

**MINUTES OF THE FLOOR MEETING  
OF THE  
ASSEMBLY COMMITTEE ON EDUCATION**

**Seventy-Seventh Session  
March 18, 2013**

The Committee on Education was called to order by Chairman Elliot T. Anderson at 3:15 p.m. on Monday, March 18, 2013, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Elliot T. Anderson, Chairman  
Assemblywoman Marilyn Dondero Loop, Vice Chairwoman  
Assemblyman Paul Aizley  
Assemblywoman Lesley E. Cohen  
Assemblywoman Olivia Diaz  
Assemblyman Wesley Duncan  
Assemblyman Andy Eisen  
Assemblywoman Michele Fiore  
Assemblyman Randy Kirner  
Assemblyman Harvey J. Munford  
Assemblywoman Dina Neal  
Assemblyman Lynn D. Stewart  
Assemblywoman Heidi Swank  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None



**STAFF MEMBERS PRESENT:**

Todd Butterworth, Committee Policy Analyst  
Andrew Diss, Committee Manager  
Sharon McCallen, Committee Secretary  
Steven Sisneros, Committee Assistant

**OTHERS PRESENT:**

Greg Ivie, Lead Attorney, Special Education Unit, Legal Aid Center of Southern Nevada  
Debra Pinkerton, Private Citizen, Searchlight, Nevada  
Robin Kincaid, Training Director, Nevada PEP, Las Vegas, Nevada  
Gary Olsen, Private Citizen, Carson City, Nevada  
Catherine Cottle, Private Citizen, Las Vegas, Nevada  
Corrine Altman, Private Citizen, Las Vegas, Nevada  
Brian Daw, representing Clark County School District  
Will Jensen, Director of Special Services, Churchill County School District  
Dottie Merrill, representing Nevada Association of School Boards  
Jon Sasser, representing the Nevada Commission on Services for Persons with Disabilities; Aging and Disability Services, Department of Health and Human Services; and Washoe Legal Services

**Chairman Elliot Anderson:**

[Roll was called. Housekeeping, protocol, and procedures were explained.]  
Today we are going to be hearing Assembly Bill 210 revising provisions relating to pupils with hearing impairments. We will have one of our own members presenting this bill, Dr. Eisen, Assembly District 21.

**Assembly Bill 210: Revises provisions relating to pupils with hearing impairments. (BDR 34-989)**

**Assemblyman Andy Eisen, Clark County Assembly District No. 21:**

I would like to give some brief background, then a quick walkthrough of the bill. The Individuals with Disabilities Education Act (IDEA), United States Code, Title 20, Sections 1400-1482 (2011), includes in its eligibility criteria to states who receive funding, that states provide free and appropriate public education available to all children including children with disabilities.

Assembly Concurrent Resolution No. 60 of the 70th Session was passed which encouraged the State Board of Education to ensure students with

hearing disabilities were given due consideration in developing the individualized education plans (IEP) as defined under the IDEA.

Unfortunately, history has been inconsistent in the application of that expectation. What we bring forward today in A.B. 210 is an effort to standardize the considerations for an IEP for students with hearing disabilities.

Section 1 of the bill defines a number of criteria which would have to be considered in the development of an IEP. There are eight points that would need to be considered including: 1) available services 2) the primary communication mode of the deaf or hearing-impaired student, 3) the availability of peers, 4) the availability of adult models, 5) the availability of specialized professionals, 6) fair access to all of the courses and activities available at the school, 7) the input of parents or legal guardians, and 8) the availability of assistive technologies. It is important to note section 1 does not prescribe the content of the IEP, but merely requires these points be considered in the development of the plan for a particular student.

The next subsection beginning on line 32 of page 2 of the bill defines the pupil's primary communication mode has to be taken into consideration as well in determining the optimal instruction for that student. There are definitions there of matters that can affect the student's primary communication mode, including things that may change over time with that student.

