

The intent is to ensure compliance with the existing State Complaint Process with the Department of Education, to remove the use of hearing officers due to the school district's concern with additional costs, and other clarifying amendments as worked through with stakeholders.

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

3 1. *If a local educational agency or the governing body of a*
4 *charter school fails to comply with the decision of a hearing*
5 *officer or a settlement agreement resulting from a due process*
6 *hearing, the parent or guardian of the pupil who is the subject of*
7 *the decision or agreement, the pupil subject to the decision or*
8 *agreement who has attained the transfer of rights pursuant to*

9 *NRS 388.459 may file a complaint with the*
10 *State Department of Education pursuant to 34 C.F.R. § 300.153.*

11 ~~*Such a complaint must be heard by the hearing*~~
12 ~~*officer who issued the decision or approved the agreement unless*~~
13 ~~*that hearing officer is not available. If that hearing officer is not*~~
14 ~~*available, the Department must select another hearing officer who*~~
15 ~~*meets the qualifications prescribed pursuant to 20 U.S.C. §*~~
16 ~~*1415(f)(3)(A) to hear the complaint.*~~

17 2. *After the investigation of the complaint conducted pursuant*
18 *to subsection 1 and 34 C.F.R. §300.152, including the*
19 *opportunity of the local educational agency or governing body*
20 *to respond to the complaint which may include mitigating*
21 *factors, the Department shall issue a written decision to the*
22 *complainant and the local educational agency or governing*
23 *body, as applicable, with a copy of the order to the Compliance*
24 *office of the local educational agency, if applicable.*

25 3. ~~*If, after a hearing conducted pursuant to the subsection 1,*~~
26 ~~*the*~~

27 ~~*hearing officer*~~ *Department finds that the local educational*
28 ~~*agency*~~ *or*
29 ~~*governing body has failed to comply with the decision*~~ *or*
30 ~~*settlement agreement, as applicable, the hearing officer must the*~~
31 ~~*written agreement shall include any measures that the Department*~~
32 ~~*determines necessary to ensure that the local educational agency*~~
33 ~~*or governing body complies with the settlement agreement. Such*~~
34 ~~*measures may include, without limitation:*~~

35 (a) *Order the local educational agency or governing body, as*
36 *applicable, to:*

37 (1) *Comply with the decision or agreement;*

38 (2) *Pay any reasonable expenses, including, without*
39 *limitation, attorney's fees, incurred by the complainant to file the*
40 *complaint and have it heard;*

41 (3) *Take any additional measures deemed necessary by the*
42 ~~*hearing officer*~~ *Department to ensure that the pupil receives a free*
43 *appropriate*

44 *public education; and*

45 (b) *Provide a copy of the order to the Department-Compliance*
46 *office of the local education agency, if applicable.*

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47 3. ~~*Upon receiving a copy of an order pursuant to subsection*~~
48 ~~*2, the Department shall take any measures that the Department*~~
49 ~~*determines necessary to ensure that the local educational agency*~~
50 ~~*or governing body complies with the order. Such measures may*~~
51 ~~*include, without limitation:*~~

52 (a) ~~*(c)*~~ *Monitoring the actions taken by the local educational*

7 *agency or governing body to comply with the order;*
8 ~~(b)~~(d) *Withholding federal or state money that would otherwise*
9 *be provided to the local educational agency or governing body for*
10 *the purpose of providing educational services to the pupil and*
11 *using that money to directly arrange and pay for the provision of*
12 *such services to the pupil; and*
13 ~~(e)~~ (e) *Referring the matter to the Attorney General to bring an*
14 *action in a court of competent jurisdiction to enforce the order.*
15 4. *As used in this section, "local educational agency" has the*
16 *meaning ascribed to it in 20 U.S.C. § 1401(19).*
17 5. Nothing herein precludes a party from initiating a civil action in a court of
18 competent jurisdiction pursuant to applicable provisions of the Individuals
19 with Disabilities Education Act.

