✓	

Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 390

BILL TITLE: relative to the review and approval of individualized education plans.

DATE: March 15, 2005

LOB ROOM: 207 **Time Public Hearing Called to Order:** 2:00pm

Time Adjourned: 3:31pm

(please circle if present)

Committee Members: Reps. S. L'Heureux, Hess, Naro, Balboni, Carter, Hagan, Ingbretson, Newton, W. Campbell, Easson, Asselin, Remick, Stiles, Ward, Snyder, Yeaton, Jean, Claire Clarke, Rush, Dunn, Casey and Rous.

Bill Sponsors: Rep. O'Brien, Hills 4; Rep. Mead, Hills 4; Rep. Slocum, Hills 6; Sen. Roberge, Dist 9

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Bill O'Brien – Prime Sponsor- This bill will improve local governance and local control. It enables school boards to provide policy and oversight over I.E.P. s (Individualized Education Plans). This will increase public support for school budgets. School boards have relatively little control over budgets. I.E.P. s appropriate public money for private use. The elected officials should be involved. 34 CFR 33.571 no information concerning a child can be released except to participating agencies. School board members are officials within a school district. 33 CFR 99.31 conditions where prior parental consent is not needed for release of information. This bill would be permitted under federal regulations. The bill states clearly that school boards have a roll within process. This would comply with confidentiality and increase local control. School boards are in the dark as to what special education costs are. This bill will give the reality of control.

In Response to Questions
We can delay I.E.P. implementation, but the procedures in this bill cannot interrupt the I.E.P. timeline. There is a profound dissatisfaction with the lack of control over the current system. There must be public oversight over these budgets. He supports work done by the people who create I.E.P.s. Public employees should not have the ability to tell the public how much to spend. School board members cannot be on I.E.P. teams, but would not want this because oversight is more important than participation. He is only aware anecdotally of other states going this route. Because there can be failure at various levels of review, it does not mean the level of reviewed. Failure to approve an I.E.P. would result in due process.

Rep. Bob Mead –Co-sponsor- There are dangers of a school board dealing with a budget or I.E.P. The intent is not evil.

In Response to Questions

We need the ability to review a budget and say there is an understanding as to where the money is going. The goal is to get the best value. We are not trying to make it difficult or embarrass students.

Rep. Lee G. Slocum –Co-sponsor- A board is responsible for a budget they can't see. In his school district, the coding rate went down from 20% to 15%. Were students being coded inappropriately? There is no way to tell. It could be because a better reading program was adopted. This is not an effective way to run an organization. There were 2 incidents with firearms and coded students. The school board was told the incidents had nothing to do with student's coding, but there was no way to tell. If it was related to his coding, he could not be expelled.

Rep. R. B. Dick Drisko –opposed- He is a 15 year member of the Hollis Budget Committee (SAU 41). He empathizes with the sponsors. His special education program has too many cases. Coding was delayed and evaluations were delayed. Families went to great expense just to get evaluated. The opinions of outside evaluators are not allowed. He believes they were trying to keep down the number of special education students. He believes the bill is illegal. SAU 41 edited the coding form from D.O.E. (Department of Education) to include language similar to that of HB 390. SAU 41 was cited for non-compliance. D.O.E., Health and Human Services can make available general information on special education costs. The bill can open districts up to a lawsuit.

In Response to Questions
Over coding can happen.

***Mr. P. Alan Pardy** –Mt. Association of Special Education Administrators-opposed-

***Ms. Bonnie Dunham** – State Administration Committee on Education of Children with Disabilities-opposed- Some school districts have too many I.E.P. s for the school board to review.

In Response to Questions
An I.E.P. team makes decisions based on student needs. An agency would look at the cost of efficiency.

***Ms. Robin Hefflefinger** –opposed.

The committee recessed at 3:11pm and reconvened at 3:12pm.

***Mr. /Ms. Chris Collien**-opposed- He/she would like the federal government to fully fund IDEA Act. I.E.P. needs to be flexible to the needs of a student...

Ms. Virginia O. Irwin-N.H.D.O.E.-opposed- Contrary to federal law, school board members are not designed to be part of the process. There are 36,000 I.E.P. s in New Hampshire. It is not practical because school board members are not always familiar, and take much time. The school board has no role in I.E.P. s. School board members can look at special education budgets by lie item and get a cost breakdown of the special education budget. The state does not cover excessive costs and court ordered costs. Curriculums are modified frequently. Services have to be provided whether or not the school board approves. The costs are being constantly reviewed.