Section 2 provides definitions that are used in the act. On page 4 of the bill, section 3, subsection 5, line 27, indicates that the primary communication mode that is used by a pupil may change over the course of their education. This prohibits a school from declining a particular mode of communication simply on the basis that it is not the prior method used by that student or the original method that was determined when their IEP was put into place. To the degree feasible, it also requires pupils have the opportunity to learn more than one communication mode. This would create the opportunity for that student to find if the mode they are using is the best for them or if they should change to another.

In section 4, there are deletions of two sections of the *Nevada Revised Statutes* (NRS), but these sections are replaced in total back in section 2 under the definitions. These are definitions of IEP and of the IEP team. It is simply a move of those sections from where they currently reside into these new subsections.

That is the walkthrough on the bill.

**Chairman Elliot Anderson:**

Do you have anyone as part of your presentation you would like to have called up first for technical expertise?

**Assemblyman Eisen:**

There are a number of people here for additional background and technical expertise as well as personal experience.

**Greg Ivie, Lead Attorney, Special Education Unit, Legal Aid Center of Southern Nevada:**

Thank you for the opportunity to testify in support of this very important bill, A.B. 210. Over the course of our years in the Special Education Unit we have had the great fortune of representing many deaf and hard of hearing (DHH) students and parents. In fact, one of our former clients is here in the audience today.

As Dr. Eisen noted in his presentation, the bill of rights is a state-specific law which essentially shines a light on the unique communication and language of deaf and hard of hearing students. Currently, 12 states have enacted a bill of rights. This type of legislation does not expand the rights already afforded to DHH students under the IDEA. Rather it is a vehicle for harnessing the special considerations an IEP team must consider during the development, review, and revision of an IEP.

Parents, students, advocates, and educators will be able to bring the document to the table at the IEP meetings to focus the discussion.

Finally, it is our hope this bill will assist in the IEP teams' strong consideration of the parents' and students' preferred mode of communication.

**Assemblyman Kirner:**

I would like to draw your attention to section 1, subsection 1, paragraph (h). Where the expertise in remote areas is different, and when you talk about adapting "appropriate assisted technologies," are we talking about in-classroom technologies or hearing aids or cochlear personal hearing technologies, and who pays for these "appropriate assisted technologies?"

**Assemblyman Eisen:**

It is important to recognize what is defined in this section are the matters that need to be considered in the development of the IEP. What is intended by paragraph (h) is that it be taken into consideration in developing the IEP, whether or not there are assisted technologies that would benefit the student, what might be available in terms of assistive technologies for that student, and

how those might balance with other considerations in the development of the IEP. This bill does not mandate the inclusion of any particular technologies for any particular student. That is a determination to be made by the IEP team, which is an entity that is already defined.

**Assemblywoman Swank:**

For clarification, I am also in section 1, subsection 1, paragraph (e) where there is the list of those who would need to be proficient in the pupil's primary communication mode. Would administrators need to be proficient or would we be using an interpreter? It seems to be a burden for the administrators.

**Assemblyman Eisen:**

What is intended in paragraph (e) is what has to be taken into consideration in development of that student's IEP is the availability of those individuals. The example I might offer, purely as a theoretical example, is if there are individuals who are proficient in that student's primary communication mode at one school, and that student happens to be enrolled at another school, that has to be brought to the table in a discussion as to whether or not it would be appropriate for that child to move over to the school where there is a staff member who is proficient in that communication mode, or if the balance of benefits to the student would be to keep him at the school where he is and utilize other resources available there. It does not require someone at the student's current school be proficient in the communication mode, it means the availability has to be considered.

**Chairman Elliot Anderson:**

I would note for the Committee and for the record to be clear, if you look at subsection 1, line 5 and 6, it says "shall consider," so what we would essentially be proposing is that it be considered. This will not require anyone to do anything but think about the items in subsection 1.

**Assemblywoman Dondero Loop:**

Can you tell us what is in place now? Is there a process in place that we are moving away from?

