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SPECIAL EDUCATION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Pulsipher

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to services for students with disabilities.

Highlighted Provisions:

This bill:

- ▶ amends a provision related to the State Board of Education's responsibility for the education of certain individuals;
- ▶ amends a provision related to the ages for free, appropriate public education for students with disabilities;
- ▶ amends the definition of "blind student";
- ▶ repeals provisions related to the appointment and duties of a state director of special education; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 53E-3-503**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-7-202**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-7-204**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-7-301**, as renumbered and amended by Laws of Utah 2018, Chapter 1

30 REPEALS:

31 **53E-7-203**, as renumbered and amended by Laws of Utah 2018, Chapter 1



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **53E-3-503** is amended to read:

35 **53E-3-503. Education of individuals in custody of or receiving services from**
36 **certain state agencies -- Establishment of coordinating council -- Advisory councils.**

37 (1) For purposes of this section, "board" means the State Board of Education.

38 (2) (a) The board is directly responsible for the education of all [~~persons under the age~~
39 ~~of 21 who are:~~] individuals who are:

40 (i) (A) younger than 21 years old; or

41 (B) students with disabilities entitled to a free, appropriate public education as
42 described in Section **53E-7-202**; and

43 ~~[(i)]~~ (ii) (A) receiving services from the Department of Human Services;

44 ~~[(ii)]~~ (B) in the custody of an equivalent agency of a Native American tribe recognized
45 by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian
46 resides within the state; or

47 ~~[(iii)]~~ (C) being held in a juvenile detention facility.

48 (b) The board shall [~~adopt~~] make rules, in accordance with Title 63G, Chapter 3, Utah
49 Administrative Rulemaking Act, to provide for the distribution of funds for the education of
50 [~~persons~~] individuals described in Subsection (2)(a).

51 (3) Subsection [~~(2)(a)(ii)]~~ (2)(a)(ii)(B) does not apply to [~~persons~~] an individual taken
52 into custody for the primary purpose of obtaining access to education programs provided for
53 youth in custody.

54 (4) The board shall, where feasible, contract with school districts or other appropriate
55 agencies to provide educational, administrative, and supportive services, but the board shall
56 retain responsibility for the programs.

57 (5) The Legislature shall establish and maintain separate education budget categories

58 for youth in custody or who are under the jurisdiction of the following state agencies:

59 (a) detention centers and the Divisions of Juvenile Justice Services and Child and
60 Family Services;

61 (b) the Division of Substance Abuse and Mental Health; and

62 (c) the Division of Services for People with Disabilities.

63 (6) (a) The Department of Human Services and the ~~[State Board of Education]~~ board
64 shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and
65 program guidelines for the education and treatment of persons in the custody of the Division of
66 Juvenile Justice Services and the Division of Child and Family Services.

67 (b) The ~~[department]~~ Department of Human Services and the board may appoint
68 similar councils for those in the custody of the Division of Substance Abuse and Mental Health
69 or the Division of Services for People with Disabilities.

70 (7) A school district contracting to provide services under Subsection (4) shall
71 establish an advisory council to plan, coordinate, and review education and treatment programs
72 for ~~[persons]~~ individuals held in custody in the district.

73 Section 2. Section **53E-7-202** is amended to read:

74 **53E-7-202. Education programs for students with disabilities -- Supervision by**
75 **the State Board of Education -- Enforcement.**

76 (1) (a) All students with disabilities, who are ~~[between the ages of three and 22]~~ 3 years
77 old or older but younger than 22 years old and have not graduated from high school with a
78 regular diploma, are entitled to a free, appropriate public education.

79 (b) For purposes of Subsection (1)(a), if a student with a disability turns 22 during the
80 school year, the entitlement extends to the~~[:]~~ end of the school year.

81 ~~[(i) beginning of the school's winter holiday for those who turn 22 on or after the~~
82 ~~beginning of the school year and before December 31; and]~~

83 ~~[(ii) end of the school year for those who turn 22 after December 31 and before the end~~
84 ~~of the school year.]~~

85 (c) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

86 Act, the State Board of Education shall adopt rules consistent with applicable state and federal
87 law to implement this part.

88 (2) The rules adopted by the [~~state board~~] State Board of Education shall include the
89 following:

- 90 (a) appropriate and timely identification of students with disabilities;
- 91 (b) diagnosis, evaluation, and classification by qualified personnel;
- 92 (c) standards for classes and services;
- 93 (d) provision for multidistrict programs;
- 94 (e) provision for delivery of service responsibilities;
- 95 (f) certification and qualifications for instructional staff; and
- 96 (g) services for dual enrollment students attending public school on a part-time basis
97 under Section [53G-6-702](#).

98 (3) (a) The [~~state board~~] State Board of Education shall have general control and
99 supervision over all educational programs for students within the state who have disabilities.

100 (b) Those programs must comply with rules adopted by the [~~state board~~] State Board of
101 Education under this section.

102 (4) The state superintendent of public instruction shall enforce this part.

103 Section 3. Section **53E-7-204** is amended to read:

104 **53E-7-204. School district responsibility -- Reimbursement of costs -- Other**
105 **programs.**

106 (1) (a) Each school district shall provide, either singly or in cooperation with other
107 school districts or public institutions, a free, appropriate education program for all students
108 with disabilities who are residents of the district.

109 (b) The program shall include necessary special facilities, instruction, and
110 education-related services.

111 (c) The costs of a district's program, or a district's share of a joint program, shall be
112 paid from district funds.

113 (2) School districts that provide special education services under this part in

114 accordance with applicable rules of the State Board of Education shall receive reimbursement
115 from the board under Title 53F, Chapter 2, State Funding -- Minimum School Program, and
116 other applicable laws.

117 (3) (a) A school district may, singly or in cooperation with other public entities,
118 provide education and training for persons with disabilities who are:

119 (i) younger than [~~three~~] 3 years old; or

120 (ii) older than 22 [~~consistent with~~] years old as described in Subsection 53E-7-202(1).

121 (b) The cost of such a program may be paid from fees, contributions, and other funds
122 received by the district for support of the program, but may not be paid from public education
123 funds.

124 Section 4. Section **53E-7-301** is amended to read:

125 **53E-7-301. Definitions.**

126 As used in this part:

127 (1) "Blind student" means an individual [~~between ages three through 21 who is~~], who
128 is 3 years old or older but younger than 22 years old and eligible for special education services,
129 [~~and~~] who:

130 (a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a
131 limited field of vision such that the widest diameter subtends an angular distance no greater
132 than 20 degrees;

133 (b) has a medically indicated expectation of visual deterioration; or

134 (c) has functional blindness.

135 (2) "Braille" means the system of reading and writing through touch, commonly known
136 as English Braille.

137 (3) "Functional blindness" means a visual impairment that renders a student unable to
138 read or write print at a level commensurate with the student's cognitive abilities.

139 (4) "Individualized education program" or "IEP" means a written statement developed
140 for a student eligible for special education services pursuant to the Individuals with Disabilities
141 Education Act, 20 U.S.C. Section 1414(d).

142 Section 5. **Repealer.**

143 This bill repeals:

144 Section **53E-7-203**, State director of special education -- Qualifications -- Duties.