

Senate Bill 315 – Proposed Amendment

Proposed By: Erik Jimenez
ejimenez@nevadatreasurer.gov

Intent of the Amendment:

- 1) Clarifies that an individual with a disability may select a parent, family member, advocate, employee of the State of Nevada, or other person to act on their behalf in both Sections 1 and 3 of the bill.
- 2) Adds the Nevada Governor’s Council on Developmental Disabilities and the Nevada Statewide Independent Living Council to list of agencies that pupils with disabilities are entitled to receive information on pursuant to Section 3(j) of the bill.

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. This section may be cited as the Bill of Rights for Persons with Intellectual, Developmental or Physical Disabilities or who are Aged.

2. Except as otherwise specifically provided by law, each person with an intellectual disability, developmental disability or physical disability who is receiving services pursuant to a home and community-based services waiver granted pursuant to 42 U.S.C. § 1396n, and each person who is aged and is receiving such services, has, to the extent applicable to the services received by the person and appropriate for the person pursuant to the home and community-based services waiver, the right to:

(a) Participate in decisions that affect the life of the person, including, without limitation, decisions relating to:

(1) The finances and personal property of the person;

(2) The location where the person resides; and

(3) The development and implementation of any plan for delivering services and the frequency with which services are delivered pursuant to the home and community-based services waiver.

(b) Be treated with respect and dignity.

(c) An appropriate, safe and sanitary living environment that complies with all local, state and federal standards and recognizes the needs of the person for privacy and independence.

(d) Food that is adequate to meet the nutritional needs of the person.

(e) Practice the religion of his or her choice or abstain from the practice of any religion.

(f) Receive timely, effective and appropriate health care.

(g) Receive ancillary services, to the extent necessary for the person.

- (h) Maintain privacy and confidentiality in personal matters.*
- (i) Communicate freely with persons of his or her choice and in any reasonable manner he or she chooses.*
- (j) Own and use personal property.*
- (k) Have social interactions with persons of any sex or gender identity or expression.*
- (l) Pursue vocational opportunities to promote and enhance the economic independence of the person.*
- (m) Be treated as an equal citizen under the law.*
- (n) Be free from emotional, psychological, physical and financial abuse.*
- (o) Participate in appropriate programs of education, training, social development, habilitation and reasonable recreation, including, without limitation, a class at or other program administered by a university, college, community college or trade school.*
- (p) Select a parent, family member, advocate, employee of the State of Nevada or other person to act on his or her behalf, including, without limitation, by entering into a supported decision-making agreement pursuant to NRS 162C.200.*
- (q) Manage his or her own personal finances.*
- (r) Have his or her personal and medical records kept confidential to the extent provided by state and federal law.*
- (s) Voice grievances and suggest changes in policies, services and providers of services without restraint, interference, coercion, discrimination or reprisal.*
- (t) Be free from unnecessary chemical, physical or mechanical restraints.*
- (u) Participate in the political process.*
- (v) Refuse to participate in any medical, psychological or other research or experiment.*

3. The rights set forth in subsection 2 do not abrogate any remedies provided by law.

4. As used in this section:

- (a) "Developmental disability" has the meaning ascribed to it in NRS 435.007.*
- (b) "Intellectual disability" has the meaning ascribed to it in NRS 435.007.*

Sec. 2. NRS 232.320 is hereby amended to read as follows:

1. The Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

- (1) The Administrator of the Aging and Disability Services Division;
- (2) The Administrator of the Division of Welfare and Supportive Services;
- (3) The Administrator of the Division of Child and Family Services;
- (4) The Administrator of the Division of Health Care Financing and Policy; and
- (5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, **and section 1 of this act**, 422.580, 432.010 to 432.133, inclusive, 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible

for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department.

Sec. 3. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. This section may be cited as the Transition Bill of Rights for Pupils with Disabilities.