**Assemblyman Eisen:**

What is currently required is an IEP be developed with an IEP team. What this bill does is specify these particular points that have to be taken under consideration. These particular points are not required. The requirement is to assess more generally what the child's needs are and what the resources may be, are in fact, part of the IDEA to begin with. What this adds is specifically for children who are deaf or hard of hearing, that these particular considerations be taken into account in the developmental plan.

**Assemblywoman Dondero Loop:**

Do we know what percentage of students this actually affects right now?  
Do we have a number?

**Assemblyman Eisen:**

I do not have that number in front of me right now, but we can get it.

**Chairman Elliot Anderson:**

Thank you, and please get the number to Todd Butterworth.

**Assemblyman Stewart:**

If I understand this correctly, this team would utilize various parts of this bill as would be applicable to their situation. They would utilize the technology, the various personnel who have the skills in the various types of communication and if the technology is not available, or the skill in that particular form of communication was not available, they would be exempt from it? They would just have to do the best they could under the circumstances in trying to apply these considerations? Is that correct?

**Assemblyman Eisen:**

Correct. This is a matter of consideration of these issues. It does not mandate the provision of resources that do not currently exist. If we are finding there is a particular, pervasive need that is not being met, one of the benefits I would hope to see is this would provide data that would support that resource to be applied. This does not require the addition of any particular resource for an individual student. It is a matter of identifying what those resources are, what that child's needs are, and what are the best ways to apply the resources to that child.

**Assemblyman Kirner:**

In Carson City School District, there are 24 total students who receive deaf services, but only 15 who have IEPs and are qualified as deaf or hard of hearing. The other nine have either learning or health challenges which allow them to access deaf services because of those disabilities. There are a total of approximately 7,700 students in the district and Carson City only has one teacher of the deaf at this time who has few interpreters and assistants to help him.

Dr. Eisen, as I am looking at your bill and listening to you testify, this sounds like what you described as a bill of rights for the deaf and hard of hearing and is similar to what other states already have. Did I hear you correctly?

**Assemblyman Eisen:**

Actually, it was Mr. Ivie who used that terminology, but I would not disagree with him on that. This is an expression of the rights that a deaf or hard of hearing student has to have these matters considered in development of their plan.

**Chairman Elliot Anderson:**

Are there any further questions? [There were none.] I will open up for support of A.B. 210 to parents in southern Nevada who wish to testify.

**Debra Pinkerton, Private Citizen, Searchlight, Nevada:**

This is my grandson Jordan Pinkerton. He has previously been a student in the Clark County School District (CCSD). He has bilateral cochlear implants, the first of which he acquired when he was four years of age, and the second one when he was seven. Jordan has had many obstacles with regard to mode of communication in the CCSD, some of which he has overcome. We are very happy to speak in favor of the proposal on the table in hope it opens up doors for other children.

Jordan had issues due to his lateness in getting the cochlear implants. He was very delayed in speech and still is, but he can hear within normal range and understands most of what is said to him and can respond to questions. He attends a virtual school and is doing well. We just received his certificate and he is on the A-B Honor Roll.

Is there anything else I can tell you about Jordan?

**Chairman Elliot Anderson:**

Congratulations. That is great achievement.

**Assemblywoman Diaz:**

Thank you both for coming out in support of this bill. I would like to know from your experience, if this bill had been in place when Jordan first started his educational career, how would that have changed some of the trials and tribulations the family had to endure?

**Debra Pinkerton:**

It would have made things so much easier for him, the family, the teachers, everyone involved. Before Jordan got his cochlear implants he had hearing aids, and he could not hear well enough with the hearing aids. People, at that time in the district, had determined there was nothing else for him to do but sign. Jordan comes from a very large family and we live in a rural community. He attends Sunday school, church, the youth center, and the public library, and

there is no one in our community, including family, who signs with the exception of a few signs we have learned along the way. He can hear with the cochlear implants, he is just very delayed in speech so the people he dealt with in school said he could not communicate. In fact, we brought in specialists, and no one wanted to take into consideration that the specialists said he needed to practice his hearing as well as his speech. If we had put him into a signing program at the time, he would have actually been learning a different language because signing uses a different part of the brain than speech. If this bill had been in place at that time, we would not have had such difficulty to keep him in an oral program. It would have been more focused on his learning than on disputing where he should be and trying to overcome an early mindset on the part of educators.