In Response to Questions
She believes that it can be frustrating for the public to have little information. Some costs can be recaptured through Medicaid dollars. Catastrophic Aid allocations are available on the website: www.ed.state.nh.us. Students with disabilities can be expelled as long as services are provided after the expulsion. She tried to let school districts know they can bill through Medicaid.

Ms. Laura Hainey- N.H.F.T- opposed- Without understanding the child, it is impossible to make the funding determination. Each district has a different contact for a dis-satisfied parent.

Respectfully Submitted,

Timothy E. Easson

Rep. Timothy E. Easson,
Clerk of House Education Committee

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 390

BILL TITLE:

DATE: _____

LOB ROOM: 207 **Time Public Hearing Called to Order:** _____

Time Adjourned: _____

(please circle if present)

Committee Members: Reps. S. L'Heureux, Hess, Naro, Balboni, Carter, Hagan, Ingbretson, Newton, W. Campbell, Easson, Asselin, Remick, Stiles, Ward, Snyder, Yeaton, Jean, Claire Clarke, Rush, Dunn, Casey and Rous.

Bill Sponsors:

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

~~CTO:~~

CTO = 2:00pm

ADJ: 3:31 pm

HB 390

Rep. Bill O'Brien - R5 Hills 4

- improve governance and local control
- enables SB's to provide policy and oversight over IEP's
  → increase pub. support for school budgets
- SB's have relatively little control over budgets
  IEP's appropriate public $ for private use
  → Elected officials should be involved
- 34 CFR 300.571 ~~Rights~~ - no info concerning a child can be released except to participating agencies. ⇒ SB members are officials w/in a SD
- 33 CFR 99.31 - conditions where prior parental consent is not needed for release of info
- This bill would be permitted under federal ~~laws~~ regs.
- ~~So~~ States clearly that SB's have a role w/in process.
- would comply w/ confidentiality and increase local control
- SB's are in the dark as to what special ed costs are. Bill will give the reality of control

Quest: - can delay IEP implementation, but no procedures in this bill cannot interrupt IEP timeline.

- There is a profound dissatisfaction with lack of control over current system
- There must be public oversight over these budgets.
- Supports work done by the people who create IEP's → pub. employees should not have ability to tell ~~the~~ the public how much to spend.
- SB members cannot be on IEP teams, but would not want this b/c oversight is more important than participation.
- Only aware anecdotally of other States going this route.
- Because there can be failure at various levels of review, it does not mean the level of review should be removed
- Failure to approve an IEP would result in due process.

Rep. Bob Mead – CS

- there are dangers of SB in dealing w/ budget on SEEP. Intent is not evil
- need ability to review budget and say there is an understanding as to where the money is going. Goal is to get the best value
- not trying to make it difficult or embarass students

Ques:

Rep. Lee Slocum – CS

- abd is responsible for a budget they can't see.
- in his SD, coding rate went from 20% to 15% → were students being coded inappropriately?
→ No way to tell. Could be b/c a better reading program was adopted.
- not an effective way to run an org
- 2 incidents w/ firearms and coded students. SB told incident had nothing to do w/ student's coding, but no way to tell. If it was related to his coding, he could not be expelled.

Rep Rick Driscoll – con – Hollis SB

- 15 yr member of Hollis budget cte. (SAU41)
- Emphasizes w/ sponsors
- Hollis Sp. ed pgm has too many cases
  → Coding was delayed, evals delayed.
- Families went to great expense just to get evaluated. Opinions of outside evaluators not allowed → Believes they were trying to keep down the # of Sp. ed students
- Believes bill is illegal
- SAU 41 edited coding form from DOE to include language similar to that of HB390
- SAU41 was cited for non-compliance
- DOE (Sp. ed) HHS, Can make available general info on costs.
- Bill can open districts up to lawsuit.

Ques: – over coding can happen

left off

P. Alan Pardy – con
NH Assoc. of Sp. Ed. Administrators

Bonnie Dunham – State Advisory Committee of Education of Children w/ Disabilities
- Some districts have too many IEP's for SB to review

Ques: – IEP Team makes decisions based on student needs.
- Member of an agency would look at cost efficiency

Robin Heffelfinger - con

3:11 recess → 995
3:12 reconvened

Chris Collier - con
- would like Fed. Gov't to fully fund IDEA
- IEP's needs to be flexible to needs of student

Virginia Irwin - DOE - con
- contrary to federal law - SB members not designed to be part of process.
= 36,000 IEP's in NH → not practical bc SB mems not always familiar → take much time
- SB has no role in IEP's
- SB mems can look at Sp. Ed budgets by line item and get a cost breakdown of Sp. ed. budgets
- State does cover excessive costs and court-ordered costs.
- Curriculums are modified frequently.
- Services have to be provided whether or not SB approves.

