

ASSEMBLY BILL NO. 210—COMMITTEE ON EDUCATION

MARCH 7, 2013

Referred to Committee on Education

SUMMARY—Revises provisions relating to pupils with disabilities. (BDR 34-989)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; requiring an individualized education program team to consider certain factors when developing an individualized education program for a pupil with a hearing impairment; requiring that minimum standards for the special education of pupils with hearing impairments prescribed by the State Board of Education include certain provisions; requiring the Department of Education to post certain information relating to children with disabilities on the Department's Internet website; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law prescribes certain requirements for the education of pupils with disabilities pursuant to the Individuals with Disabilities Education Act, including an individual education program for each pupil with a disability developed by an individualized education program team composed of certain persons. (20 U.S.C. § 1414) **Section 1** of this bill requires an individualized education program team to consider certain factors when developing an individualized education program for a pupil with a hearing impairment. Additionally, **section 1** authorizes the team to consider certain factors when determining the best feasible instruction for a pupil with a hearing impairment.

Existing law requires the State Board of Education to prescribe minimum standards for programs of instruction or special services for the purpose of serving pupils with disabilities. (NRS 388.520) **Section 3** of this bill provides that the minimum standards prescribed by the State Board for the special education of pupils with hearing impairments must provide: (1) that a pupil with a hearing impairment cannot be denied the opportunity for instruction in a particular communication mode, for example, American Sign Language, solely because the communication mode originally chosen for the pupil is different from a communication mode recommended by the pupil's individualized education



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1 program team; and (2) that, to the extent feasible, as determined by the board of
2 trustees of the school district, a school is required to provide instruction to such
3 pupils in more than one communication mode.

4 The Individuals with Disabilities Education Act requires each state to submit
5 annually to the United States Secretary of Education data relating to the number
6 and percentage of children with disabilities who are receiving special education and
7 services in the state. (20 U.S.C. § 1418) **Section 3** of this bill requires the
8 Department to post the information that is submitted to the Secretary on the Internet
9 website maintained by the Department within 30 days after submission to the
10 Secretary.

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

11 **Section 1.** Chapter 388 of NRS is hereby amended by adding
12 thereto a new section to read as follows:

13 *1. When developing an individualized education program for*
14 *a pupil with a hearing impairment in accordance with NRS*
15 *388.520, the pupil's individualized education program team shall*
16 *consider, without limitation:*

17 *(a) The related services and program options that provide the*
18 *pupil with an appropriate and equal opportunity for*
19 *communication access;*

20 *(b) The pupil's primary communication mode;*

21 *(c) The availability to the pupil of a sufficient number of age,*
22 *cognitive, academic and language peers of similar abilities;*

23 *(d) The availability to the pupil of adult models who are deaf*
24 *or hearing impaired and who use the pupil's primary*
25 *communication mode;*

26 *(e) The availability of special education teachers, interpreters*
27 *and other special education personnel who are proficient in the*
28 *pupil's primary communication mode;*

29 *(f) The provision of academic instruction, school services and*
30 *direct access to all components of the educational process,*
31 *including, without limitation, advanced placement courses, career*
32 *and technical education courses, recess, lunch, extracurricular*
33 *activities and athletic activities;*

34 *(g) The preferences of the parent or guardian of the pupil*
35 *concerning the best feasible services, placement and content of the*
36 *pupil's individualized education program; and*

37 *(h) The appropriate assistive technology necessary to provide*
38 *the pupil with an appropriate and equal opportunity for*
39 *communication access.*

40 *2. When determining the best feasible instruction to be*
41 *provided to the pupil in his or her primary communication mode,*



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1 *the pupil's individualized education program team may consider,*
2 *without limitation:*

- 3 (a) *Changes in the pupil's hearing or vision;*
- 4 (b) *Development in or availability of assistive technology;*
- 5 (c) *The physical design and acoustics of the learning*
6 *environment; and*
- 7 (d) *The subject matter of the instruction to be provided.*

8 **Sec. 2.** NRS 388.440 is hereby amended to read as follows:

9 388.440 As used in NRS 388.440 to 388.5317, inclusive ~~1~~ ,
10 *and section 1 of this act:*