**Assemblywoman Diaz:**

I want to commend Jordan for being on the A-B Honor Roll and coming out to support this bill.

**Robin Kincaid, Training Director, Nevada PEP, Las Vegas, Nevada:**

I am also a parent of a child with a hearing impairment. Assembly Bill 210 provides additional opportunities for parent choice and creates a stronger voice for parents who have children with hearing impairments as the IEP team decision makers. Parents who call Nevada PEP know their child best, including their mode of communication, and they use that mode to have a relationship with their child.

Families want to be an integral part of developing educational programming for their child, and they need the school to adopt the communication mode that the family is using. Families who disagree when the schools select a communication mode without their input, find their children do not make progress in communication with family members and others in the community. When parents and educators work together, the results are improved outcomes for students with hearing impairments.

**Assemblyman Kirner:**

I think you said the school needs to adopt the mode of communications the student is using. I do not know much about this issue, but what I do know is there are multiple kinds of sign languages. I do not get the impression this bill would require the schools to do that. Could you elaborate on your thoughts?

**Robin Kincaid:**

Families often have a special relationship and they communicate with their children in a very special way whether they are using sign language or using oral speech. Sometimes we see that information disregarded by the school



even though it is presented to the school that this is the way the child is communicating at the grocery store or at church. In some instances the family has been told by the professionals "we know best and this is the way he should start communicating. You need to learn sign language today." In a situation where the child's language and oral skills are emerging, families want to continue to develop that.

**Chairman Elliot Anderson:**

Are there any further questions? Seeing none, we will open up to support in Carson City.

**Gary Olsen, Private Citizen, Carson City, Nevada:**

I was born hearing and became deaf at the age of 7½ years. I grew up in an oral and a signing education environment. [Written testimony translated by signing interpreter Gerianne Hummell from Deaf and Hard of Hearing Advocacy Resource Center (DHHARC) ([Exhibit C](#)). Todd Butterworth submitted a proposed amendment to A.B. 210 for Mr. Olsen ([Exhibit D](#)).]

**Assemblywoman Dondero Loop:**

You said something very important to me as a teacher of 30 years. You said children need language peers and need to be around all different kinds of students. As a teacher, I had children who were not in special classes so I taught a wide variety of children with a wide variety of disabilities. I agree with you about the language peers because children learn from other children. Thank you very much for your testimony and for being here today.

**Catherine Cottle, Private Citizen, Las Vegas, Nevada:**

I am a retired teacher of 31 years from the Clark County School District. I have worked in the capacity of a teacher of the deaf the majority of those years, and I am currently an auditory verbal therapist certified by the Alexander Graham Bell Academy for Listening and Spoken Language. I speak on behalf of all of the families who will benefit from A.B. 210.

I believe this because in the Clark County School District, families making the choice whether or not they were going to have their child learn sign language or communicate using spoken language is sometimes a very difficult decision. Sometimes it is not a difficult decision, but either way a lot of thought goes into it and a lot of things have to happen at the school level to help pursue the desired outcome for a family. In terms of the instruction taking place on a daily basis in the classroom, if we do not have a good structure in place, and we have not considered all of these factors, then we, in some way, will fail the child and the family.

