

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

SENATE BILL 222

4
5 By: Senator Mahony

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 6-41-216 TO
10 AUTHORIZE SUBPOENA POWER FOR HEARING OFFICERS IN HEARINGS
11 CONDUCTED PURSUANT TO THE FEDERAL INDIVIDUALS WITH
12 DISABILITIES EDUCATION ACT; AND FOR OTHER PURPOSES."

Subtitle

15 "TO AUTHORIZE SUBPOENA POWER FOR HEARING
16 OFFICERS IN HEARINGS CONDUCTED PURSUANT
17 TO THE FEDERAL INDIVIDUALS WITH
18 DISABILITIES EDUCATION ACT."

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Annotated § 6-41-216 is amended to read as
23 follows:

24 "6-41-216. Tests and evaluations - Change of child's status - Hearings.

25 (a) All decisions pertaining to change in the educational status of a
26 child shall follow due process procedures established by the State Board of
27 Education.

28 (b) Due process shall include:

29 (1) Providing for prior notification to parents of testing and
30 provision of special education services;

31 (2) The right to request educational evaluation and special
32 education services; and

33 (3) The right to hearing and appeal of educational decisions.

34 (c)(1) The State Board of Education shall prescribe rules and
35 regulations governing hearings and appeals.

36 (2) Hearings shall be conducted by individuals hereinafter

1 referred to as hearing officers.

2 (3)(A) The board shall establish standards and qualifications for
3 individuals to serve as hearing officers.

4 (B) Neither an employee of the Department of Education nor
5 an employee of the local school district involved in a particular hearing may
6 serve as a hearing officer.

7 (C) Professional service contracts with individuals made
8 for the purpose of compensating them for services rendered in connection with
9 hearings shall not constitute employment.

10 (d) An individual serving as a qualified hearing officer at an assigned
11 hearing shall be immune from civil suit brought by either party for the
12 consequences of actions required of a hearing officer.

13 (e)(1) An individual serving as a qualified hearing officer under this
14 section shall have the power to issue subpoenas and to bring before him as a
15 witness any person in this state.

16 (2) The hearing officer shall issue a subpoena upon the request
17 of any party to a pending proceeding.

18 (3) The writ shall be directed to the sheriff of the county where
19 the witness resides or may be found.

20 (4) The writ may require the witness to bring with him any book,
21 writing, or other thing under his control which he is bound by law to produce
22 in evidence.

23 (5) Service of the writ shall be in the manner as provided by law
24 for the service of subpoenas in civil cases.

25 (f)(1) A witness who has been served by subpoena in the manner provided
26 by law and who shall have been paid or tendered the legal fees for travel and
27 attendance as provided by law shall be obligated to attend for examination of
28 the trial of the cause pending before the board.

29 (2) In the event a witness shall have been served with subpoenas
30 as herein provided and fails to attend the hearing in obedience to the
31 subpoena, the hearing officer may apply to the circuit court of the county
32 wherein the hearing officer is having the hearing for an order causing the
33 arrest of the witness and directing that the witness be brought before the
34 court.

35 (3) The court shall have the power to punish the disobedient
36 witness for contempt as provided by law in the trial of civil cases.

1 (4) The disobedient witness shall be liable in damages for
2 nonattendance to the trial or hearing as provided by law.

3 ~~(e)~~(g) Any aggrieved party shall have thirty (30) days after the
4 hearing officer's decision to file an appeal pursuant to the federal
5 Individuals with Disabilities Education Act."

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7 SECTION 2. All provisions of this act of a general and permanent nature
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
9 Revision Commission shall incorporate the same in the Code.

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11 SECTION 3. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 4. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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