

SENATE BILL NO. 169—SENATOR DONDERO LOOP

MARCH 4, 2021

JOINT SPONSOR: ASSEMBLYWOMAN BILBRAY-AXELROD

Referred to Committee on Education

SUMMARY—Revises provisions relating to education.
(BDR 34-79)

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

~

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 pupils with disabilities to include developmental trauma and emotional or behavioral dysregulation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing federal law provides federal funding to states that provide education to children with disabilities. (Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.) Under existing federal law, a “child with a disability” means a child with an intellectual disability, hearing impairment, speech or language impairment, visual impairment, serious emotional disturbance, orthopedic impairment, autism, traumatic injury, other health impairment or specific learning disability. (20 U.S.C. § 1401) Existing state law defines a “pupil with a disability” as a pupil who falls under the federal definition of a “child with a disability.” Under existing state law, a “specific learning disability” means a disorder that is not a result of certain disabilities, including, without limitation, a serious emotional disturbance. (NRS 388.417) **Sections 1 and 2** of this bill replace the terms “emotional disturbance” and “serious emotional disturbance” with the term “emotional or behavioral dysregulation.”

Existing law requires the State Board of Education to prescribe minimum standards for programs of instruction or special services for pupils with certain disabilities, including, without limitation, emotional disturbances and other health impairments. (NRS 388.419) **Section 2** of this bill specifies that developmental trauma is included among other health impairments.



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

Section 1. NRS 388.417 is hereby amended to read as follows:
388.417 As used in NRS 388.417 to 388.515, inclusive:

1. "Communication mode" means any system or method of communication used by a person with a disability, including, without limitation, 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. "Dyslexia" means a neurological learning disability characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language.

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

4. *"Emotional or behavioral dysregulation" means "emotional disturbance," as that term is defined in 34 C.F.R. § 300.8(c)(4).*

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

~~5-1~~ 6. "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

~~6-1~~ 7. "Provider of special education" means 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 a pupil with a disability for a school district or charter school.

~~7-1~~ 8. "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.

~~8-1~~ 9. "Pupil with a disability" means a "child with a disability," as that term is defined in 20 U.S.C. § 1401(3)(A), who is under 22 years of age.

~~9-1~~ 10. "Response to scientific, research-based intervention" means a collaborative process which assesses a pupil's response to scientific, research-based intervention that is matched to the needs



1 of a pupil and that systematically monitors the level of performance
2 and rate of learning of the pupil over time for the purpose of making
3 data-based decisions concerning the need of the pupil for
4 increasingly intensified services.

5 ~~10.11.~~ **11.** "Specific learning disability" means a disorder in one
6 or more of the basic psychological processes involved in
7 understanding or using spoken or written language which is not
8 primarily the result of a visual, hearing or motor impairment,
9 intellectual disability, ~~[serious]~~ emotional ~~[disturbance,]~~ **or**
10 **behavioral dysregulation** or an environmental, cultural or economic
11 disadvantage. Such a disorder may manifest itself in an imperfect
12 ability to listen, think, speak, read, write, spell or perform
13 mathematical calculations. The term includes, without limitation,
14 perceptual disabilities, brain injury, minimal brain dysfunction,
15 dyslexia and developmental aphasia.

16 **Sec. 2.** NRS 388.419 is hereby amended to read as follows:

17 388.419 1. The Department shall:

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

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

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

33 3. The State Board:

34 (a) Shall prescribe minimum standards for the special education
35 of pupils with disabilities.

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

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

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

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

43 (c) Orthopedic impairments.

44 (d) Speech and language impairments.

45 (e) Intellectual disabilities.



- (f) Multiple impairments.
- (g) Emotional ~~[disturbances.]~~ *or behavioral dysregulation.*
- (h) Other health impairments ~~[]~~, *including, but not limited to, developmental trauma.*

- (i) Specific learning disabilities.
- (j) Autism spectrum disorders.
- (k) Traumatic brain injuries.
- (l) Developmental delays.

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 comply with:

(a) The Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto;

(b) The effective communication requirement of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 et seq., and the regulations adopted pursuant thereto; and

(c) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the regulations adopted pursuant thereto.

6. The minimum standards prescribed by the State Board for pupils with dyslexia pursuant to paragraph (i) of subsection 4 must include, without limitation, standards for instruction on:

(a) Phonemic awareness to enable a pupil to detect, segment, blend and manipulate sounds in spoken language;

(b) Graphonomic knowledge for teaching the sounds associated with letters in the English language;

(c) The structure of the English language, including, without limitation, morphology, semantics, syntax and pragmatics;

(d) Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and

(e) Strategies that a pupil may use for decoding, encoding, word recognition, fluency and comprehension.

7. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities until the program of instruction maintained therein for such pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

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

9. The Department shall post on the Internet website maintained by the Department the data that is submitted to the



1 United States Secretary of Education pursuant to 20 U.S.C. § 1418
2 within 30 days after submission of the data to the Secretary in a
3 manner that does not result in the disclosure of data that is
4 identifiable to an individual pupil.

5 *10. As used in this section, “developmental trauma” means*
6 *an adaptive response to one or more distressing events*
7 *experienced in childhood, including, without limitation, child*
8 *abuse or neglect, homelessness, poverty, sexual abuse, racism or*
9 *violence in the community of a pupil, that impairs the academic*
10 *performance of a pupil by affecting the emotional, mental or*
11 *physical development or the development of language and literacy*
12 *skills of the pupil.*

13 **Sec. 3.** This act becomes effective on July 1, 2021.