I have written hundreds of IEPs over the years and considered many factors every time. I will tell you, if we really follow the spirit of IDEA, look at the present levels in the IEP and what technologies a child comes to the table with, and what the parents aspirations are for future technology—whether it be high-frequency gain hearing aids, cochlear implants or combinations of FM systems with implants and/or hearing aids—we know there are a lot of opportunities for children now to access sound through hearing device technology. We go through the process, see where the children are, take into consideration parental concerns, look at their strengths, preferences, and related medical aspects, and then we write the goals. We recognize the communication mode of the family, what the priority is, and what the state requires us to do when we write those goals. We know those children are going to be taking criterion-referenced tests (CRT) and having to pass Nevada High School Proficiency Examinations (NHSP) to graduate with an Option 1 Diploma. We know this is the reality of what the state requires and what families want and finding that balance.

I have seen some travesties throughout the years in the way some things were handled. I have colleagues in both the sign language and the auditory side and we all agree this is a great opportunity for people to hear what has to happen. Sometimes placement is made before we have looked at the present levels, goals, accommodations, and the special factors. If a child has been placed before we have gone through the process, we have a problem.

Hopefully A.B. 210 will help us go back to the spirit of the law and back to the process of what needs to happen in an IEP so that we are doing a great job as a team, looking at the individual child as the law says, and taking into account the desired outcome of the family in using that child's family's preferred communication mode.

**Corrine Altman, Private Citizen, Las Vegas, Nevada:**

I represent one of the community partners that supports families through the Alexander Graham Bell Association. I sit on the national board and help run the local chapter here in Nevada. We also have parent's educational part to A.G. Bell called Encouragement. More importantly, those titles pale in comparison to the title that I sit here as a mother of five, two of which were born profoundly deaf in the 1980s. There is no way anyone could fully understand all that goes into raising a child with hearing loss.

I am grateful for the laws that have been passed and the hard work on Assembly Bill No. 250 of the 71st Session, the hearing screening bill passed in 2001. For the record, I would like to state that unlike many other times issues like this have been brought to the table, you have community partners in

support in representation from the DHHARC, from the A.G. Bell Association, and also from the Nevada Hands and Voices even though they could not be here in person. They are in support of what this bill is offering.

**Chairman Elliot Anderson:**

Thank you, Ms. Altman, for sharing your story. I know it cannot be easy. We are moving on to opposition here in Carson City.

**Brian Daw, representing Clark County School District:**

*Nevada Revised Statutes* (NRS) 388.520 directs that the State Board must include minimum standards for programs of instruction or special services maintained for the purpose of serving pupils. [Read from prepared text ([Exhibit E](#)).]

**Chairman Elliot Anderson:**

I do want to clarify for the record none of the "shall consider" language requires the districts to actually provide a service. It requires them to consider in developing the plan. We need to keep the record very clear on that.

**Assemblywoman Diaz:**

I want to reiterate, I do believe the language expressed in the bill is permissive. I am going to defer to the parents of children who have hearing disabilities. They know what is best for their children. Sometimes as educators, you have people who have not encountered experiences of working with children who are hard of hearing or deaf. This bill encourages everyone to work in unison and that we listen to the parents and give them ample opportunity to be part of the process in laying out the IEP. If what is happening at home is not supported by what is happening in the school, we are not going to provide the best education to that child. I believe ultimately that is what the public education system is all about—doing what is best for the child.

**Chairman Elliot Anderson:**

Mr. Daw, you spoke about avoiding litigation, but is this not the way to avoid litigation, to say we are going to bring everyone together to discuss these issues, and we are not requiring anything, we are just discussing it and making people feel included in discussing what is important to the deaf and hard of hearing community.

**Brian Daw:**

Based on the testimony Assemblyman Eisen gave, it sounds like the bedrock of the problems lie in inconsistencies with the IEP teams. We can encourage those conversations and eliminate those types of conflicts by bringing the parent to that team. This will benefit everyone.

**Chairman Elliot Anderson:**

Do we have any more questions for Mr. Daw? Seeing none, we will go to opposition in Carson City, then Las Vegas.

**Will Jensen, Director of Special Services, Churchill County School District:**

I appreciate the fact you are carefully considering the ramifications of this bill, and I am grateful you are hearing all sides of this issue. [Read from prepared testimony ([Exhibit F](#)).]

