

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.