

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1380

AN ACT

AMENDING SECTIONS 15-731, 15-755, 15-761 AND 15-766, ARIZONA REVISED STATUTES; REPEALING SECTION 15-767, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 7, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 15-767; RELATING TO SPECIAL EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-731, Arizona Revised Statutes, is amended to
3 read:

4 15-731. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accessible electronic file" means, until a national file format is
7 adopted by the United States department of education, a digital file in a
8 mutually agreed on by the publisher and the local educational agency
9 electronic file format that has been prepared using a markup language that
10 maintains the structural integrity of the information and can be processed by
11 conversion software. If a national file format is adopted by the United
12 States department of education, accessible electronic file means an
13 electronic file conforming to the specifications of the national file format
14 adopted by the United States department of education.

15 2. "~~Available~~ Authorized entity" means an authorized entity, as
16 defined by 17 United States Code section 121, that commonly provides
17 alternative format school materials that are accessible by schools in this
18 state and that has the vendor's authorization to make alternative formats.

19 3. "Child with a disability" means a pupil who is subject to an
20 individualized education ~~plan~~ PROGRAM pursuant to the individuals with
21 disabilities education act ~~of 1997~~ (20 United States Code sections 1400
22 through 1415) or a pupil with a section 504 plan, and whose ~~individualized~~
23 ~~education plan or~~ section 504 ACCOMMODATION plan requires the use of
24 instructional materials in a specialized format.

25 4. "Individualized education ~~plan~~ PROGRAM" has the same meaning
26 prescribed in 20 United States Code sections 1401 and 1412 ~~and section~~
27 ~~15-761~~.

28 5. "Nonprinted instructional materials" means nonprinted textbooks and
29 related core materials, including those that require the availability of
30 electronic equipment in order to be used as a learning resource, that are
31 written and published primarily for use in elementary school and secondary
32 school instruction and that are required by a state educational agency or a
33 local educational agency for use by pupils in the classroom. These materials
34 shall be available to the extent technologically available and may include
35 software programs and internet based materials.

36 6. "Printed instructional materials" means textbooks and related
37 printed core materials that are written and published primarily for use in
38 elementary school and secondary school instruction and that are required by a
39 state educational agency or a local educational agency for use by pupils in
40 the classroom.

41 7. "Section 504 plan" means a written statement developed for a pupil
42 with a disability that includes the provision of regular or special education
43 and related aids and services, including assistive technology, that is
44 designed to meet individual educational needs in accordance with 34 Code of
45 Federal Regulations part 104.

1 8. "Structural integrity" means the structure of all parts of the
2 printed instructional material ~~are~~ IS kept intact to the extent feasible and
3 as mutually agreed on by the publisher and the local educational agency. If
4 a national file format is adopted by the United States department of
5 education, the national file format's technical specifications for structural
6 integrity are required in the accessible electronic file.

7 9. "Vendor" means a person or entity that offers printed or nonprinted
8 instructional materials for commercial sale to a school district and other
9 public schools.

10 Sec. 2. Subject to the requirements of article IV, part 1, section 1,
11 Constitution of Arizona, section 15-755, Arizona Revised Statutes, is amended
12 to read:

13 15-755. Standardized testing for monitoring education progress

14 In order to ensure that the educational progress of all Arizona
15 students in academic subjects and in learning English is properly monitored,
16 a standardized, nationally-normed written test of academic subject matter
17 given in English shall be administered at least once each year to all Arizona
18 public schoolchildren in grades ~~2 and higher~~ TWO THROUGH TWELVE. ~~Only~~
19 ~~students classified as severely learning disabled may be exempted from this~~
20 ~~test.~~ ALL STUDENTS WITH DISABILITIES SHALL BE INCLUDED IN ALL GENERAL STATE
21 AND DISTRICT ASSESSMENTS, WITH APPROPRIATE ACCOMMODATIONS AND ALTERNATE
22 ASSESSMENTS WHERE NECESSARY AND AS INDICATED IN THEIR RESPECTIVE INDIVIDUAL
23 EDUCATION PROGRAM, IN ACCORDANCE WITH 20 UNITED STATES CODE SECTION 1412.
24 The particular test to be used shall be selected by the office of the state
25 superintendent of public instruction, and it is intended that the test shall
26 generally remain the same from year to year. The national percentile scores
27 of students shall be confidentially provided to individual parents, and the
28 aggregated percentile scores and distributional data for individual schools
29 and school districts shall be made publicly available on an internet web
30 site~~;~~, AND the scores for students classified as "limited-English" shall be
31 separately ~~sub-aggregated~~ SUBAGGREGATED and made publicly available there as
32 well. Although administration of this test is required solely for monitoring
33 educational progress, Arizona public officials and administrators may utilize
34 these test scores for other purposes as well if they so choose.