In some of the testimony we have heard, it would appear these students are not receiving much by way of service. I can assure you, the 513 students are 1 percent of the population in Nevada and are being served. I was especially proud to hear the student from the south testify about A-B Honor Roll under the current system.

This bill may derail parts of the IEP process. [Continued speaking from prepared testimony ([Exhibit F](#)).]

**Assemblywoman Neal:**

When the bill is addressing the development of the IEP dealing with the individualized services or related services, if you have a child who is hearing impaired, how is the bill elevating one child or a group of children above another? You use that as a basis of much of your argument. What is the special treatment that is being allocated "above" to this group?

**Will Jensen:**

We do not have A.B. 210 to represent students with autism or traumatic brain injury. Only these students are represented above and beyond through federal and state legislation that already exists. In my estimation, that is an elevation. The Individual Disabilities Education Act purposely leaves out words like optimal and favors words like appropriate. I heard testimony that when the law is followed it goes better for those students, so rather than an additional piece of legislation we should look at making sure the law is being followed as it is currently written.

**Assemblywoman Neal:**

The federal bill uses the term appropriate. Assembly Bill 210 uses both appropriate and optimal, what is optimal could be what is appropriate for that child. My understanding of an IEP is you are performing an individualized service specific to that child anyway, which may draw in several different needs and services that are particular to that child versus another child. When you expand on that argument, I am losing continuity of the argument. I do not see how the IEP, which is a specialized education plan for a student and is

expensive and uses additional resources, is somehow changing how we would treat a child who had a trauma such as a brain injury or maybe had autism. They will still receive a specialized treatment and an individual education plan which speaks to their issue and educational disability. Help me understand.

**Will Jensen:**

As the person who would have to implement this in my district for my staff, I can tell you the part that makes this different and elevates them is the consideration language that would exist in A.B. 210 that currently does not exist for any other group. In the spirit of equity, we would need something similar for autism, learning disabled students, and the other 13 eligibility categories recognized in the state of Nevada, and we are just talking about this for only one group. It does not seem fair or more appropriately, equitable to me.

**Chairman Elliot Anderson:**

I have a couple of questions for Mr. Jensen. You made assertions that I would like to get citations to. You said there was redundant language. Can you point us to a citation with the redundant language regarding the section dealing with people with disabilities?

**Will Jensen:**

I will have to get it for you, but it exists in the State IEP document. All of the pieces for consideration are laid out there, related service, assistive technology, all of that.

**Chairman Elliot Anderson:**

As soon as you get a chance, please send it to Todd Butterworth, our Committee Policy Analyst who will send it out to the entire committee for inclusion into the record. We need to make sure that is clear.

You also said some team members would be mandating higher input. Could you point us to that provision of the bill?

**Will Jensen:**

Yes. I am looking at section 1, subsection 1, paragraph (g), "The decisions of the parent or guardian of the pupil concerning the optimal services, placement and content of the pupil's individualized education program." I know that is a consideration but, in my opinion, it is a foregone conclusion I will be defending on behalf of the Churchill County School District in a due process hearing if this bill goes through.

**Chairman Elliot Anderson:**

I would like to dovetail on what Ms. Neal said on a less technical subject. I take a little umbrage with the term elevate, because I think what we are trying to do is bring those who have a disability up to a standard of those who do not have disabilities. We have one small bill for one group, but that does not mean it is not a good thing. It would be best practices for the deaf and hearing impaired community. Instead of complaining about this, we should be thinking about how to help other students with disabilities. It is the purpose of special services to help children from all of these different groups to the level of the children without disabilities. We need to elevate children because they are starting off at a lower level because of the disabilities they were born with.

**Will Jensen:**

The rights of those students are currently elevated. The argument that we are leveling the playing field asserts it is not already level. These students and all the other subpopulations are covered under the Individuals with Disabilities Education Act, *Nevada Administrative Code*, and the *Nevada Revised Statutes*.

