



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

April 30, 2019

The Honorable Katie Hobbs  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bills from the Fifty-fourth Legislature, 1st Regular Session, which I signed on April 30th, 2019:

H.B. 2036 dual enrollment; reported information; date (Cook)  
H.B. 2080 civil rights restoration; application; procedures (J.Allen)  
H.B. 2122 do-not-resuscitate orders; minors; parental consent (Barto)  
H.B. 2271 public lands day; holiday (Dunn)  
H.B. 2285 pharmacy benefit managers; pharmacy benefits (Cobb)  
H.B. 2366 motor vehicle accidents; restricted license (Toma)  
H.B. 2432 state treasurer's office; funds; consolidation (Cobb)  
H.B. 2477 adjudication statutes; unconstitutional provisions; repeal (Bowers)  
H.B. 2550 regulation; kratom products (Rivero)  
H.B. 2606 share the road special plates (Shope)  
S.B. 1016 ASRS; ineligible contributions; unfunded liability (Livingston)  
S.B. 1177 home school district; special education (S. Allen)  
S.B. 1442 state fleet; neighborhood electric vehicles (Pratt)  
S.B. 1453 affordable homeownership special plate (Rios)

Sincerely,

Douglas A. Ducey  
Governor  
State of Arizona

cc: Senate Secretary  
Chief Clerk of the House of Representatives  
Arizona News Service

Senate Engrossed  
**FILED**  
**KATIE HOBBS**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 159**  
**SENATE BILL 1177**

AN ACT

AMENDING SECTION 15-761, ARIZONA REVISED STATUTES; RELATING TO SPECIAL  
EDUCATION FOR EXCEPTIONAL CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-761, Arizona Revised Statutes, is amended to  
3 read:

4 15-761. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Autism" means a developmental disability that significantly  
7 affects verbal and nonverbal communication and social interaction and that  
8 adversely affects educational performance. Characteristics include  
9 irregularities and impairments in communication, engagement in repetitive  
10 activities and stereotyped movements, resistance to environmental change  
11 or change in daily routines and unusual responses to sensory experiences.  
12 Autism does not include children with characteristics of emotional  
13 disability as defined in this section.

14 2. "Child with a disability":

15 (a) Means a child who is at least three years but ~~less than~~ UNDER  
16 twenty-two years of age, who has been evaluated pursuant to section 15-766  
17 and found to have at least one of the following disabilities and who,  
18 because of the disability, needs special education and related services:

19 (i) Autism.

20 (ii) Developmental delay.

21 (iii) Emotional disability.

22 (iv) Hearing impairment.

23 (v) Other health impairments.

24 (vi) Specific learning disability.

25 (vii) Mild, moderate or severe intellectual disability.

26 (viii) Multiple disabilities.

27 (ix) Multiple disabilities with severe sensory impairment.

28 (x) Orthopedic impairment.

29 (xi) Preschool severe delay.

30 (xii) Speech/language impairment.

31 (xiii) Traumatic brain injury.

32 (xiv) Visual impairment.

33 (b) Does not include a child ~~if~~ FOR WHOM the determinant factor for  
34 the classification is one or more of the following:

35 (i) A lack of appropriate instruction in reading, including  
36 essential components of reading instruction.

37 (ii) A lack of appropriate instruction in mathematics.

38 (iii) Difficulty in writing, speaking or understanding the English  
39 language due to an environmental background in which a language other than  
40 English is primarily or exclusively used.

41 3. "Developmental delay" means performance by a child who is at  
42 least three years of age but under ten years of age on a norm-referenced  
43 test that measures at least one and one-half, but not more than three,  
44 standard deviations below the mean for children of the same chronological  
45 age in two or more of the following areas:

- 1 (a) Cognitive development.
- 2 (b) Physical development.
- 3 (c) Communication development.
- 4 (d) Social or emotional development.
- 5 (e) Adaptive development.

6 The results of the norm-referenced measure must be corroborated by  
7 information from a comprehensive development assessment and from parental  
8 input, if available, as measured by a judgment based assessment or survey.  
9 If there is a discrepancy between the measures, the evaluation team shall  
10 determine eligibility based on a preponderance of the information  
11 presented.

12 4. "Due process hearing" means a fair and impartial administrative  
13 hearing conducted by the state educational agency by an impartial  
14 administrative law judge in accordance with federal and state law.

15 5. "Educational disadvantage" means a condition that has limited a  
16 child's opportunity for educational experience resulting in a child  
17 achieving less than a normal level of learning development.

18 6. "Eligibility for special education" means the pupil ~~must have~~  
19 HAS one of the disabilities ~~contained~~ in paragraph 2 of this section and  
20 ~~must also require~~ REQUIRES special education services in order to benefit  
21 from an educational program.

22 7. "Emotional disability" ~~means~~

23 ~~(a)~~ means a condition: ~~whereby~~

24 (a) IN WHICH a child exhibits one or more of the following  
25 characteristics over a long period of time and to a marked degree that  
26 adversely affects the child's performance in the educational environment:

27 (i) An inability to learn that cannot be explained by intellectual,  
28 sensory or health factors.