2. Except as otherwise specifically provided by law, each pupil with a disability who is enrolled in a public school or receiving services from a provider of special education and is receiving transition services through an individualized education program pursuant to 34 C.F.R. § 300.43 has the right to:

- (a) Be provided notice of and invited to any meeting concerning his or her individualized education program at which transition services will be discussed.*
- (b) Attend all meetings concerning his or her individualized education program and be able to represent his or her desire concerning his or her:*
- (1) Training or education;*
 - (2) Employment; and*
 - (3) If appropriate, independent living.*
- (c) Be treated with respect and dignity by all teachers, paraprofessionals and other educational staff.*
- (d) Assist in the development of realistic, specific and measurable post-secondary goals in training, education, employment and, if appropriate, independent living for the pupil.*
- (e) Receive coordinated secondary transition services and related support services to help prepare the pupil to meet the measurable postsecondary goals established pursuant to paragraph (d). Such services must include, without limitation:*
- (1) An age-appropriate transition assessment;*
 - (2) Instruction and related services;*
 - (3) Community experiences;*
 - (4) Assistance in developing objectives for employment and other life after the pupil ceases to attend school; and*
 - (5) If appropriate, services to aid in developing skills for daily living and an evaluation of functional vocational skills.*
- (f) Communicate freely using methods of communication that are accessible to the pupil concerning his or her strengths, interests, preferences and vision of his or her future for consideration when developing the transition plan.*
- (g) Have access to social interactions in school-based settings that are common to pupils of a similar age with persons with whom he or she chooses to interact. Such access must be provided to the same extent as pupils not receiving transition services through an individualized education program.*
- (h) Assist in developing annual goals and objectives reasonably calculated to promote progress toward achieving the measurable postsecondary goals developed pursuant to paragraph (d).*
- (i) Invite, or have assistance in inviting, appropriate outside agencies to any meeting concerning his or her individualized education program at which transition services will be discussed.*
- (j) Receive information necessary to identify, explore and connect with outside agencies, as appropriate, including, without limitation:*
- (1) The Bureau of Vocational Rehabilitation in the Rehabilitation Division of the Department of Employment, Training and Rehabilitation; ~~and~~*
 - (2) The Aging and Disability Services Division of the Department of Health and Human Services;*
 - (3) The Nevada Governor's Council on Developmental Disabilities; and*
 - (4) The Nevada Statewide Independent Living Council.*

(k) Receive information on appropriate programs of support, including, without limitation, the Supplemental Security Income Program, as defined in NRS 422A.075.

(l) Select a parent, family member, advocate, employee of the State of Nevada or other person to act on his or her behalf, including, without limitation, as prescribed in NRS 388.459.

(m) As appropriate to his or her individualized education program, receive education in financial literacy, including, without limitation, information about the Nevada ABLE Savings Program established pursuant to NRS 427A.889, to assist the pupil in managing his or her financial affairs.

(n) Receive, as appropriate, the pre-employment transition services required by 34 C.F.R. § 361.48.

(o) Voice concerns and disagreements with his or her educational or transition services and suggest changes in policies, services and providers of services without restraint, interference, coercion, discrimination or reprisal.

(p) Assist in the development of a course of study that is designed to provide the pupil with the ability to achieve his or her measurable post-secondary goals established pursuant to paragraph (d) and obtain a diploma.

(q) Receive information regarding potential consequences of attaining a diploma accessible to pupils with disabilities.

(r) As appropriate to his or her individualized education program, receive instruction in civil participation, including, without limitation, participation in the political process.

(s) Be notified, not less than 1 year before the pupil reaches 18 years of age, that any right accorded to the parent of a pupil with a disability pursuant to Part B of the Individuals with Disabilities Education Act, 20 U.S.C. § 1411 et seq., and the regulations adopted pursuant thereto, transfer to the pupil when he or she reaches 18 years of age.

3. The rights of a pupil with a disability set forth in subsection 2 do not abrogate any remedies provided by law.

Sec. 4. NRS 388.417 is hereby amended to read as follows:

As used in NRS 388.417 to 388.515, inclusive ~~(j)~~, ***and section 3 of this act:***

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. "Individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).
5. "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).
6. "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. "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. "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. "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 of a pupil and that systematically monitors the level of performance and rate of learning of the pupil over time for the purpose of making data-based decisions concerning the need of the pupil for increasingly intensified services.
10. "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which is not primarily the result of a visual, hearing or motor impairment, intellectual disability, serious emotional disturbance, or an environmental, cultural or economic disadvantage. Such a disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations. The term includes, without limitation, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

Sec. 5. This act becomes effective on July 1, 2023.