**Dottie Merrill, representing Nevada Association of School Boards:**

I am also speaking on behalf of the Nevada Association of School Superintendents as Dr. Pierczynski cannot be here.

The concept of a free and appropriate public education (FAPE) often comes into conflict with what is judged to be optimal services or optimal instruction. Although you, Mr. Chairman, have pointed several times to section 1, subsection 1, lines 5 and 6 of the bill, "the IEP team shall consider, without limitation" those things, and moving down to line 27, "The decisions of the parent or guardian of the pupil concerning the optimal services." We see that word again in the first line of section 1, subsection 2, line 32, "When determining the optimal instruction." There is a difference between that which is optimal and that which is free and appropriate public education.

Often, in school districts, there is simply no funding for what is optimal, whereas there is funding and opportunity for what is Free and Appropriate Public Education.

The choice the parent may wish to prefer regarding the mode of communication may be optimal, but in conflict with the notion for a Free and Appropriate Public Education.

**Chairman Elliot Anderson:**

Do we have questions for Ms. Merrill? [There were none.] Is there further opposition in Clark County? [There was none.] Is there anyone in the neutral position in Carson City or Las Vegas?

**Jon Sasser, representing the Nevada Commission on Services for Persons with Disabilities; Aging and Disability Services, Department of Health and Human Services; and Washoe Legal Services:**

I am here in the neutral position, not because I do not think the bill as written is very good, but because I think it could be better with an amendment I have proposed ([Exhibit G](#)).

The amendment deals with the gathering and publication of information regarding the performance of the schools under IDEA. It is information already required to be compiled annually under federal law and is made available to the U.S. Secretary of Education and to the public. The problem in Nevada has historically been even though we meet the deadlines with the federal government in order to keep our funding, we have not made that information available to the public in a timely manner. My amendment proposes that within 30 days after we submit the reports to the federal government, they be made available online on the Department of Education's website. They have many other reports online, so it would not be an unusual request. It would be a matter of simply adding this one. I do not know the information's current status, but I have heard in the past it was a couple of years out of date.

We think the bill is good even without the amendment for a number of reasons. As Mr. Ivie pointed out, 12 states have implemented this, and in those 12 states we are not aware of any litigation saying students who were deaf or hard of hearing have greater rights than students with other disabilities. Since other states have had this for a while, if there were problems, the opponents should have brought them forward so we could see what problems we might actually encounter.

It troubles me when we talk about not being able to look at best practices for this group, because we are not looking at best practices for other groups. Does this mean that for students with disabilities, we are looking for the lowest common denominator and we are not allowed to look at best practices? It has been pointed out many times this does not create extra financial obligations because these are factors that shall be considered. There is nothing saying you must do one or the other or any particular type of technology or assistive help.

In terms of being redundant, this body passed a child welfare bill of rights and the purpose was not to create new rights, but to put all of the rights into one

place so parents had access to them, as well as foster children, students, and educators. We are bringing those best practices together in asking everyone to consider them.

In terms of elevating one member of the team over others, we are always talking about getting parents involved and engaged in education. This does not say the parent's wishes have to be followed, but they need to have the ability to be engaged and listened to before final decision is made.

I do not know if you have had the opportunity to read the very sad story of Mary Guski online ([Exhibit H](#)). Ms. Guski left Nevada after 30 years due to her frustration that her wishes for her deaf and hard of hearing child's education were not met. She had to sell her home and move to the state of Washington in order to get FAPE.

I would ask that you adopt A.B. 210 with the amendment which was supported by the Commission and also to pass the bill.

**Chairman Elliot Anderson:**

Did you talk to the bill's sponsor regarding your amendment?

**Jon Sasser:**

I did, but I got it in late so he suggested I bring it forward at this time. I would be glad to work with him around that.

**Chairman Elliot Anderson:**

Dr. Eisen, do you have any issues with including the amendment as a friendly amendment?

**Assemblyman Eisen:**

I do not. I am in agreement with the amendment.