- Costs are being constantly reviewed

Ques'

- believes that it can be frustrating for the public to have little information! Some costs can be recaptured through medicaid dollars
- (Cat.) aid allocations are available on website: www.ed.state.nh.us.
- Students w/disabilities can be expelled as long as services are provided after expulsion
- Tried to let SD's know they can bill through medicaid.
- ~~Lastly~~

Laura Hainey - NHFT

- Wlout understanding the child it is impossible to ~~know~~ make the funding determination
- each dist. has a different contact for a dis-satisfied parent

Testimony

Rep- O'Brien

Ed 1109.03 IEP Team. HB 390

(a) The composition of the IEP team, for the purposes of Ed 1109, shall be as provided in 34 CFR 300.344.

PART Ed 1123 CONFIDENTIALITY OF INFORMATION

Ed 1123.01 Confidentiality Requirements.

(a) "Participating agency" means "participating agency" as defined in 34 CFR 300.560(c).

(b) Each participating agency and public agency shall comply with 34 CFR 300.560-300.574, relative to confidentiality of information, including compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing regulations in 34 CFR Part 99.

(c) Each participating agency shall comply with the safeguard provisions of 34 CFR 300.572. The department shall provide notice to parents in accordance with 34 CFR 300.561.

Ed 1123.04 Prior Consent for Disclosure Required.

(a) Consent for disclosure of personally identifiable information shall be made in accordance with 34 CFR 300.571.

(b) If a parent of a child with a disability or the eligible child refuses to provide consent to release personally identifiable information, the LEA shall initiate a court proceeding to obtain a court order if it still wishes to disclose the information.

Robin Hefflefinger

Dear Chairman, committee members and members of the audience:

I am present today to speak out against proposed House Bill 390. As a parent of 2 children who require IEP's, as well as a volunteer educational advocate, I feel that this piece of proposed legislation is not sound for many reasons. I have always been of the impression that it is the school board's job to establish and implement policy and the school's job to carry out that policy. This would not fall in line with the responsibilities of the board.

One of the primary reasons that this is a bad bill is that these people who would be involved have in most cases, no special education expertise. Three of the sponsors of this bill currently are or have been school board members. I would challenge them as to why they think they have the specialized educational experience to make a life altering decision about my child's education. What valuable information do they have to offer rather than just what's really bugging them – money.

If school board members or a subcommittee approves each child's IEP, that person would be on the child's team. I would doubt that with all the time already invested into being a school board member, ~~one~~ would one be available for the numerous team meetings, IEP development and other unanticipated requirements of time? Furthermore, would these people agree to incur liability in the event they are named in a due process dispute or a lawsuit? It's so hard these days to find individuals to give of themselves to run for these positions. They shouldn't have to bear this burden also.

Another major reason for the disposal of this bill is breaches in confidentiality. An employee of the district has not only an ethical reason but also a monetary reason for keeping a child's records

confidential – loss of job. There is no incentive for a school board member and/or sub committee member to remain quiet.

In the sponsors' quest to keep expenditures down for the taxpayers, I wonder if they took into account that this bill could end up costing the town huge amounts of money in the form of legal litigation? The number of due process disputes and lawsuits would surely rise due to breaches of confidentiality, non-compliance of IEP due to members making uninformed decisions and the educational rights of the child.

In closing I would encourage you to speak with parents of educationally disabled children. We are not trying to soak the system for extra attention for our children as has previously suggested in the press. Rather we are only trying to give our children the keys that they are entitled to, by law, to be successful in today's world. Don't you think we would give our lives to have our children lead a "normal" day at school instead of the numerous challenging and frustrating battles which are taken for granted by the "normal" education student? NH has had some of the most progressive laws regarding special education. Please don't take a giant step backward.

