

SENATE BILL NO. 13—COMMITTEE ON EDUCATION

(ON BEHALF OF THE DEPARTMENT OF EDUCATION)

PREFILED DECEMBER 20, 2014

Referred to Committee on Education

SUMMARY—Revises provisions relating to the provision of public education to pupils with disabilities. (BDR 34-311)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; revising provisions relating to an individualized education program for a pupil with a hearing impairment; revising provisions governing parent representation of the educational interests of a pupil with a disability; revising provisions relating to the minimum standards prescribed by the State Board of Education for pupils with hearing impairments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Individuals with Disabilities Education Act governs how states and public agencies provide early intervention, special education and related services to pupils with disabilities. (20 U.S.C. § 1400 et seq.) The Act includes a requirement to develop an individualized education program for each pupil with a disability by an individualized education program team. (20 U.S.C. § 1414(d)) **Section 1** of this bill revises the definition of a “pupil with a disability” to align with the definition of “child with a disability” in the Individuals with Disabilities Education Act. (20 U.S.C. § 1401(3)(A)) **Section 2** of this bill changes the standard used by a pupil’s individualized education program team when developing an individualized education program for a pupil with a hearing impairment from the “best feasible” services, placement and content to “appropriate” services, placement and content. (NRS 388.477)

Existing law authorizes a pupil with a disability who does not satisfy the requirements for a standard high school diploma to receive an adjusted diploma instead which evidences the graduation from high school if the pupil satisfies the requirements set forth in his or her individualized education program. (NRS 389.805) Existing law further provides that any right accorded to a parent of a pupil with a disability pursuant to the Individuals with Disabilities Act transfers to the



pupil when the pupil attains the age of 18 years unless the school district or charter school approves an application of a parent to be appointed to represent the interests of the pupil. (NRS 388.492, 388.493) Existing law also provides that if such an application is granted, a parent represents the educational interests of the pupil until: (1) the pupil receives a standard high school diploma or an adjusted diploma; (2) the pupil is no longer enrolled in a program of special education; or (3) the parent elects to transfer the right to represent his or her own educational interests to the pupil. **Section 3** of this bill removes the reference to an adjusted diploma so that a parent who represents the interests of a pupil with a disability will continue to do so until the pupil receives a standard diploma or is no longer enrolled in a program of special education.

Existing law requires the State Board of Education to prescribe certain minimum standards for the special education of pupils with disabilities and for programs of instruction or special services maintained for the purpose of serving such pupils with disabilities and has specific requirements for pupils with hearing impairments. (NRS 388.520) **Section 4** of this bill removes the specific requirements that the minimum standards prescribed for pupils with hearing impairments include certain provisions. Instead, those minimum standards will be determined using the same criteria as other disabilities.

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

Section 1. NRS 388.440 is hereby amended to read as follows:
388.440 As used in NRS 388.440 to 388.5317, inclusive:

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

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

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

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

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

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



6. "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 the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.~~ *has the meaning ascribed to the term "child with a disability" in 20 U.S.C. § 1401(3)(A).*

Sec. 2. NRS 388.477 is hereby amended to read as follows:

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

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

(b) The pupil's primary communication mode;

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

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

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

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

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

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

2. When determining the ~~best feasible~~ *appropriate* instruction to be provided to the pupil in his or her primary communication mode, the pupil's individualized education program team may consider, without limitation:

(a) Changes in the pupil's hearing or vision;

(b) Development in or availability of assistive technology;

(c) The physical design and acoustics of the learning environment; and

(d) The subject matter of the instruction to be provided.



Sec. 3. NRS 388.493 is hereby amended to read as follows:

388.493 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 the pupil's 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 ; ~~for an adjusted diploma;~~

(b) The pupil is no longer enrolled in a program of special education pursuant to NRS 388.440 to 388.5317, inclusive; 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 NRS 388.492, including, without limitation, the establishment of criteria for determining whether the status of a pupil with a disability is such that his or her parent is authorized to submit an application to represent the educational interests of the pupil pursuant to this section.

Sec. 4. NRS 388.520 is hereby amended to read as follows:

388.520 1. The Department shall:

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

(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) Intellectual disabilities.

(f) Multiple impairments.

(g) ~~{}Serious emotional{}~~ **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 disabilities and gifted and talented pupils until the program of instruction maintained therein for such pupils is approved by the~~



1 Superintendent of Public Instruction as meeting the minimum
2 standards prescribed by the State Board.

3 ~~17.1~~ 6. The Department shall, upon the request of the board of
4 trustees of a school district, provide information to the board of
5 trustees concerning the identification and evaluation of pupils with
6 disabilities in accordance with the standards prescribed by the State
7 Board.

8 ~~18.1~~ 7. The Department shall post on the Internet website
9 maintained by the Department the data that is submitted to the
10 United States Secretary of Education pursuant to 20 U.S.C. § 1418
11 within 30 days after submission of the data to the Secretary in a
12 manner that does not result in the disclosure of data that is
13 identifiable to an individual pupil.

14 **Sec. 5.** This act becomes effective on July 1, 2015.

