

CHAPTER.....

AN ACT relating to education; providing that the rights of a parent of a pupil with a disability under the Individuals with Disabilities Education Act transfer to the pupil when the pupil attains the age of 18 years; providing that a parent of a pupil with a disability may request to represent the educational interests of the pupil when the pupil attains the age of 18 years; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Individuals with Disabilities Education Act (IDEA) authorizes, but does not require, a state to transfer the rights of a parent of a pupil with a disability under the IDEA to the pupil when the pupil attains the age of majority under state law. (20 U.S.C. § 1415(m)) The IDEA also requires that, if a state transfers the rights of a parent to the pupil, the state must provide a special rule that would allow the parent of the pupil with a disability to be appointed to represent the educational interests of the pupil under certain circumstances. (20 U.S.C. § 1415(m)(2)) If a court has appointed a guardian for a pupil with a disability, the rights that would otherwise transfer to the pupil must remain with or otherwise transfer to the guardian. The State Board of Education has adopted regulations which transfer the rights of a parent of a pupil with a disability to the pupil when the pupil attains the age of 18 years if a court has not appointed a guardian for the pupil. (NRS 388.520; NAC 388.195)

Section 2 of this bill provides that the rights of a parent of a pupil with a disability under the IDEA transfer to the pupil when the pupil attains the age of 18 years.

Section 3 of this bill authorizes the parent of a pupil with a disability to submit a concise application to the school district or the charter school in which the pupil is enrolled for the appointment of the parent to represent the educational interests of the pupil when the pupil attains the age of 18 years.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise provided in this section and section 3 of this act, any right accorded to a parent of a pupil with a disability pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or the regulations adopted pursuant thereto, transfers to the pupil when the pupil attains the age of 18 years.*

2. Not less than 90 days before the date on which a pupil with a disability attains the age of 18 years, the school district or



charter school in which the pupil is enrolled shall provide notice to the:

(a) Parent of the transfer of his rights pursuant to subsection 1 and of the process for submission of an application to the school district or charter school pursuant to section 3 of this act.

(b) Pupil concerning the transfer of rights to the pupil.

3. If a pupil with a disability attains the age of 18 years and the pupil is enrolled in a program of special education pursuant to NRS 388.440 to 388.5315, inclusive, and sections 2 and 3 of this act, the school district or charter school in which the pupil is enrolled shall provide any notice required pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, or NRS 388.440 to 388.5315, inclusive, and sections 2 and 3 of this act, and the regulations adopted pursuant thereto, to the:

(a) Parent; and

(b) Pupil with a disability,

↪ regardless of whether the parent is appointed to represent the educational interests of the pupil pursuant to section 3 of this act or the rights transfer to the pupil pursuant to subsection 1.

4. If a court of competent jurisdiction adjudicates a pupil with a disability incompetent and appoints a guardian for the pupil, all rights pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, remain with or otherwise transfer to the guardian.

Sec. 3. 1. A parent of a pupil with a disability may, at least 90 days before the pupil attains 18 years of age, submit an application to the school district or the charter school in which the pupil is enrolled to appoint the parent to represent the educational interests of the pupil if:

(a) The parent believes that the pupil does not have the ability to provide informed consent with respect to his own educational program; and

(b) The status of the pupil is such, as determined in accordance with the regulations adopted pursuant to subsection 5, that the parent is authorized to submit such an application.

2. The application must be submitted on a concise form prescribed by the Department. The application:

(a) Must not be unduly burdensome on the parent to fill out; and



(b) Must not require the pupil to sign the application or otherwise require the pupil to grant permission for the parent to represent the pupil's educational interests.

3. If the school district or charter school grants an application, the parent shall continue to represent the educational interests of the pupil until:

(a) The pupil receives a standard high school diploma or an adjusted diploma;

(b) The pupil is no longer enrolled in a program of special education pursuant to NRS 388.440 to 388.5315, inclusive, and sections 2 and 3 of this act; or

(c) The parent elects to transfer the right to represent educational interests to the pupil.

4. A parent or a pupil may appeal a determination made pursuant to this section in accordance with the procedure used by the Department for administrative complaints.

5. The State Board shall adopt regulations to carry out this section and section 2 of this act, including, without limitation, the establishment of criteria for determining whether the status of a pupil with a disability is such that his parent is authorized to submit an application to represent the educational interests of the pupil pursuant to this section.

Sec. 4. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5315, inclusive ~~§~~ ,
and sections 2 and 3 of this act:

1. "Gifted and talented pupil" means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that he cannot progress effectively in a regular school program and therefore needs special instruction or special services.

2. "Pupil with a disability" means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that he cannot progress effectively in a regular school program and therefore needs special instruction or special services.

Sec. 5. This act becomes effective on July 1, 2007.