**Chairman Elliot Anderson:**

If you like, Mr. Sasser, we could reclassify you as support. Would you like that?

**John Sasser:**

Very much, thank you.

**Chairman Elliot Anderson:**

Madam Secretary, please note for the record that Mr. Sasser is in support. Do we have any questions?



**Assemblywoman Diaz:**

Do you know of other states that have adopted a similar change to their statute and have walked down this road?

**Jon Sasser:**

I believe Mr. Ivie referenced in his testimony that 12 states have implemented that plan. The language in this bill is based primarily on Delaware's plan.

**Assemblyman Eisen:**

I want to address a couple of the terms that came up a few times during opposition to the bill. I appreciate that you mentioned this bill requires consideration of a number of points, not the implementation of any particular piece of an IEP.

First, I do want to address the terms elevate and optimal. Elevate was used in a couple of different contexts. The first was the question of elevating the rights of some children above the rights of others. I want to make clear that I do not believe this bill does that. This bill does not add to the IEP as it is created. What it does is mandate particular things to be considered in the development of the plan. It does not make that plan any stronger or more important than the IEP for any eligible student.

The other context in which the term was used is it would elevate the rights of certain members of the IEP team. I did not go into detail regarding who was on the IEP team, but that is actually prescribed by federal law. It does include the parents of a child with disabilities, educational experts, regular and special education teachers, representative of the local educational agency, and an individual who can interpret the instructional implications of the results of an evaluation of a child. Last, and very importantly, someone we have not spent a lot of time talking about in terms of the development of an IEP, is, when appropriate, the child himself is part of the IEP team. None of the individuals on the IEP team are elevated above any other. This requires all members of the team to consider all of these points.

Second, I would like to talk about the term optimal. Again, what is in the bill is an expectation that what is optimal for the child be considered and recognizes it could possibly not be implemented in the real world. In an ideal situation, every child would have access to every technology, every service we could think of so we could use everything that is best for that child. We know there are limitations for resources in reality. What this bill requires is we "consider" what is best for that child. I am concerned that anyone would think it is not a good idea to "consider" what is best. Even if we cannot implement this now, we should always have it in mind.

Last, there does seem to be concern on the part of the opposition that this is somehow different than what we have been doing. I would say it is different in the degree we are defining certain things for consideration. It is not different in the goal. Even though we are making changes here to ensure we are making certain things are considered, I would hate to think it is a matter of institutional inertia keeping us from considering all of the factors that could benefit our students who are deaf and hard of hearing.

**Chairman Elliot Anderson:**

Mr. Eisen, I would ask you and the opposition to work together to see what you could find in terms of compromise, the standard here. Keep the Committee informed. I would like to see if we could iron out some of the opposition.

I will close the hearing on Assembly Bill 210. We do not have anything else for today. Is there anyone from the public wishing to speak in public comment? Seeing none, the meeting is adjourned [at 4:32 p.m.].

RESPECTFULLY SUBMITTED:

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Sharon McCallen  
Committee Secretary

APPROVED BY:

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Assemblyman Elliot T. Anderson, Chairman

DATE: \_\_\_\_\_

## EXHIBITS

**Committee Name:** Committee on Education

**Date:** March 18, 2013

**Time of Meeting:** 3:15 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 210	C	Gary Olsen, Private Citizen, Carson City	Prepared testimony
A.B. 210	D	Gary Olsen, Private Citizen, Carson City	Proposed Amendment
A.B. 210	E	Brian Daw, representing Clark County School District, Las Vegas, Nevada	Prepared testimony
A.B. 210	F	Will Jensen, Director, Special Services Department, Churchill County	Prepared testimony
A.B. 210	G	Jon Sasser, representing the Nevada Commission on Services for Persons with Disabilities; Aging and Disability Services, Department of Health and Human Services; and Washoe Legal Services:	Proposed Amendment
A.B. 210	H	Mary Guski, Private Citizen, Washington	Letter to Nevada Legislature, 77th Session