20 **Sec. 2.** NRS 388.417 is hereby amended to read as follows:

21 388.417 As used in NRS 388.417 to 388.515, inclusive ~~§~~,
22 *and section 1 of this act:*

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

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

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

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

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

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

42 6. "Provider of special education" means a school within a
43 school district or charter school that provides education or services
44 to pupils with disabilities or any other entity that is responsible for

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1 providing education or services to a pupil with a disability for a
2 school district or charter school.

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

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

10 9. "Response to scientific, research-based intervention" means
11 a collaborative process which assesses a pupil's response to
12 scientific, research-based intervention that is matched to the needs
13 of a pupil and that systematically monitors the level of performance
14 and rate of learning of the pupil over time for the purpose of making
15 data-based decisions concerning the need of the pupil for

16 increasingly intensified services.

17 10. "Specific learning disability" means a disorder in one or
18 more of the basic psychological processes involved in understanding
19 or using spoken or written language which is not primarily the result
20 of a visual, hearing or motor impairment, intellectual disability,
21 serious emotional disturbance, or an environmental, cultural or
22 economic disadvantage. Such a disorder may manifest itself in an
23 imperfect ability to listen, think, speak, read, write, spell or perform
24 mathematical calculations. The term includes, without limitation,
25 perceptual disabilities, brain injury, minimal brain dysfunction,
26 dyslexia and developmental aphasia.

27 **Sec. 3.** NRS 388.419 is hereby amended to read as follows:

28 388.419 1. The Department shall:

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

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

36 2. Except as otherwise provided in this subsection, each school
37 district shall ensure that the form prescribed by the Department is
38 used for the development, review and revision of an individualized
39 education program for each pupil with a disability who receives
40 special education in the school district. A school district may use an
41 expanded form that contains additions to the form prescribed by the
42 Department if the basic information contained in the expanded form
43 complies with the form prescribed by the Department.

44 3. The State Board:

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

3 (b) May prescribe minimum standards for the provision of early
4 intervening services.

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

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

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

10 (c) Orthopedic impairments.

11 (d) Speech and language impairments.

12 (e) Intellectual disabilities.

13 (f) Multiple impairments.

14 (g) Emotional disturbances.

15 (h) Other health impairments.

16 (i) Specific learning disabilities.

17 (j) Autism spectrum disorders.

18 (k) Traumatic brain injuries.

19 (l) Developmental delays.

20 5. The minimum standards prescribed by the State Board for
21 pupils with hearing impairments, including, without limitation,
22 deafness, pursuant to paragraph (a) of subsection 4 must comply
23 with:

24 (a) The Individuals with Disabilities Education Act, 20 U.S.C.
25 §§ 1400 et seq., and the regulations adopted pursuant thereto;

26 (b) The effective communication requirement of Title II of the

27 Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 et
28 seq., and the regulations adopted pursuant thereto; and
29 (c) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §
30 794, and the regulations adopted pursuant thereto.
31 6. The minimum standards prescribed by the State Board for
32 pupils with dyslexia pursuant to paragraph (i) of subsection 4 must
33 include, without limitation, standards for instruction on:
34 (a) Phonemic awareness to enable a pupil to detect, segment,
35 blend and manipulate sounds in spoken language;
36 (b) Graphonomic knowledge for teaching the sounds associated
37 with letters in the English language;
38 (c) The structure of the English language, including, without
39 limitation, morphology, semantics, syntax and pragmatics;
40 (d) Linguistic instruction directed toward proficiency and
41 fluency with the patterns of language so that words and sentences
42 are carriers of meaning; and
43 (e) Strategies that a pupil may use for decoding, encoding, word
44 recognition, fluency and comprehension.

