

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 841

Introduced by Rountree, 3.

Read first time January 08, 2026

Committee: Education

1 A BILL FOR AN ACT relating to special education; to amend sections
2 79-1139 and 79-1164, Reissue Revised Statutes of Nebraska; to
3 require special education services as prescribed; to require
4 parental consent as prescribed; to assign the burden of proof and
5 the burden of production for certain hearings; and to repeal the
6 original sections.

7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 79-1139, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 79-1139 (1) For purposes of this section:

4 (a) Educational decision maker means a person designated or ordered
5 by a court to make educational decisions on behalf of a student; and
6 (b) Surrogate means a surrogate for the parents assigned pursuant to
7 section 79-1161.

8 (2) Each school district shall include only students identified and
9 verified pursuant to sections 79-1137 and 79-1138 in special education
10 programs and shall not provide special education services pursuant to the
11 Special Education Act to any child who has not been so identified and
12 verified.

13 (3) Each school district shall provide special education services to
14 each student identified and verified pursuant to sections 79-1137 and
15 79-1138 as directed in the student's individualized education program.

16 (4) No school district shall implement a change to an individualized
17 education program without consent from the student's parent, legal
18 guardian, educational decisionmaker, or surrogate unless:

19 (a) The school district documents reasonable efforts to obtain such
20 consent and no response is received from the student's parent, legal
21 guardian, educational decisionmaker, or surrogate within ten calendar
22 days following such efforts; or

23 (b) The school district obtains approval to implement such change
24 through a hearing conducted pursuant to sections 79-1161 to 79-1167.

25 **Sec. 2.** Section 79-1164, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 79-1164 (1) Upon the receipt of a petition filed under section
28 79-1162, the department shall assign it to a hearing officer. The hearing
29 officer shall receive all subsequent pleadings and shall conduct the
30 hearing.

31 (2) At the hearing the parties shall present evidence on the issues

1 raised in the pleadings.

2 (3) The school district shall have the burden of proof and the
3 burden of production.

4 (4) At the completion of the proceedings, the hearing officer shall
5 prepare a report based on the evidence presented containing findings of
6 fact and conclusions of law.

7 (5) Within forty-five days after the receipt of a request for a
8 hearing, the hearing officer shall prepare a final decision and order
9 directing such action as may be necessary. At the request of either party
10 for good cause shown, the hearing officer may grant specific extensions
11 of time beyond this period.

12 (6) The report and the final decision and order shall be delivered
13 via certified mail to each party or attorney of record and to the
14 Commissioner of Education.

15 **Sec. 3.** Original sections 79-1139 and 79-1164, Reissue Revised
16 Statutes of Nebraska, are repealed.