March 15, 2005

Representative Stephen L'Heureux, Chair
House Education Committee
Legislative Office Building
State Street
Concord, NH 03301

Dear Representative L'Heureux and Committee Members,

I have been asked to speak on behalf of the State Advisory Committee on the Education of Children with Disabilities (SAC), authorized under RSA 186-C:3-b about our concerns with HB 390. This bill requires that an IEP be reviewed by a school board or sub-committee of a school board and shall be approved by a school board. This bill seems to be in conflict with both the letter and the spirit of State and Federal special education laws, regulations and procedures.

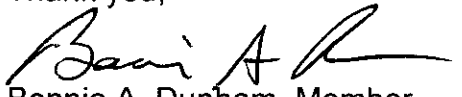
The special education process is designed so that all major decisions about a child's eligibility, educational needs, program and educational placement are made by a team of people, including a regular and special educator of the child, administrator (representative of the LEA), the child's parents and, when appropriate, the child. Others, who have knowledge or special expertise about the child may also be invited by the parents or LEA. This team (described in Ed 1102.28 and Ed 1113.02) functions well specifically because all of the members have a purpose related to ensuring the child with a disability receives a free and appropriate public education. The representative of the LEA is, of course, also cognizant of the overall resources of the LEA, but he/she cannot allow the lack of LEA resources to serve as a rationale for limiting a child's right to a FAPE – that right is absolute.

Further, ED 1102.28, citing 34 CFR 300.16 identifies that the IEP team is responsible for developing, reviewing or revising a child's IEP. There is no allowance for another entity, including a local school board, to override decisions that are made by a child's IEP Team.

While we understand why one might want to involve local entities, such as school boards, in the decision-making process regarding special education for a child with disabilities, it conflicts with the rights of the child to have decisions made in accordance with State and Federal special education law. Beyond that, such an extra step would interfere with the best practice of having decisions about a child's special education eligibility, program and placement made by a group with knowledge of the child.

I encourage the committee to vote against HB 390.

Thank you,



Bonnie A. Dunham, Member
State Advisory Committee on the Education of Children with Disabilities
New Hampshire Department of Education
101 Pleasant Street
Concord, NH 03301

Ed 1102.28 "Individualized education program team" (IEP team) means "individualized education program team" as defined in 34 CFR 300.16.
§300.16 Individualized education program team.
As used in this part, the term individualized education program team or IEP team means a group of individuals described in §300.344 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.
§300.344 IEP team.
(a) General. The public agency shall ensure that the IEP team for each child with a disability includes—
(1) The parents of the child;
(2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
(3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;
(4) A representative of the public agency who –
(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
(ii) Is knowledgeable about the general curriculum; and
(iii) Is knowledgeable about the availability of resources of the public agency;
(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section;
(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
(7) If appropriate, the child.
(b) Transition services participants.
(1) Under paragraph (a)(7) of this section, the public agency shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be consideration of –
(I) The student's transition services needs under §300.347(b)(1); or
(ii) The needed transition services for the student under §300.347(b)(2); or
(iii) Both
Ed 1113.02 THE VOCATIONAL EDUCATION COMPONENT OF THE IEP
(a) When a vocational education component is being considered, the IEP team membership shall include a vocational education representative.

RSA 186-C:b-3(I) & (IV)

I. In accordance with the provisions of 20 U.S.C. section 1413(a)(12) and 34 C.F.R. sections 300.650-300.653, there is established an advisory committee on the education of children/students with disabilities to advise the commissioner of education on issues relating to special education, and to promote communication and cooperation among individuals involved with students with disabilities. In addition, the committee shall review the federal financial participation and the level of state funding to determine their impact on the programs and delivery of services to children/students with disabilities.
services, one of whom may be a high school student, appointed by the governor.

IV. The committee shall:

(a) Advise the department of education regarding unmet needs within the state in the education of children/students with disabilities.

(b) Provide an annual report to the governor and the state legislature on the status of education of students with disabilities in New Hampshire.

(c) Comment publicly on the state plan and rules or regulations proposed for issuance by the state regarding the education of children/students with disabilities.

(d) Assist the state in developing and reporting such information and evaluations as may assist the U.S. Secretary of Education in the performance of responsibilities under section 618 of the Individuals with Disabilities Education Act.

(e) Advise the department of education in developing corrective action plans to address findings identified in federal monitoring reports.

(f) Advise the department of education in developing and implementing policies relating to the coordination of services for children/students with disabilities.

New Hampshire
Association of Special Education
Administrators INC

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TO: House Education Committee **RE: HB 390**
March 15th, 2005

Good afternoon – My name is P. Alan Pardy, and I am the Executive Director of the NH Association of Special Education Administrators, Inc. We are the professional membership organization for 180 local special education directors in public and private schools in New Hampshire.

