

ASSEMBLY BILL NO. 182—ASSEMBLYMAN OSCARSON

PREFILED FEBRUARY 13, 2017

Referred to Committee on Education

SUMMARY—Revises provisions governing the education of pupils with disabilities. (BDR 34-490)

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; authorizing the Superintendent of Public Instruction to carry out an on-site inspection of a provider of special education in certain circumstances; authorizing the Superintendent of Public Instruction to take certain measures to ensure compliance with the laws governing the education of pupils with disabilities in certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Department of Education to ensure compliance with the Individuals with Disabilities Education Act, federal regulations adopted pursuant to the Act and Nevada statutes and regulations governing the education of pupils with disabilities. (20 U.S.C. §§ 1400 et seq.; 34 C.F.R. Part 300; NRS 388.417-388.5243) Existing regulations also require the Department to monitor each school district, charter school or other governmental entity responsible for providing education to pupils with disabilities and to administer a state complaint system for the investigation of potential noncompliance with certain federal or state laws. (34 C.F.R. §§ 300.151 et seq.; NAC 388.092, 388.318) **Section 5** of this bill authorizes the Superintendent of Public Instruction to order an on-site inspection of a provider of special education after determining that good cause for an on-site inspection exists. **Section 7** of this bill defines the term “provider of special education” to mean a school within a school district or charter school that provides education or services to pupils with disabilities or any other entity that is responsible for providing education or services to pupils with disabilities for a school district or charter school. If an inspection is ordered by the Superintendent and the provider of special education is found to be out of compliance with the laws governing special education, **section 5** requires the Superintendent to: (1) meet with the provider to determine the most efficient and expeditious manner in which to bring the provider into compliance; and (2) request a plan of corrective action from



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the board of trustees of a school district or the governing body of a charter school, as applicable.

Existing law provides that the Superintendent of Public Instruction is responsible for the enforcement of the K-12 public education laws of this State, and once it is determined that a school district or a charter school is not in compliance with such laws, the Superintendent is required to request a plan of corrective action from the board of trustees of the school district or the governing body of the charter school. (NRS 385.175) Existing federal law also requires the State to conduct a hearing when a parent alleges that his or her child has not received certain due process safeguards that are required by the Individuals with Disabilities Education Act and to provide for an opportunity to appeal the decision rendered by the hearing officer. (20 U.S.C. § 1415) **Section 6** of this bill requires the Superintendent to take certain measures in response to the failure or refusal of a provider of special education to comply in a timely manner with a plan of corrective action or the order of a hearing officer related to due process safeguards. **Section 6** requires the Superintendent to take certain factors into consideration before determining the corrective measures to take. After considering these factors, **section 6** requires the Superintendent to take appropriate measures to ensure compliance.

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

**Section 1.** NRS 385.040 is hereby amended to read as follows:  
385.040 1. The State Board shall hold at least 9 but not more than 12 regular meetings annually at the State Capital. The Secretary shall call all regular meetings.

2. At least one of the meetings of the State Board must include a discussion with the superintendents of the school districts, presidents of the boards of trustees of the school districts, representatives of the governing bodies of charter schools, representatives of the governing bodies of university schools for profoundly gifted pupils and the chairs of all boards, commissions and councils in the public education system in this State to discuss:

(a) The goals and benchmarks of the State for improving the academic achievement of pupils enrolled in public schools;

(b) The effects of those goals and benchmarks on the school districts and public schools;

(c) The status of the school districts and public schools in achieving the goals and benchmarks; and

(d) The status of any ~~corrective actions imposed on a school district or public school.~~ *plan of corrective action requested by the Superintendent of Public Instruction and of any measures taken to ensure compliance with a plan of corrective action or an order of a hearing officer pursuant to section 6 of this act.*

3. The State Board may hold special meetings at such other times and places as the State Board may direct. The Secretary shall



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1 call special meetings upon the written request of the President or  
2 any three voting members of the State Board.

3 4. A majority of the voting members of the State Board  
4 constitutes a quorum for the transaction of business, and no action  
5 of the State Board is valid unless that action receives, at a legally  
6 called meeting, the approval of a majority of all voting members.

