

256B.6 Parent's or guardian's duties — review.

1. When the school district or area education agency has provided special education services and programs as provided herein for any child requiring special education, either by admission to a special class or by supportive services, it shall be the duty of the parent or guardian to enroll the child for instruction in such special classes or supportive services as may be established, except in the event a doctor's certificate is filed with the secretary of the school district showing that it is inadvisable for medical reasons for the child requiring special education to receive the special education provided; all the provisions and conditions of chapter 299 shall be applicable to this section, and any violations shall be punishable as provided in chapter 299.

2. A child, or the parent or guardian of the child, or the school district in which the child resides, may obtain a review of an action or omission of local authorities pursuant to the procedures established by the state board of education on the ground that the child has been or is about to be:

a. Denied entry or continuance in a program of special education appropriate to the child's condition and needs.

b. Placed in a special education program which is inappropriate to the child's condition and needs.

c. Denied educational services because no suitable program of education or related services is maintained.

d. Provided with special education which is insufficient in quantity to satisfy the requirements of law.

e. Assigned to a program of special education when the child does not have a disability.

3. When a child requiring special education attains the age of majority or is incarcerated in an adult or juvenile, state or local, correctional institution, all rights accorded to the parent or guardian under this chapter transfer to the child except as provided in this subsection. Any notice required by this chapter shall be provided to both the child who has reached the age of majority or is incarcerated in an adult or juvenile, state or local, correctional institution and the parent or guardian. If rights under this chapter have transferred to the child and the child has been determined to be incompetent by a court or determined unable to provide informed educational consent by a court or other competent authority, then rights under this chapter shall be exercised by the person who has been appointed to represent the educational interest of the child. The director of the department of education may establish standards for determining whether a public agency, as defined in section 28E.2, is competent to determine whether a child is unable to provide informed educational consent, and the procedures by which such determination shall be made and reviewed.

4. Notwithstanding section 17A.11, the state board of education shall adopt rules for the appointment of an impartial administrative law judge for special education appeals. The rules shall comply with federal statutes and regulations.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §281.6]

84 Acts, ch 1070, §1; 88 Acts, ch 1109, §22

C93, §256B.6

96 Acts, ch 1129, §69; 2010 Acts, ch 1016, §3; 2010 Acts, ch 1061, §180

Referred to in §256B.7, 299.5