I am testifying in opposition to HB 390, which would require school board members to be involved with the review and approval of Individual Education Plans (IEPs) for children with disabilities.

We are opposed to this bill for three reasons:

1. The federal and state regulations which govern the implementation of federal special education law are quite specific about team membership for a legal special education team, including parents and district employees. Others with specialized knowledge of the child are included as appropriate. Neither state nor federal regulations provide for the presence of a school board member in the IEP team's decision-making process (see p. 9, from NH Rules for the Education of Children with Disabilities, attached);

2. The confidentiality of children and their families is protected by the regulations for special education; only those school personnel are involved with information necessary for evaluating and providing services;

3. In the event of an appeal on disciplinary matters involving students with disabilities, the school board is the body that hears the facts of a case and must remain neutral, or impartial, as they weigh evidence and listen to testimony. Being involved in individual cases prior to that time would seem to prevent impartiality in those cases.

While we recognize the significant financial implications of special education decisions made by local teams, we respectfully suggest that the review and/or approval of IEPs by school board members is a function that is not allowed under state or federal law or regulation, and that such a practice would violate the NH Rules for the Education of Children with Disabilities, the provisions of the Individuals with Disabilities Education Act of 1997 and the newly re-authorized Individuals with Disabilities Improvement Act of 2004.

Thank you for the opportunity to present this testimony.

P. Alan Pardy, Ed.D.
Executive Director, NHASEA

§300.344 IEP team.
(a) General. The public agency shall ensure that the IEP team for each child with a disability includes—
(1) The parents of the child;
(2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
(3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;
(4) A representative of the public agency who–
(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
(ii) Is knowledgeable about the general curriculum; and
(iii) Is knowledgeable about the availability of resources of the public agency;
(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section;
(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
(7) If appropriate, the child.
(b) Transition services participants.
(1) Under paragraph (a)(7) of this section, the public agency shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be consideration of –
(I) The student's transition services needs under §300.347(b)(1); or
(ii) The needed transition services for the student under §300.347(b)(2); or
(iii) Both
(2) If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.
(3)(i) In implementing the requirements of §300.347(b)(2), the public agency also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.
(ii) If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.
(c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP.
(d) Designating a public agency representative. A public agency may designate another public agency member of the IEP team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

Ed 1102.29 "Individualized family service plan" (IFSP) means "individualized family service plan" as defined in 34 CFR 303.340(b).

§ 303.340 General.
(b) As used in this part, individualized family service plan and IFSP mean a written plan for providing early intervention services to a child eligible under this part and the child's family. The plan must—
(1) Be developed in accordance with Secs. 303.342 and 303.343;
(2) Be based on the evaluation and assessment described in Sec. 303.322; and
(3) Include the matters specified in Sec. 303.344.

Ed 1102.30 "Individuals with Disabilities Education Act" (IDEA) means Public Law 105-17.

Ed 1102.31 "Local education agency" (LEA) means "local education agency" as defined in 34 CFR 300.18, and includes "school district" as defined in RSA 198:38, II.

§300.18 Local educational agency.
(a) As used in this part, the term local educational agency means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service

Testimony in Support of HB 390

(Relative to review & approval of individualized education plans)

This bill requires that an individualized education plan be reviewed by a school board or sub-committee of a school board and shall be approved by a school board.

Quite simply, HB 390 requires the review, oversight and approval of IEP coding by the School Board (elected members of the community)which is required to provide most (80%) of the funding for the IDEA(Individuals with Disabilities Education Act programs).

I receive numerous complaints by citizens who are frustrated and discouraged, not so much by the cost of the Special Education programs, but rather with being told that neither they nor their elected officials have any say in the matter. This feeling of helpfulness was given to me as the reason for a turn out of less than 3% of the eligible voters at the school district meeting last week.

There are numerous reasons put forth by the DOE, and administrators of the IDEA programs as to why this bill is a bad idea. Arguments ranging from the confidentiality of IEP's, (names are not required for this to work) to school board members lacking the skills and qualifications to understand the complexity of IEP assessments.

School administrators assure us that they develop IEP's only as are required by federal law. I don't challenge this or their professional judgment and analysis in the assignment of IEP programs. However any good program can stand on its own merit and should be able to withstand scrutiny, even by elected school board members.