35 Sec. 3. Section 15-761, Arizona Revised Statutes, is amended to read:

36 15-761. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Autism" means a developmental disability that significantly
39 affects verbal and nonverbal communication and social interaction and that
40 adversely affects educational performance. Characteristics include
41 irregularities and impairments in communication, engagement in repetitive
42 activities and stereotyped movements, resistance to environmental change or
43 change in daily routines and unusual responses to sensory experiences.
44 Autism does not include children with characteristics of emotional disability
45 as defined in this section.

1 2. "Child with a disability":

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

6 (i) Autism.

7 (ii) Emotional disability.

8 (iii) Hearing impairment.

9 (iv) Other health impairments.

10 (v) Specific learning disability.

11 (vi) Mild, moderate or severe mental retardation.

12 (vii) Multiple disabilities.

13 (viii) Multiple disabilities with severe sensory impairment.

14 (ix) Orthopedic impairment.

15 (x) Preschool moderate delay.

16 (xi) Preschool severe delay.

17 (xii) Preschool speech/language delay.

18 (xiii) Speech/language impairment.

19 (xiv) Traumatic brain injury.

20 (xv) Visual impairment.

21 (b) Does not include a child who has difficulty in writing, speaking
22 or understanding the English language due to an environmental background in
23 which a language other than English is primarily or exclusively used.

24 3. "Due process hearing" means a fair and impartial administrative
25 hearing conducted by the state educational agency by an impartial
26 administrative law judge in accordance with federal and state law.

27 4. "Educational disadvantage" means a condition which has limited a
28 child's opportunity for educational experience resulting in a child achieving
29 less than a normal level of learning development.

30 5. "Eligibility for special education" means the pupil must have one
31 of the disabilities contained in paragraph 2 of this section and must also
32 require special education services in order to benefit from an educational
33 program.

34 6. "Emotional disability":

35 (a) Means a condition whereby a child exhibits one or more of the
36 following characteristics over a long period of time and to a marked degree
37 that adversely affects the child's performance in the educational
38 environment:

39 (i) An inability to learn which cannot be explained by intellectual,
40 sensory or health factors.

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

43 (iii) Inappropriate types of behavior or feelings under normal
44 circumstances.

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

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

3 (b) Includes children who are schizophrenic but does not include
4 children who are socially maladjusted unless they are also determined to have
5 an emotional disability as determined by evaluation as provided in section
6 15-766.

7 ~~7. "Foster parent" means a person who has been designated by a court
8 of competent jurisdiction to serve as the parent of a child with a disability
9 if that person has an ongoing, long term parental relationship with the
10 child, is willing to make educational decisions for the child and has no
11 personal interest that would conflict with the interests of the child.~~

12 ~~8.~~ 7. "Hearing impairment" means a loss of hearing acuity, as
13 determined by evaluation pursuant to section 15-766, which interferes with
14 the child's performance in the educational environment and requires the
15 provision of special education and related services.

16 ~~9.~~ 8. "Home school district" means the school district in which the
17 person resides who has legal custody of the child, as provided in section
18 15-824, subsection B. If the child is a ward of the state and a specific
19 person does not have legal custody of the child, the home school district is
20 the district that the child last attended or, if the child has not previously
21 attended a public school in this state, the school district within which the
22 child currently resides.

23 ~~10.~~ 9. "Impartial administrative law judge" means an administrative
24 law judge of the office of administrative hearings ~~and~~ who is knowledgeable
25 in the laws governing special education and administrative hearings.

26 ~~11.~~ 10. "Individualized education program" means a written statement,
27 as defined in 20 United States Code sections 1401 and 1412, for providing
28 special education **AND RELATED** services to a child with a disability ~~that~~
29 ~~includes the pupil's present levels of educational performance, the~~
30 ~~measurable annual goals and short term objectives or benchmarks for~~
31 ~~evaluating progress toward those goals, the requirements for high school~~
32 ~~graduation, including provisions for testing and testing accommodations, and~~
33 ~~the specific special education and related services to be provided.~~

34 ~~12.~~ 11. "Individualized education program team" means a team whose
35 task is to develop an appropriate educational program for the child and **HAS**
36 **THE SAME MEANING PRESCRIBED IN 20 UNITED STATES CODE SECTION 1414.** ~~that~~
37 ~~includes:~~