11 1. *"Communication mode" means any system or method of*
12 *communication used by a person who is deaf or whose hearing is*
13 *impaired to facilitate communication which may include, without*
14 *limitation:*

- 15 (a) *American Sign Language;*
- 16 (b) *English-based manual or sign systems;*
- 17 (c) *Oral and aural communication;*
- 18 (d) *Spoken and written English, including speech reading or*
19 *lip reading; and*
- 20 (e) *Communication with assistive technology devices.*

21 2. "Gifted and talented pupil" means a person under the age of
22 18 years who demonstrates such outstanding academic skills or
23 aptitudes that the person cannot progress effectively in a regular
24 school program and therefore needs special instruction or special
25 services.

26 ~~12~~ 3. *"Individualized education program" has the meaning*
27 *ascribed to it in 20 U.S.C. § 1414(d)(1)(A).*

28 4. *"Individualized education program team" has the meaning*
29 *ascribed to it in 20 U.S.C. § 1414(d)(1)(B).*

30 5. "Pupil who receives early intervening services" means a
31 person enrolled in kindergarten or grades 1 to 12, inclusive, who is
32 not a pupil with a disability but who needs additional academic and
33 behavioral support to succeed in a regular school program.

34 ~~13~~ 6. "Pupil with a disability" means a person under the age
35 of 22 years who deviates either educationally, physically, socially or
36 emotionally so markedly from normal patterns that the person
37 cannot progress effectively in a regular school program and
38 therefore needs special instruction or special services.

39 **Sec. 3.** NRS 388.520 is hereby amended to read as follows:

40 388.520 1. The Department shall:

41 (a) Prescribe a form that contains the basic information
42 necessary for the uniform development, review and revision of an
43 individualized education program for a pupil with a disability in
44 accordance with 20 U.S.C. § 1414(d); and



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(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

(a) Hearing impairments, including, but not limited to, deafness.

(b) Visual impairments, including, but not limited to, blindness.

(c) Orthopedic impairments.

(d) Speech and language impairments.

(e) Mental retardation.

(f) Multiple impairments.

(g) Serious emotional disturbances.

(h) Other health impairments.

(i) Specific learning disabilities.

(j) Autism spectrum disorders.

(k) Traumatic brain injuries.

(l) Developmental delays.

(m) Gifted and talented abilities.

5. *The minimum standards prescribed by the State Board for pupils with hearing impairments, including, without limitation, deafness, pursuant to paragraph (a) of subsection 4 must provide:*

(a) That a pupil cannot be denied the opportunity for instruction in a particular communication mode solely because the communication mode originally chosen for the pupil is different from a communication mode recommended by the pupil's individualized education program team; and

(b) That, to the extent feasible, as determined by the board of trustees of the school district, a school is required to provide instruction to those pupils in more than one communication mode.

6. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with



1 disabilities and gifted and talented pupils until the program of
2 instruction maintained therein for such pupils is approved by the
3 Superintendent of Public Instruction as meeting the minimum
4 standards prescribed by the State Board.

5 ~~{6-}~~ 7. The Department shall, upon the request of the board of
6 trustees of a school district, provide information to the board of
7 trustees concerning the identification and evaluation of pupils with
8 disabilities in accordance with the standards prescribed by the State
9 Board.

10 ~~{7. —As used in this section, “individualized education program”~~
11 ~~has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).}~~

12 *8. The Department shall post on the Internet website*
13 *maintained by the Department the data that is submitted to the*
14 *United States Secretary of Education pursuant to 20 U.S.C. § 1418*
15 *within 30 days after submission of the data to the Secretary in a*
16 *manner that does not result in the disclosure of data that is*
17 *identifiable to an individual pupil.*

18 **Sec. 4.** NRS 388.524 and 388.5245 are hereby repealed.

19 **Sec. 5.** This act becomes effective on July 1, 2013.

TEXT OF REPEALED SECTIONS

388.524 “Individualized education program” defined.
“Individualized education program” has the meaning ascribed to it
in 20 U.S.C. § 1414(d)(1)(A).

**388.5245 “Individualized education program team”
defined.** “Individualized education program team” has the
meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