Despite the testimony you will hear today, this bill is not about depriving our children of needed services , but rather one of control between the administration of the programs and those who are being ask to provide the funds. Quite simply the opposition position is: we like the mysterious black box process just as it is, and see no need to change it!

This bill affords the local school boards the same opportunity practiced by the legislature. **Can you imagine the legislative reaction if you were told that you had to accept the governor's budget as presented, without Ways & Means review or even a legislative vote!**

Robert D. Mead

Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 390

BILL TITLE: **relative to the review and approval of individualized education plans.**

DATE: March 23, 2005

LOB ROOM: 207

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, (ITL,) Interim Study (Please circle one.)

Moved by Rep. Naro

Seconded by Rep. Clarke

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Timothy E. Easson, Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 390

BILL TITLE:

DATE: 03/23/05

LOB ROOM: 207

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, (ITL), Interim Study (Please circle one.)

Moved by Rep. Naro

Seconded by Rep. Clarke

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Timothy E. Easson, Clerk

EDUCATION

Bill #: HB 390 **Title:**

PH Date: / / Exec Session Date: 03/23/05

Motion: ITL Amendment #:

MEMBER	YEAS	NAYS
L'Heureux, Stephen R, Chairman	absent	
Hess, David W, V Chairman	✓	
Naro, Debra A	✓	
Balboni, Michael A	✓	
Carter, Mark S	✓	
Hagan, Barbara J	absent	
Ingbretson, Paul C	✓	
Newton, Clifford A	✓	
Campbell, W Packy	absent	
Easson, Timothy E	✓	
Asselin, Michael B	absent	
Remick, William J	✓	
Stiles, Nancy F	✓	
Ward, John L	✓	
Snyder, Clair A	absent	
Yeaton, Charles B	✓	
Jean, Claudette R	✓	
Clarke, Claire D	✓	
Rush, Deanna P	✓	
Dunn, J Timothy	✓	
Casey, Kimberley S	✓	
Rous, Emma L	✓	
	17.	0
TOTAL VOTE:		

Printed: 12/28/2004

Committee Report

COMMITTEE REPORT

COMMITTEE: **Education**

BILL NUMBER: **HB 390**

TITLE: relative to the review and approval of individualized education plans.

DATE: March 24, 2005 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill requires that an Individual Education Plan be reviewed by a school board or a sub-committee of a school board and shall be approved by a school board. This bill was motivated by a desire to involve local policymakers in individual special education decisions and in controlling costs. However, the requirements of this bill spotlighting individual students are in direct violation of state and federal special education laws. The review of Individual Education Plans (IEPs) and decision-making authority about a student's program and education placement are the exclusive responsibility of the IEP team (34 CFR 300.16 and 34CFR 300.344) which includes a regular educator, special educator, administrator, and the child's parents or guardian. Others with pertinent knowledge or special expertise about the child may be invited by the parents or the Local Education Agency (LEA), however, the process does not extend beyond the team. The confidentiality of children and their families is also protected by the provisions of FERPA. Furthermore, it is imperative that school board members remain neutral in the event of an appeal on disciplinary hearings. The involvement required by HB 390 in individual cases would prevent the necessary impartiality.

Vote 17-0.

Rep. Debra A. Naro
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Education

HB 390, relative to the review and approval of individualized education plans. **INEXPEDIENT TO LEGISLATE**

Rep. Debra A. Naro for Education: This bill requires that an Individual Education Plan be reviewed by a school board or a sub-committee of a school board and shall be approved by a school board. This bill was motivated by a desire to involve local policymakers in individual special education decisions and in controlling costs. However, the requirements of this bill spotlighting individual students are in direct violation of state and federal special education laws. The review of Individual Education Plans (IEPs) and decision-making authority about a student's program and education placement are the exclusive responsibility of the IEP team (34 CFR 300.16 and 34CFR 300.344) which includes a regular educator, special educator, administrator, and the child's parents or guardian. Others with pertinent knowledge or special expertise about the child may be invited by the parents or the Local Education Agency (LEA), however, the process does not extend beyond the team. The confidentiality of children and their families is also protected by the provisions of FERPA. Furthermore, it is imperative that school board members remain neutral in the event of an appeal on disciplinary hearings. The involvement required by HB 390 in individual cases would prevent the necessary impartiality. **Vote 17-0.**

COMMITTEE REPORT

COMMITTEE: **Education**

BILL NUMBER: HB 390

TITLE:

DATE: 03/23/05 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Vote 17-0

Rep. Debra A. Naro
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT