

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:**

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

13 Existing law authorizes a pupil with a disability who does not satisfy the  
14 requirements for a standard high school diploma to receive an adjusted diploma  
15 instead which evidences the graduation from high school if the pupil satisfies the  
16 requirements set forth in his or her individualized education program. (NRS  
17 389.805) Existing law further provides that any right accorded to a parent of a pupil  
18 with a disability pursuant to the Individuals with Disabilities Act transfers to the



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

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

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

- 1       **Section 1.** NRS 388.440 is hereby amended to read as follows:  
2       388.440 As used in NRS 388.440 to 388.5317, inclusive:  
3       1. "Communication mode" means any system or method of  
4 communication used by a person who is deaf or whose hearing is  
5 impaired to facilitate communication which may include, without  
6 limitation:  
7       (a) American Sign Language;  
8       (b) English-based manual or sign systems;  
9       (c) Oral and aural communication;  
10       (d) Spoken and written English, including speech reading or lip  
11 reading; and  
12       (e) Communication with assistive technology devices.  
13       2. "Gifted and talented pupil" means a person under the age of  
14 18 years who demonstrates such outstanding academic skills or  
15 aptitudes that the person cannot progress effectively in a regular  
16 school program and therefore needs special instruction or special  
17 services.  
18       3. "Individualized education program" has the meaning  
19 ascribed to it in 20 U.S.C. § 1414(d)(1)(A).  
20       4. "Individualized education program team" has the meaning  
21 ascribed to it in 20 U.S.C. § 1414(d)(1)(B).  
22       5. "Pupil who receives early intervening services" means a  
23 person enrolled in kindergarten or grades 1 to 12, inclusive, who is  
24 not a pupil with a disability but who needs additional academic and  
25 behavioral support to succeed in a regular school program.



1 6. "Pupil with a disability" ~~[means a person under the age of 22~~  
2 ~~years who deviates either educationally, physically, socially or~~  
3 ~~emotionally so markedly from normal patterns that the person~~  
4 ~~cannot progress effectively in a regular school program and~~  
5 ~~therefore needs special instruction or special services.]~~ *has the*  
6 *meaning ascribed to the term "child with a disability" in 20 U.S.C.*  
7 *§ 1401(3)(A).*

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

9 388.477 1. When developing an individualized education  
10 program for a pupil with a hearing impairment in accordance with  
11 NRS 388.520, the pupil's individualized education program team  
12 shall consider, without limitation:

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

16 (b) The pupil's primary communication mode;

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

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

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

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

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

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

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

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

41 (b) Development in or availability of assistive technology;

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

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



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

2     388.493 1. A parent of a pupil with a disability may, at least  
3 90 days before the pupil attains 18 years of age, submit an  
4 application to the school district or the charter school in which the  
5 pupil is enrolled to appoint the parent to represent the educational  
6 interests of the pupil if:

7     (a) The parent believes that the pupil does not have the ability to  
8 provide informed consent with respect to the pupil's own  
9 educational program; and

10    (b) The status of the pupil is such, as determined in accordance  
11 with the regulations adopted pursuant to subsection 5, that the parent  
12 is authorized to submit such an application.

13    2. The application must be submitted on a concise form  
14 prescribed by the Department. The application:

15     (a) Must not be unduly burdensome on the parent to fill out; and

16     (b) Must not require the pupil to sign the application or  
17 otherwise require the pupil to grant permission for the parent to  
18 represent the pupil's educational interests.

19    3. If the school district or charter school grants an application,  
20 the parent shall continue to represent the educational interests of the  
21 pupil until:

22     (a) The pupil receives a standard high school diploma ; ~~for an~~  
23 ~~adjusted diploma;~~

24     (b) The pupil is no longer enrolled in a program of special  
25 education pursuant to NRS 388.440 to 388.5317, inclusive; or

26     (c) The parent elects to transfer the right to represent educational  
27 interests to the pupil.

28    4. A parent or a pupil may appeal a determination made  
29 pursuant to this section in accordance with the procedure used by  
30 the Department for administrative complaints.

31    5. The State Board shall adopt regulations to carry out this  
32 section and NRS 388.492, including, without limitation, the  
33 establishment of criteria for determining whether the status of a  
34 pupil with a disability is such that his or her parent is authorized to  
35 submit an application to represent the educational interests of the  
36 pupil pursuant to this section.

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

38     388.520 1. The Department shall:

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

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



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

9 3. The State Board:

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

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

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

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

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

19 (c) Orthopedic impairments.

20 (d) Speech and language impairments.

21 (e) Intellectual disabilities.

22 (f) Multiple impairments.

23 (g) ~~[Serious emotional]~~ *Emotional* disturbances.

24 (h) Other health impairments.

25 (i) Specific learning disabilities.

26 (j) Autism spectrum disorders.

27 (k) Traumatic brain injuries.

28 (l) Developmental delays.

29 (m) Gifted and talented abilities.

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

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

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

41 ~~—6.]~~ No apportionment of state money may be made to any  
42 school district or charter school for the instruction of pupils with  
43 disabilities and gifted and talented pupils until the program of  
44 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 ~~[7-]~~ 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 ~~[8-]~~ 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.