7 **Sec. 2.** NRS 385.175 is hereby amended to read as follows:

8 385.175 The Superintendent of Public Instruction is the  
9 educational leader for the system of K-12 public education in this  
10 State. The Superintendent of Public Instruction shall:

11 1. Execute, direct or supervise all administrative, technical and  
12 procedural activities of the Department in accordance with policies  
13 prescribed by the State Board.

14 2. Employ personnel for the positions approved by the State  
15 Board and necessary for the efficient operation of the Department.

16 3. Organize the Department in a manner which will assure  
17 efficient operation and service.

18 4. Maintain liaison and coordinate activities with other state  
19 agencies performing educational functions.

20 5. Enforce the observance of this title and all other statutes and  
21 regulations governing K-12 public education.

22 6. Request a plan of corrective action from the board of  
23 trustees of a school district or the governing body of a charter school  
24 if the Superintendent of Public Instruction determines that the  
25 school district or charter school *or any other entity which provides*  
26 *education to a pupil with a disability for a school district or*  
27 *charter school* has not complied with a requirement of this title or  
28 any other statute or regulation governing K-12 public education.  
29 The plan of corrective action must provide a timeline approved by  
30 the Superintendent of Public Instruction for compliance with the  
31 statute or regulation.

32 7. Perform such other duties as are prescribed by law.

33 **Sec. 3.** NRS 385.230 is hereby amended to read as follows:

34 385.230 1. The Department shall, in conjunction with the  
35 State Board, prepare an annual report of the state of public  
36 education in this State. The report must include, without limitation:

37 (a) An analysis of each annual report of accountability prepared  
38 by the State Board pursuant to NRS 385A.400;

39 (b) An update on the status of K-12 public education in this  
40 State;

41 (c) A description of the most recent vision and mission  
42 statements of the State Board and the Department, including,  
43 without limitation, the progress made by the State Board and  
44 Department in achieving those visions and missions;



(d) A description of the goals and benchmarks for improving the academic achievement of pupils which are included in the plan to improve the achievement of pupils required by NRS 385.111;

(e) A description of any significant changes made to the collection, maintenance or transfer of data concerning pupils by the Department, a school district, a sponsor of a charter school or a university school for profoundly gifted pupils;

(f) Any new data elements, including, without limitation, data about individual pupils and aggregated data about pupils within a defined group, proposed for inclusion in the automated system of accountability information for Nevada established pursuant to NRS 385A.800;

(g) An analysis of the progress the public schools have made in the previous year toward achieving the goals and benchmarks for improving the academic achievement of pupils;

(h) An analysis of whether the standards and examinations adopted by the State Board adequately prepare pupils for success in postsecondary educational institutions and in career and workforce readiness;

(i) An analysis of the extent to which school districts and charter schools recruit and retain effective teachers and principals;

(j) An analysis of the ability of the automated system of accountability information for Nevada established pursuant to NRS 385A.800 to link the achievement of pupils to the performance of the individual teachers assigned to those pupils and to the principals of the schools in which the pupils are enrolled;

(k) An analysis of the extent to which the lowest performing public schools have improved the academic achievement of pupils enrolled in those schools;

(l) A summary of the innovative educational programs implemented by public schools which have demonstrated the ability to improve the academic achievement of pupils, including, without limitation:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board; ~~and~~

(m) A description of any plan of corrective action requested by the Superintendent of Public Instruction from the board of trustees of a school district or the governing body of a charter school and the status of that plan ~~and~~ ; and



1        *(n) A summary of any measures taken by the Superintendent*  
2 *of Public Instruction pursuant to section 6 of this act to ensure*  
3 *compliance with a plan of corrective action or the order of a*  
4 *hearing officer.*

5        2. In odd-numbered years, the Superintendent of Public  
6 Instruction shall present the report prepared pursuant to subsection 1  
7 in person to the Governor and each standing committee of the  
8 Legislature with primary jurisdiction over matters relating to K-12  
9 public education at the beginning of each regular session of the  
10 Legislature.

11        3. In even-numbered years, the Superintendent of Public  
12 Instruction shall, on or before January 31, submit a written copy of  
13 the report prepared pursuant to subsection 1 to the Governor and to  
14 the Legislative Committee on Education.

15        **Sec. 4.** Chapter 388 of NRS is hereby amended by adding  
16 thereto the provisions set forth as sections 5 and 6 of this act.

