
SENATE BILL NO. 234—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

(ON BEHALF OF THE CLARK COUNTY
SCHOOL DISTRICT)

MARCH 4, 2003

Referred to Committee on Human Resources and Facilities

SUMMARY—Makes various changes concerning administrative
due process hearings pursuant to Individuals with
Disabilities Education Act. (BDR 34-452)

FISCAL NOTE: Effect on Local Government: No.
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; prescribing a period of limitation on
requests for certain administrative due process hearings
pursuant to the Individuals with Disabilities Education
Act; requiring the State Board of Education to adopt
regulations prescribing the maximum compensation and
costs that a school district may be required to pay to a
hearing officer in an administrative due process hearing
conducted pursuant to the Individuals with Disabilities
Education Act; providing for retroactive application of the
period of limitation for certain alleged violations; and
providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 388 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A request for an administrative due process hearing*
4 *pursuant to the Individuals with Disabilities Education Act, 20*
5 *U.S.C. §§ 1400 et seq., concerning an alleged violation of that Act*
6 *which occurs on or after the effective date of this act with respect*



* S B 2 3 4 *

1 *to any matter relating to the identification, evaluation or*
2 *educational placement of a pupil with a disability, or the provision*
3 *of a free appropriate public education to a pupil with a disability,*
4 *must be made not later than 1 year after the alleged violation.*

5 *2. Each notice provided to a parent or guardian of a pupil*
6 *with a disability pursuant to 20 U.S.C. § 1415 regarding*
7 *procedural protections must include an explanation of the period*
8 *of limitation set forth in subsection 1.*

9 **Sec. 2.** NRS 388.440 is hereby amended to read as follows:

10 388.440 As used in NRS 388.440 to 388.5315, inclusive ~~§~~,
11 *and section 1 of this act:*

12 1. "Gifted and talented pupil" means a person under the age of
13 18 years who demonstrates such outstanding academic skills or
14 aptitudes that he cannot progress effectively in a regular school
15 program and therefore needs special instruction or special services.

16 2. "Pupil with a disability" means a person under the age of 22
17 years who deviates either educationally, physically, socially or
18 emotionally so markedly from normal patterns that he cannot
19 progress effectively in a regular school program and therefore needs
20 special instruction or special services.

21 **Sec. 3.** NRS 388.509 is hereby amended to read as follows:

22 388.509 1. *The State Board shall adopt regulations*
23 *prescribing the maximum compensation and costs that a school*
24 *district may be required to pay to a hearing officer in an*
25 *administrative due process hearing conducted pursuant to the*
26 *provisions of 20 U.S.C. § 1415.*

27 2. The Department may issue a subpoena to compel the
28 attendance of witnesses, the giving of testimony and the production
29 of books and papers at an administrative hearing conducted pursuant
30 to the provisions of 20 U.S.C. § 1415 on behalf of a party to that
31 hearing. The subpoena must be signed by the Superintendent of
32 Public Instruction or a person designated by the superintendent for
33 this purpose. If a person fails to comply with a subpoena, the
34 Department may apply to the district court for enforcement of the
35 subpoena.

36 ~~§~~ 3. The district court in and for Carson City or the county
37 in which a hearing is being conducted for which such a subpoena
38 was issued may, upon receipt of such an application, compel the
39 attendance of witnesses, the giving of testimony and the production
40 of books and papers as required by the subpoena.

41 ~~§~~ 4. In case of the refusal of any witness to attend or testify
42 or produce any papers required by the subpoena, the person holding
43 the hearing may report to the district court by petition, setting forth:

44 (a) That due notice has been given of the time and place of
45 attendance of the witness or the production of the books and papers;



1 (b) That the witness has been subpoenaed in accordance with
2 this section; and

3 (c) That the witness has failed and refused to attend or produce
4 the papers required by subpoena before the person holding the
5 hearing named in the subpoena, or has refused to answer questions
6 propounded to him in the course of the hearing,
7 and asking an order of the court compelling the witness to attend
8 and testify or produce the books or papers before the person.

9 ~~[4.]~~ 5. The court, upon petition of the person holding the
10 hearing, shall enter an order directing the witness to appear before
11 the court at a time and place to be fixed by the court in the order, the
12 time must not be more than 10 days after the date of the order, and
13 then and there show cause why he has not attended or testified or
14 produced the books or papers before the person holding the hearing.
15 A certified copy of the order must be served upon the witness. If it
16 appears to the court that the subpoena was regularly issued by the
17 person holding the hearing, the court shall thereupon enter an order
18 that the witness appear before the person at the time and place fixed
19 in the order and testify or produce the required books or papers, and
20 upon failure to obey the order, the witness must be dealt with as for
21 contempt of court.

22 **Sec. 4.** If an alleged violation of the Individuals with
23 Disabilities Education Act, 20 U.S.C. §§ 1400 et seq. occurs before
24 the effective date of this act, the period of limitation prescribed in
25 section 1 of this act begins to run with respect to that violation on
26 the effective date of this act.

27 **Sec. 5.** On or before September 1, 2003, the State Board of
28 Education shall adopt regulations pursuant to section 3 of this act.

29 **Sec. 6.** This act becomes effective upon passage and approval.

