



# HOUSE BILL No. 4793

May 9, 1995, Introduced by Reps. Martinez, LaForge, Freeman, Pitoniak, DeMars, Baird, Leland and Brater and referred to the Committee on Education.

A bill to amend sections 1703, 1711, and 1751 of Act No. 451 of the Public Acts of 1976, entitled as amended "The school code of 1976," being sections 380.1703, 380.1711, and 380.1751 of the Michigan Compiled Laws; and to add section 1704.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1703, 1711, and 1751 of Act No. 451 of  
2 the Public Acts of 1976, being sections 380.1703, 380.1711, and  
3 380.1751 of the Michigan Compiled Laws, are amended and  
4 section 1704 is added to read as follows:

5 Sec. 1703. (1) Special education personnel shall meet the  
6 qualifications and requirements of the rules promulgated by the  
7 state board. FOR SPECIAL EDUCATION TEACHERS WHO OBTAIN  
8 CERTIFICATION OR ENDORSEMENT AFTER JULY 1, 1999 TO TEACH PUPILS  
9 WHO ARE BLIND OR VISUALLY IMPAIRED, THE QUALIFICATIONS AND

1 REQUIREMENTS ESTABLISHED BY STATE BOARD RULE SHALL INCLUDE AT  
2 LEAST A REQUIREMENT THAT THE TEACHER MUST DEMONSTRATE COMPETENCE  
3 IN READING BRAILLE BY SIGHT, TOUCH, OR A COMBINATION OF SIGHT AND  
4 TOUCH; WRITING BRAILLE; AND TEACHING BRAILLE. THE STATE BOARD  
5 MAY REQUIRE A TEACHER CERTIFICATED OR ENDORSED BEFORE JULY 1,  
6 1999 TO TEACH PUPILS WHO ARE BLIND OR VISUALLY IMPAIRED TO COM-  
7 PLETE CONTINUING EDUCATION COURSES IF THE STATE BOARD CONSIDERS  
8 CONTINUING EDUCATION TO BE APPROPRIATE FOR FURTHERING THE OBJEC-  
9 TIVES OF THIS SECTION. THE STATE BOARD SHALL WORK WITH HIGHER  
10 EDUCATION INSTITUTIONS THAT OFFER PROGRAMS FOR TEACHERS OF THE  
11 BLIND AND VISUALLY IMPAIRED TO DEVELOP THESE CONTINUING EDUCATION  
12 PROGRAMS IN ACCORDANCE WITH THE STANDARDS OF THIS SECTION AND  
13 STANDARDS ADOPTED BY THE NATIONAL LIBRARY SERVICE FOR THE BLIND  
14 AND PHYSICALLY HANDICAPPED OF THE UNITED STATES LIBRARY OF CON-  
15 GRESS FOR THE PURPOSE OF ASSESSING A TEACHER'S COMPETENCY. THIS  
16 SECTION DOES NOT AFFECT THE CERTIFICATION OR OTHER STATUS OF A  
17 TEACHER WHO OBTAINED CERTIFICATION OR ENDORSEMENT BEFORE JULY 1,  
18 1999 TO TEACH PUPILS WHO ARE BLIND OR VISUALLY IMPAIRED.

19 (2) Curriculum, eligibility of specific persons for special  
20 education programs and services and for each particular program  
21 or service, review procedures regarding the placement of persons  
22 in the programs or services, size of classes, size of programs,  
23 quantity and quality of equipment, supplies and housing, adequacy  
24 of methods of instruction, and length and content of school day  
25 shall be in accordance with rules promulgated by the state board  
26 relative to special education programs and services.

1        SEC. 1704. (1) UNLESS THE BLIND PUPIL LACKS SUFFICIENT  
2 COGNITIVE ABILITY TO READ OR WRITE IN ANY FORM, THE ASSESSMENT OF  
3 EACH BLIND PUPIL CONDUCTED PURSUANT TO STATE BOARD RULE BY AN  
4 INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE SHALL INCLUDE AN  
5 ASSESSMENT UNDER THIS SUBSECTION OF THE APPROPRIATENESS OF  
6 INSTRUCTION IN BRAILLE FOR THE BLIND PUPIL. THE ASSESSMENT SHALL  
7 PROCEED UNDER THE REBUTTABLE PRESUMPTION THAT PROFICIENCY IN  
8 BRAILLE READING AND WRITING IS ESSENTIAL FOR THE BLIND PUPIL TO  
9 ACHIEVE SATISFACTORY EDUCATIONAL PROGRESS. THIS PRESUMPTION IS  
10 TO RECOGNIZE BRAILLE AS A MINIMUM REQUIREMENT FOR EVERY BLIND  
11 PUPIL AND TO ENSURE THAT EVERY BLIND PUPIL IS ENTITLED TO BRAILLE  
12 INSTRUCTION UNLESS HIS OR HER INDIVIDUALIZED EDUCATIONAL PLANNING  
13 COMMITTEE DETERMINES BRAILLE INSTRUCTION TO BE INAPPROPRIATE  
14 UNDER SUBSECTION (2). THE ASSESSMENT SHALL INCLUDE AT LEAST ALL  
15 OF THE FOLLOWING:

16        (A) A BRAILLE SKILLS INVENTORY WITH A STATEMENT OF STRENGTHS  
17 AND DEFICIENCIES.