17        **Sec. 5. 1.** *Any person or governmental entity may request*  
18 *the Superintendent of Public Instruction to determine whether a*  
19 *provider of special education is in compliance with the Individuals*  
20 *with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., NRS*  
21 *388.417 to 388.525, inclusive, and sections 5 and 6 of this act, any*  
22 *regulations adopted pursuant thereto, or any other law or*  
23 *regulation governing the education of pupils with disabilities in*  
24 *this State.*

25        2. *Upon receipt of a request pursuant to subsection 1 or upon*  
26 *his or her own initiative, the Superintendent of Public Instruction*  
27 *must determine whether there is good cause to conduct an on-site*  
28 *inspection of the provider of special education. If the*  
29 *Superintendent of Public Instruction determines there is good*  
30 *cause to conduct an on-site inspection, the Superintendent of*  
31 *Public Instruction shall cause such an inspection to be conducted*  
32 *by the Department within 30 days.*

33        3. *If, after an inspection conducted pursuant to subsection 2,*  
34 *the Superintendent of Public Instruction determines that a*  
35 *provider of special education is not in compliance with a law or*  
36 *regulation governing the education of pupils with disabilities, the*  
37 *Superintendent of Public Instruction must, not later than 30 days*  
38 *after completion of the inspection:*

39        (a) *Meet with the provider of special education to determine*  
40 *the most efficient and expeditious manner in which to bring the*  
41 *provider of special education into compliance with the law or*  
42 *regulation; and*

43        (b) *Request the board of trustees of a school district or the*  
44 *governing body of a charter school, as applicable, to establish a*



1 *plan of corrective action pursuant to NRS 385.175 to ensure*  
2 *compliance with the law or regulation.*

3 **Sec. 6.** 1. *If a provider of special education fails or refuses*  
4 *to comply in a timely manner with a plan of corrective action*  
5 *established pursuant to NRS 385.175 or with an order of a hearing*  
6 *officer issued pursuant to a due process hearing conducted*  
7 *pursuant to the Individuals with Disabilities Education Act, 20*  
8 *U.S.C. §§ 1400 et seq., or pursuant to an appeal therefrom, the*  
9 *Superintendent of Public Instruction must take appropriate*  
10 *measures to ensure compliance with the Individuals with*  
11 *Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., NRS 388.417*  
12 *to 388.525, inclusive, and sections 5 and 6 of this act, any*  
13 *regulations adopted pursuant thereto, or any other law or*  
14 *regulation governing the education of pupils with disabilities in*  
15 *this State.*

16 2. *In determining the appropriate measures to take to ensure*  
17 *compliance with the laws and regulations governing the education*  
18 *of pupils with disabilities, the Superintendent of Public Instruction*  
19 *must consider:*

20 (a) *The severity of the failure to comply with a plan of*  
21 *corrective action or the order of a hearing officer and the length*  
22 *and number of times that the provider of special education has*  
23 *been out of compliance with the laws and regulations governing*  
24 *the education of pupils with disabilities;*

25 (b) *Whether the provider of special education made a good*  
26 *faith effort to comply with the plan of corrective action or the*  
27 *order of the hearing officer;*

28 (c) *The impact of the failure to comply with the plan of*  
29 *corrective action or the order of a hearing officer on pupils served*  
30 *by the provider of special education; and*

31 (d) *Whether the provider of special education has previously*  
32 *failed to comply with such a plan of corrective action or order of a*  
33 *hearing officer.*

34 3. *The actions which the Superintendent of Public*  
35 *Instruction may take to ensure compliance pursuant to subsection*  
36 *1 after considering the factors set forth in subsection 2 include,*  
37 *without limitation:*

38 (a) *Extending the time by which the provider of special*  
39 *education must comply with the plan of corrective action;*

40 (b) *Revising the plan of corrective action;*

41 (c) *Requiring the school district or the governing body of a*  
42 *charter school, as applicable, to provide technical assistance to the*  
43 *provider of special education to assist with compliance with the*  
44 *laws and regulations governing the education of pupils with*  
45 *disabilities;*



1     (d) *Requiring the school district or the governing body of a*  
2 *charter school, as applicable, to provide appropriate professional*  
3 *development for the provider of special education to assist with*  
4 *compliance with the laws and regulations governing the education*  
5 *of pupils with disabilities;*