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~~17. The standards prescribed by the State Board for programs 2 of instruction or special services for
pupils with multiple
3 impairments pursuant to paragraph (f) of subsection 4 must not
4 include a requirement that a pupil have any specific impairment to
5 be eligible to participate in such programs or to receive such
6 services.~~

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

12 ~~8.]~~ 9. The Department shall, upon the request of the board of
13 trustees of a school district, provide information to the board of
14 trustees concerning the identification and evaluation of pupils with
15 disabilities in accordance with the standards prescribed by the State
16 Board.

17 ~~9.]~~ 10. The Department shall post on the Internet website
18 maintained by the Department the data that is submitted to the
19 United States Secretary of Education pursuant to 20 U.S.C. § 1418
20 within 30 days after submission of the data to the Secretary in a
21 manner that does not result in the disclosure of data that is
22 identifiable to an individual pupil.

23 **Sec. 4.** NRS 388.463 is hereby amended to read as follows:

24 388.463 1. The Department shall maintain a list of hearing
25 officers who meet the qualifications prescribed pursuant to 20
26 U.S.C. § 1415(f)(3)(A) to conduct a due process hearing pursuant to
27 the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400
28 et seq., regarding the identification, evaluation, reevaluation,
29 classification, educational placement or disciplinary action of or
30 provision of a free appropriate public education to a pupil with a
31 disability.

32 2. Except as otherwise provided in subsection 4, upon the filing
33 of a complaint requiring a due process hearing described in
34 subsection 1, the Superintendent of Public Instruction shall select
35 three hearing officers from the list maintained by the Department
36 pursuant to subsection 1. The selection of the hearing officers must
37 be made on a random, rotational or other impartial basis and, in a

38 school district in which more than 50,000 pupils are enrolled, the
39 place of business of the hearing officer must, to the extent
40 practicable, be located in the school district.

41 3. The Superintendent of Public Instruction shall provide the
42 names of the three hearing officers selected pursuant to subsection 2
43 to the complainant and request the complainant to return to the
44 Superintendent a list which places the three names in the order of
45 preference of the complainant. The complainant must return the list

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1 within 2 days. If the complainant returns the list, the Superintendent
2 must request the first hearing officer on the list to preside over the
3 hearing and if he or she is unavailable, the next person, until there
4 are no more hearing officers on the list. If the complainant does not
5 return the list within 2 days, the Superintendent must appoint a
6 hearing officer and may determine the order in which to request a
7 hearing officer to preside over the hearing.

8 4. If a due process hearing is required to be expedited pursuant
9 to 20 U.S.C. § 1415(k)(4), the Superintendent of Public Instruction
10 must select a hearing officer to preside over the hearing from the list
11 maintained by the Department pursuant to subsection 1. The
12 selection of the hearing officer must be made on a random,
13 rotational or other impartial basis and, in a school district in which
14 more than 50,000 pupils are enrolled, the place of business of the
15 hearing officer must, to the extent practicable, be located in the
16 school district.

17 5. The local educational agency or governing body of a charter
18 school, *as applicable*, involved in ~~the~~ a complaint ~~[-as~~
19 ~~applicable.]~~ *submitted pursuant to this section or section 1 of this*
20 *act* shall pay the cost of the hearing, including, without limitation,
21 any compensation to which the hearing officer is entitled.

22 6. ~~The~~ *Any* decision of a hearing officer *pursuant to this*
23 *section or section 1 of this act* may be appealed by any aggrieved
24 party to the Department.

This is no longer necessary given the amendment to section 1 – remove changes in language

25 7. As used in this section, “local educational agency” has the
26 meaning ascribed to it in 20 U.S.C. § 1401(19).

27 **Sec. 5.** Any regulations that conflict with NRS 388.419, as
28 amended by section 3 of this act, are void and unenforceable.

29 **Sec. 6.** The provisions of NRS 354.599 do not apply to any
30 additional expenses of a local government that are related to the
31 provisions of this act.

32 **Sec. 7.** This act becomes effective on July 1, 2019.

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