18        (B) A LOW VISION ASSESSMENT AND EVALUATION PROVIDED THROUGH  
19 THE YOUTH LOW VISION PROGRAM OPERATED BY THE MICHIGAN COMMISSION  
20 FOR THE BLIND.

21        (C) A PRINT SKILLS INVENTORY WITH A STATEMENT OF STRENGTHS  
22 AND DEFICIENCIES.

23        (D) CONSIDERATION OF DUAL INSTRUCTION FOR THE PUPIL IN BOTH  
24 PRINT AND BRAILLE IF THE PUPIL'S STAMINA FOR SUSTAINED PRINT  
25 READING IS INSUFFICIENT FOR ADEQUATE PRINT COMPETENCE.

26        (2) IF A BLIND PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING  
27 COMMITTEE DETERMINES AFTER THE ASSESSMENT DESCRIBED IN

1 SUBSECTION (1), USING A STANDARD EVALUATION GUIDELINE DEVELOPED  
2 BY THE STATE BOARD, THAT THE BLIND PUPIL'S VISUAL IMPAIRMENT,  
3 INCLUDING PROGNOSIS, DOES NOT AND WILL NOT AFFECT HIS OR HER  
4 READING AND WRITING PERFORMANCE COMMENSURATE WITH HIS OR HER  
5 ABILITY, THAT THE BLIND PUPIL HAS A PHYSICAL OR MENTAL IMPAIRMENT  
6 OTHER THAN BLINDNESS THAT PRECLUDES HIS OR HER USE OF BRAILLE, OR  
7 THAT THE BLIND PUPIL LACKS SUFFICIENT COGNITIVE ABILITY TO READ  
8 OR WRITE IN ANY FORM, AND IF THIS DETERMINATION IS CONCURRED IN  
9 BY THE BLIND PUPIL'S CUSTODIAL PARENT OR LEGAL GUARDIAN AND THE  
10 CERTIFICATED VISUALLY IMPAIRED EDUCATOR SERVING ON THE BLIND  
11 PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE, THE BLIND  
12 PUPIL'S INDIVIDUALIZED EDUCATION PROGRAM IS NOT REQUIRED TO  
13 INCLUDE BRAILLE INSTRUCTION PURSUANT TO SUBSECTION (3). HOWEVER,  
14 THE BLIND PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE  
15 SHALL SPECIFY IN WRITING THE EVIDENCE USED TO DETERMINE THAT THE  
16 BLIND PUPIL'S ABILITY TO READ AND WRITE EFFECTIVELY WITHOUT  
17 BRAILLE INSTRUCTION IS NOT IMPAIRED.

18 (3) SUBJECT TO SUBSECTION (4), THE INDIVIDUALIZED EDUCATION  
19 PROGRAM OF EACH BLIND PUPIL WHO IS NOT EXEMPTED UNDER  
20 SUBSECTION (2) SHALL INCLUDE INSTRUCTION IN BRAILLE READING AND  
21 WRITING THAT IS SUFFICIENT TO ENABLE THE BLIND PUPIL TO COMMUNI-  
22 CATE AND, THROUGH THE USE OF ALTERNATIVE MATERIALS, TO LEARN AS  
23 EFFECTIVELY AND EFFICIENTLY AS HIS OR HER SIGHTED PEERS OF COM-  
24 PARABLE ABILITY IN THE SAME GRADE LEVEL. THE INDIVIDUALIZED EDU-  
25 CATION PROGRAM FOR EACH BLIND PUPIL RECEIVING BRAILLE INSTRUCTION  
26 SHALL SPECIFY IN WRITING AT LEAST ALL OF THE FOLLOWING:

1 (A) THE RESULTS OF THE ASSESSMENT DESCRIBED IN  
2 SUBSECTION (1).

3 (B) HOW BRAILLE WILL BE IMPLEMENTED AS THE PRIMARY OR SEC-  
4 ONDARY MODE FOR LEARNING AND HOW BRAILLE WILL BE INTEGRATED WITH  
5 OTHER CLASSROOM ACTIVITIES.