6     (e) *Ordering a special investigation of the provider of special*  
7 *education or additional on-site inspections of the provider of*  
8 *special education to ensure compliance with the laws and*  
9 *regulations governing the education of pupils with disabilities, or*  
10 *a special investigation followed by additional on-site inspections;*

11     (f) *Requiring the school district or charter school, as*  
12 *appropriate, to assign one or more persons to monitor compliance*  
13 *with the plan of corrective action or order of a hearing officer and*  
14 *the laws and regulations governing the education of pupils with*  
15 *disabilities by the provider of special education;*

16     (g) *Requiring the school district or charter school, as*  
17 *applicable, to take appropriate disciplinary action against a*  
18 *principal or other administrator who knowingly and willfully fails*  
19 *to comply with a plan of corrective action or order of a hearing*  
20 *officer;*

21     (h) *Requiring the provider of special education to attend a*  
22 *public meeting of the State Board to explain the failure of the*  
23 *provider of special education to comply with a plan of corrective*  
24 *action or order of a hearing officer, address public concerns and*  
25 *outline the actions that the provider of special education intends to*  
26 *take to ensure compliance with the laws and regulations*  
27 *governing the education of pupil with disabilities;*

28     (i) *Taking punitive action against the provider of special*  
29 *education, which may include, without limitation:*

30         (1) *To the extent possible, redirecting money provided by*  
31 *the Federal Government for administrative costs related to the*  
32 *Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et*  
33 *seq.; or*

34         (2) *To the extent possible, withholding, in whole or in part,*  
35 *any federal or State apportionment to the provider; or*

36     (j) *Seeking enforcement of a plan of corrective action or the*  
37 *order of a hearing officer in a court of competent jurisdiction.*

38     4. *The Superintendent of Public Instruction may work with*  
39 *any other appropriate governmental entity to carry out the*  
40 *provisions of subsection 3.*

41     **Sec. 7.** NRS 388.417 is hereby amended to read as follows:

42         388.417 As used in NRS 388.417 to 388.515, inclusive **H** ,  
43 *and sections 5 and 6 of this act:*

44         1. "Communication mode" means any system or method of  
45 communication used by a person who is deaf or whose hearing is





1 impaired to facilitate communication which may include, without  
2 limitation:

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

9 2. "Dyslexia" means a neurological learning disability  
10 characterized by difficulties with accurate and fluent word  
11 recognition and poor spelling and decoding abilities that typically  
12 result from a deficit in the phonological component of language.

13 3. "Dyslexia intervention" means systematic, multisensory  
14 intervention offered in an appropriate setting that is derived from  
15 evidence-based research.

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

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

20 6. *"Provider of special education" means a school within a*  
21 *school district or charter school that provides education or*  
22 *services to pupils with disabilities or any other entity that is*  
23 *responsible for providing education or services to a pupil with a*  
24 *disability for a school district or charter school.*

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

29 ~~17-1~~ 8. "Pupil with a disability" means a "child with a  
30 disability," as that term is defined in 20 U.S.C. § 1401(3)(A), who is  
31 under 22 years of age.

32 ~~18-1~~ 9. "Response to scientific, research-based intervention"  
33 means a collaborative process which assesses a pupil's response to  
34 scientific, research-based intervention that is matched to the needs  
35 of a pupil and that systematically monitors the level of performance  
36 and rate of learning of the pupil over time for the purpose of making  
37 data-based decisions concerning the need of the pupil for  
38 increasingly intensified services.

39 ~~19-1~~ 10. "Specific learning disability" means a disorder in one  
40 or more of the basic psychological processes involved in  
41 understanding or using spoken or written language which is not  
42 primarily the result of a visual, hearing or motor impairment,  
43 intellectual disability, serious emotional disturbance, or an  
44 environmental, cultural or economic disadvantage. Such a disorder  
45 may manifest itself in an imperfect ability to listen, think, speak,





1 read, write, spell or perform mathematical calculations. The term  
2 includes, without limitation, perceptual disabilities, brain injury,  
3 minimal brain dysfunction, dyslexia and developmental aphasia.

4 **Sec. 8.** The provisions of subsection 1 of NRS 218D.380 do  
5 not apply to any provision of this act which adds or revises a  
6 requirement to submit a report to the Legislature.

7 **Sec. 9.** This act becomes effective on July 1, 2017.