29 (ii) An inability to build or maintain satisfactory interpersonal  
30 relationships with peers and teachers.

31 (iii) Inappropriate types of behavior or feelings under normal  
32 circumstances.

33 (iv) A general pervasive mood of unhappiness or depression.

34 (v) A tendency to develop physical symptoms or fears associated  
35 with personal or school problems.

36 (b) THAT includes children who are schizophrenic but does not  
37 include children who are socially maladjusted unless they are also  
38 determined to have an emotional disability as determined by evaluation as  
39 provided in section 15-766.

40 8. "Hearing impairment" means a loss of hearing acuity, as  
41 determined by evaluation pursuant to section 15-766, that interferes with  
42 the child's performance in the educational environment and requires the  
43 provision of special education and related services.

44 9. "Home school district" means the school district OR CHARTER  
45 SCHOOL THAT THE CHILD LAST ATTENDED OR, IF THE CHILD HAS NOT PREVIOUSLY

1 ATTENDED A PUBLIC SCHOOL IN THIS STATE, THE SCHOOL DISTRICT in which the  
2 person resides who has legal custody of the child, as provided in section  
3 15-824, subsection B. If the child is a ward of ~~the~~ THIS state and a  
4 specific person does not have legal custody of the child or is a ward of  
5 this state and the child is enrolled in an accommodation school pursuant  
6 to section 15-913, the home school district is the district that the child  
7 last attended or, if the child has not previously attended a public school  
8 in this state, the school district within which the child currently  
9 resides.

10 10. "Impartial administrative law judge" means an administrative  
11 law judge of the office of administrative hearings who is knowledgeable in  
12 the laws governing special education and administrative hearings.

13 11. "Individualized education program" means a written statement,  
14 as defined in 20 United States Code sections 1401 and 1412, for providing  
15 special education and related services to a child with a disability.

16 12. "Individualized education program team" means a team whose task  
17 is to develop an appropriate educational program for the child and has the  
18 same meaning prescribed in 20 United States Code section 1414.

19 13. "Intellectual disability" means a significant impairment of  
20 general intellectual functioning that exists concurrently with deficits in  
21 adaptive behavior and that adversely affects the child's performance in  
22 the educational environment.

23 14. "Mild intellectual disability" means performance on standard  
24 measures of intellectual and adaptive behavior between two and three  
25 standard deviations below the mean for children of the same age.

26 15. "Moderate intellectual disability" means performance on  
27 standard measures of intellectual and adaptive behavior between three and  
28 four standard deviations below the mean for children of the same age.

29 16. "Multidisciplinary evaluation team" means a team of persons,  
30 including individuals described as the individualized education program  
31 team and other qualified professionals, who shall determine whether a  
32 child is eligible for special education.

33 17. "Multiple disabilities" means learning and developmental  
34 problems resulting from multiple disabilities as determined by evaluation  
35 pursuant to section 15-766 that cannot be provided for adequately in a  
36 program designed to meet the needs of children with less complex  
37 disabilities. Multiple disabilities include any of the following  
38 conditions that require the provision of special education and related  
39 services:

- 40 (a) Two or more of the following conditions:  
41 (i) Hearing impairment.  
42 (ii) Orthopedic impairment.  
43 (iii) Moderate intellectual disability.  
44 (iv) Visual impairment.

1 (b) A child with a disability listed in subdivision (a) of this  
2 paragraph existing concurrently with a condition of mild intellectual  
3 disability, emotional disability or specific learning disability.

4 18. "Multiple disabilities with severe sensory impairment" means  
5 multiple disabilities that include at least one of the following:

6 (a) Severe visual impairment or severe hearing impairment in  
7 combination with another severe disability.

8 (b) Severe visual impairment and severe hearing impairment.

9 19. "Orthopedic impairment" means one or more severe orthopedic  
10 impairments and includes those that are caused by congenital anomaly,  
11 disease and other causes, such as amputation or cerebral palsy, and that  
12 adversely affect a child's performance in the educational environment.

13 20. "Other health impairments" means limited strength, vitality or  
14 alertness, including a heightened alertness to environmental stimuli, due  
15 to chronic or acute health problems that adversely affect a pupil's  
16 educational performance.

17 21. "Out-of-home care" means the placement of a child with a  
18 disability outside of the home environment and includes ~~twenty-four hour~~  
19 TWENTY-FOUR-HOUR residential care, group care or foster care on either a  
20 full-time or part-time basis.

21 22. "Parent" means:

22 (a) Either a natural or adoptive parent of a child.

23 (b) A guardian, but not this state if the child is a ward of this  
24 state.

25 (c) A person WHO IS acting in the place of a natural or adoptive  
26 parent AND with whom the child lives or a person who is legally  
27 responsible for the child's welfare.

28 (d) A surrogate parent.

29 (e) A foster parent to the extent permitted by state law.

30 23. "Preschool child" means a child who is at least three years of  
31 age but who has not reached the required age for kindergarten, subject to  
32 section 15-771, subsection G.