6 (C) THE DATE ON WHICH BRAILLE INSTRUCTION WILL BEGIN FOR THE  
7 PUPIL.

8 (D) THE LENGTH OF THE PERIOD OF BRAILLE INSTRUCTION AND THE  
9 FREQUENCY AND LENGTH OF EACH BRAILLE INSTRUCTIONAL SESSION.

10 (E) THE LEVEL OF COMPETENCY IN BRAILLE READING COMPREHENSION  
11 AND WRITING TO BE ACHIEVED BY THE CONCLUSION OF THE BRAILLE  
12 INSTRUCTION AND THE ASSESSMENT MEASURES TO BE USED TO OBJECTIVELY  
13 ASSESS COMPETENCY.

14 (4) THIS SECTION DOES NOT REQUIRE THE EXCLUSIVE USE OF  
15 BRAILLE IF OTHER SPECIAL EDUCATION METHODS ARE APPROPRIATE TO A  
16 BLIND PUPIL'S EDUCATIONAL NEEDS, AS DETERMINED BY HIS OR HER  
17 INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE. A DETERMINATION  
18 TO PROVIDE OTHER APPROPRIATE SPECIAL EDUCATION METHODS TO A BLIND  
19 PUPIL DOES NOT PRECLUDE BRAILLE USE OR INSTRUCTION FOR THE BLIND  
20 PUPIL.

21 (5) NOT LATER THAN JANUARY 1, 1999, THE STATE BOARD SHALL  
22 REVIEW THIS SECTION IN LIGHT OF THE REVISED SPECIAL EDUCATION  
23 RULES EXPECTED TO BE PROMULGATED BY THAT DATE, EVALUATE THIS  
24 SECTION'S CONSISTENCY WITH THOSE RULES AND THE NECESSITY FOR THE  
25 CONTINUATION OF THIS SECTION CONSIDERING THOSE RULES, AND SUBMIT  
26 RECOMMENDATIONS TO THE LEGISLATURE CONCERNING THE REPEAL OF OR  
27 RECOMMENDED AMENDMENTS TO THIS SECTION.

(6) AS USED IN THIS SECTION:

(A) "BLIND PUPIL" MEANS A HANDICAPPED PERSON WHO HAS A VISUAL ACUITY OF 20/200 OR LESS IN THE BETTER EYE WITH CORRECTIVE LENSES OR HAS A LIMITED FIELD OF VISION SUCH THAT THE WIDEST DIAMETER SUBTENDS AN ANGULAR DISTANCE OF 20 DEGREES OR LESS, OR WHO HAS A MEDICALLY INDICATED EXPECTATION OF VISUAL DETERIORATION TO 1 OR BOTH OF THOSE CONDITIONS.

(B) "BRAILLE" MEANS THE SYSTEM OF READING AND WRITING THROUGH TOUCH COMMONLY KNOWN AS STANDARD ENGLISH BRAILLE.

(C) "INDIVIDUALIZED EDUCATION PROGRAM" AND "INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE" MEAN THOSE TERMS AS DEFINED IN R 340.1701A OF THE MICHIGAN ADMINISTRATIVE CODE.

Sec. 1711. (1) The intermediate school board shall:

(a) Develop, establish, and continually evaluate and modify in cooperation with its constituent districts, a plan for special education ~~which shall provide~~ THAT PROVIDES for the delivery of special education programs and services designed to develop the maximum potential of each handicapped person of whom the intermediate school board is required to maintain a record under subdivision (f). The plan shall coordinate the special education programs and services operated or contracted for by the constituent districts and shall be submitted to the state board for its approval.

(b) Contract for the delivery of a special education program or service, in accordance with the intermediate school district plan in compliance with ~~section~~ SECTIONS 1701 AND 1704. Under the contract the intermediate school board may operate special

1 education programs or services and furnish transportation  
2 services and room and board.

3 (c) Employ or engage special education personnel in accord-  
4 ance with the intermediate school district plan, and appoint a  
5 director of special education meeting the qualifications and  
6 requirements of the rules promulgated by the state board.

7 (d) Accept and use available funds or contributions from  
8 governmental or private sources for the purpose of providing spe-  
9 cial education programs and services consistent with this  
10 article.

11 (e) Lease, purchase, or otherwise acquire vehicles, sites,  
12 buildings, or portions ~~thereof~~ OF SITES OR BUILDINGS, and equip  
13 them for its special education staff, programs, and services.

14 (f) Maintain a record of each handicapped person under 26  
15 years of age ~~—~~ who is a resident of 1 of its constituent dis-  
16 tricts and who has not completed a normal course of study and  
17 graduated from high school, and the special education programs or  
18 services in which the handicapped person is participating on the  
19 fourth Friday after Labor day and Friday before Memorial day.  
20 The sole basis for determining the local school district in which  
21 a handicapped person is a resident ~~shall be~~ IS the rules  
22 promulgated by the state board notwithstanding the provisions of  
23 section 1148. The records shall be maintained in accordance with  
24 rules promulgated by the state board.

25 (g) Have the authority to place in appropriate special edu-  
26 cation programs or services a handicapped person for whom a

1 constituent district is required to provide special education  
2 programs or services under section 1751.

3 (h) Investigate special education programs and services  
4 operated or contracted for by the intermediate school board or  
5 constituent district boards and report in writing failures to  
6 comply with the provisions of a contract, statute, or rule gov-  
7 erning the special education programs and services or with the  
8 intermediate school district plan, to the local school district  
9 board and to the state board.

10 (i) Operate the special education programs or services or  
11 contract for the delivery of special education programs or serv-  
12 ices by local school district boards, in accordance with  
13 ~~section~~ SECTIONS 1702 AND 1704, as if a local school district  
14 under section 1751. The contract shall provide for items  
15 ~~stated~~ SPECIFIED in section 1751 and shall be approved by the  
16 state board. The intermediate school board shall contract for  
17 the transportation, or room and board, or both, ~~or~~ OF persons  
18 participating in the program or service IN THE SAME MANNER as  
19 ~~if~~ a local school district board under sections 1756 and 1757.

20 (j) Receive the report of a parent or guardian or, with the  
21 consent of a parent or guardian, receive the report of a licensed  
22 physician, registered nurse, social worker, or school or other  
23 appropriate professional personnel whose training and relation-  
24 ship to handicapped persons provide competence to ~~judge same~~  
25 EVALUATE HANDICAPPED PERSONS and who in good faith believes that  
26 a person under 26 years of age examined by the professional is or  
27 may be handicapped, and immediately evaluate the person pursuant



1 to rules promulgated by the state board. A person making or  
 2 filing this report or a local school district board ~~shall~~ IS  
 3 not ~~incur liability~~ LIABLE to a person by reason of filing the  
 4 report or seeking the evaluation, unless lack of good faith is  
 5 proven.

6 (k) Evaluate pupils in accordance with section 1311.

7 (2) The intermediate school board may expend up to 10% of  
 8 ~~the~~ ITS annual budget but not to exceed \$12,500.00, for special  
 9 education programs approved by the intermediate school board  
 10 without having to secure the approval of the state board.

11 Sec. 1751. (1) The board of a local school district shall  
 12 provide special education programs and services designed to  
 13 develop the maximum potential of each handicapped person in its  
 14 district on record under section 1711 for whom an appropriate  
 15 educational or training program can be provided in accordance  
 16 with the intermediate school district special education plan AND  
 17 THIS ACT, in either of the following ways or a combination  
 18 ~~thereof~~ OF THEM:

19 (a) Operate the special education program or service.

20 (b) Contract with its intermediate school board, another  
 21 intermediate school board, another local school district board,  
 22 an adjacent school district board in a bordering state, the  
 23 Michigan school for the blind, the Michigan school for the deaf,  
 24 the department of mental health, the department of social serv-  
 25 ices, or any combination ~~thereof~~ OF THEM, for delivery of the  
 26 special education programs or services, or with an agency  
 27 approved by the state board for delivery of an ancillary

1 professional special education service. The intermediate school  
2 district of which the local school district is constituent ~~shall~~  
3 ~~be~~ IS a party to each contract even if the intermediate school  
4 district does not participate in the delivery of the program or  
5 services.

6 (2) A local school district contract for the provision of a  
7 special education program or service shall provide specifically  
8 for:

9 (a) Special education buildings, equipment, and personnel  
10 necessary for the operation of the subject program or service.

11 (b) Transportation or room and board, or both, for persons  
12 participating in the programs or services as required under sec-  
13 tions 1756 and 1757.

14 (c) The contribution to be made by the sending local school  
15 district if the program or service is to be operated by another  
16 party to the contract. The contribution shall be in accordance  
17 with rules promulgated by the state board.

18 (d) Other matters which the parties ~~deem~~ CONSIDER  
19 appropriate.

20 (3) Each program or service operated or contracted for by a  
21 local school district shall be OPERATED in accordance with the  
22 intermediate school district's plan established pursuant to  
23 section 1711.

24 (4) A local school district may provide additional special  
25 education programs and services not included in, or required by,  
26 the intermediate school district plan.

1       (5) This section ~~shall be construed to allow~~ ALLOWS  
2 operation of programs by departments of state government without  
3 local school district contribution.