33 24. "Preschool severe delay" means performance by a preschool child  
34 on a norm-referenced test that measures more than three standard  
35 deviations below the mean for children of the same chronological age in  
36 one or more of the following areas:

37 (a) Cognitive development.

38 (b) Physical development.

39 (c) Communication development.

40 (d) Social or emotional development.

41 (e) Adaptive development.

42 The results of the norm-referenced measure must be corroborated by  
43 information from a comprehensive developmental assessment and from  
44 parental input, if available, as measured by a judgment based assessment  
45 or survey. If there is a discrepancy between the measures, the evaluation

1 team shall determine eligibility based on a preponderance of the  
2 information presented.

3 25. "Prior written notice" means written prior notice that a public  
4 educational agency is required to send to parents whenever the public  
5 educational agency proposes or refuses to initiate or change the  
6 identification, evaluation or educational placement of a child with a  
7 disability or the provision of a free appropriate public education.

8 26. "Public educational agency" means a school district, a charter  
9 school, an accommodation school, a ~~state-supported~~ STATE-SUPPORTED  
10 institution or any other political subdivision of this state that is  
11 responsible for providing education to children with disabilities.

12 27. "Related services" means those supportive services, as defined  
13 in 20 United States Code section 1401, that are required to assist a child  
14 with a disability who is eligible to receive special education services in  
15 order for the child to benefit from special education.

16 28. "Residential special education placement" means ~~the placement~~  
17 ~~of~~ PLACING a child with a disability in a public or private residential  
18 program, as provided in section 15-765, subsection G, in order to provide  
19 necessary special education and related services as specified in the  
20 child's individualized education program.

21 29. "Severe intellectual disability" means performance on standard  
22 measures of intellectual and adaptive behavior measures at least four  
23 standard deviations below the mean for children of the same age.

24 30. "Special education" means specially designed instruction that  
25 meets the unique needs of a child with a disability and that is provided  
26 without cost to the parents of the child.

27 31. "Special education referral" means a written request for an  
28 evaluation to determine whether a pupil is eligible for special education  
29 services that, for referrals not initiated by a parent, includes  
30 documentation of appropriate efforts to educate the pupil in the regular  
31 education program.

32 32. "Specially designed instruction" means adapting the content,  
33 methodology or delivery of instruction to address the unique needs of a  
34 child with a disability and to ensure that child's access to the general  
35 curriculum as identified in the academic standards adopted by the state  
36 board of education.

37 33. "Specific learning disability" has the same meaning as defined  
38 in 20 United States Code section 1401.

39 34. "Speech/language impairment":

40 (a) For a preschool child, means performance on a norm-referenced  
41 language test that measures at least one and one-half standard deviations  
42 below the mean for children of the same chronological age or whose speech,  
43 out of context, is unintelligible to a listener who is unfamiliar with the  
44 child. Eligibility for a preschool child under this subdivision is  
45 appropriate only when a comprehensive developmental assessment and

1 parental input indicate that the preschool child is not eligible for  
2 services under another preschool category or under the developmental delay  
3 category. If there is a discrepancy between the measures, the evaluation  
4 team shall determine eligibility based on a preponderance of the  
5 information presented.

6 (b) For a child who has reached the required age for kindergarten,  
7 means a speech or language impairment as defined in 34 Code of Federal  
8 Regulations section 300.8.

9 35. "State educational agency" means the ~~Arizona~~ department of  
10 education.

11 36. "State placing agency" has the same meaning prescribed in  
12 section 15-1181.

13 37. "Surrogate parent" means a person who has been appointed by the  
14 court or by the department of education pursuant to section 15-763.01 ~~in~~  
15 ~~order~~ to represent a child in decisions regarding special education.

16 38. "Traumatic brain injury":

17 (a) Means an acquired injury to the brain that is caused by an  
18 external physical force and that results in total or partial functional  
19 disability or psychosocial impairment, or both, that adversely affects  
20 educational performance.

21 (b) Applies to open or closed head injuries resulting in mild,  
22 moderate or severe impairments in one or more areas, including cognition,  
23 language, memory, attention, reasoning, abstract thinking, judgment,  
24 problem solving, sensory, perceptual and motor abilities, psychosocial  
25 behavior, physical functions, information processing and speech.

26 (c) Does not include brain injuries that are congenital or  
27 degenerative or brain injuries induced by birth trauma.

28 39. "Visual impairment" has the same meaning prescribed in 34 Code  
29 of Federal Regulations section 300.8.

30 40. "Ward of the state" has the same meaning prescribed in 20  
31 United States Code section 1401.

**APPROVED BY THE GOVERNOR APRIL 30, 2019.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2019.**

Passed the House April 23, 20 19,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 27, 20 19

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24<sup>th</sup> day of April, 20 19,

at 11:37 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 30<sup>th</sup> day of

April, 20 19,

at 4:46 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30 day of April, 20 19,

at 5:45 o'clock P. M.

[Signature]  
Secretary of State

S.B. 1177