38 ~~(a) The parent.~~

39 ~~(b) At least one of the child's regular education teachers.~~

40 ~~(c) One of the child's special education teachers.~~

41 ~~(d) A representative of the public agency that is qualified to provide~~
42 ~~or supervise the provision of instruction that is designed specifically for~~
43 ~~children with disabilities who is knowledgeable about general curriculum and~~
44 ~~the availability of resources.~~

1 ~~(e) A person who can interpret the instructional implications of~~
2 ~~evaluation results.~~

3 ~~(f) The child, if appropriate.~~

4 ~~(g) At the discretion of the parent or the public agency, other~~
5 ~~persons with knowledge or special expertise about the child.~~

6 ~~13.~~ 12. "Mental retardation" means a significant impairment of general
7 intellectual functioning that exists concurrently with deficits in adaptive
8 behavior and that adversely affects the child's performance in the
9 educational environment.

10 ~~14.~~ 13. "Mild mental retardation" means performance on standard
11 measures of intellectual and adaptive behavior between two and three standard
12 deviations below the mean for children of the same age.

13 ~~15.~~ 14. "Moderate mental retardation" means performance on standard
14 measures of intellectual and adaptive behavior between three and four
15 standard deviations below the mean for children of the same age.

16 ~~16.~~ 15. "Multidisciplinary evaluation team" means a team of persons
17 including individuals described as the individualized education program team
18 and other qualified professionals who shall determine whether a child is
19 eligible for special education.

20 ~~17.~~ 16. "Multiple disabilities" means learning and developmental
21 problems resulting from multiple disabilities as determined by evaluation
22 pursuant to section 15-766 that cannot be provided for adequately in a
23 program designed to meet the needs of children with less complex
24 disabilities. Multiple disabilities include any of the following conditions
25 that require the provision of special education and related services:

26 (a) Two or more of the following conditions:

27 (i) Hearing impairment.

28 (ii) Orthopedic impairment.

29 (iii) Moderate mental retardation.

30 (iv) Visual impairment.

31 (b) A child with a disability listed in subdivision (a) of this
32 paragraph existing concurrently with a condition of mild mental retardation,
33 emotional disability or specific learning disability.

34 ~~18.~~ 17. "Multiple disabilities with severe sensory impairment" means
35 multiple disabilities that include at least one of the following:

36 (a) Severe visual impairment or severe hearing impairment in
37 combination with another severe disability.

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

39 ~~19.~~ 18. "Orthopedic impairment" means one or more severe orthopedic
40 impairments and includes those that are caused by congenital anomaly, disease
41 and other causes, such as amputation or cerebral palsy, and that adversely
42 affect a child's performance in the educational environment.

43 ~~20.~~ 19. "Other health impairments" means limited strength, vitality or
44 alertness, including a heightened alertness to environmental stimuli, due to

1 chronic or acute health problems which adversely affect a pupil's educational
2 performance.

3 ~~21-~~ 20. "Out-of-home care" means the placement of a child with a
4 disability outside of the home environment and includes twenty-four hour
5 residential care, group care or foster care on either a full-time or
6 part-time basis.

7 ~~22-~~ 21. "Parent" means:

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

9 (b) A guardian, but not this State if the child is a ward of this
10 state.

11 (c) A person acting in the place of a natural or adoptive parent with
12 whom the child lives or a person who is legally responsible for the child's
13 welfare.

14 (d) A surrogate parent.

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

16 ~~23-~~ 22. "Preschool child" means a child who is at least three years of
17 age but who has not reached the required age for kindergarten, subject to
18 section 15-771, subsection G.

19 ~~24-~~ 23. "Preschool moderate delay" means performance by a preschool
20 child on a norm-referenced test that measures at least one and one-half, but
21 not more than three, standard deviations below the mean for children of the
22 same chronological age in two or more of the following areas:

23 (a) Cognitive development.

24 (b) Physical development.

25 (c) Communication development.

26 (d) Social or emotional development.

27 (e) Adaptive development.

28 The results of the norm-referenced measure must be corroborated by
29 information from a comprehensive developmental assessment and from parental
30 input, if available, as measured by a judgment based assessment or survey.
31 If there is a discrepancy between the measures, the evaluation team shall
32 determine eligibility based on a preponderance of the information presented.

33 ~~25-~~ 24. "Preschool severe delay" means performance by a preschool
34 child on a norm-referenced test that measures more than three standard
35 deviations below the mean for children of the same chronological age in one
36 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 parental
44 input, if available, as measured by a judgment based assessment or survey.

1 If there is a discrepancy between the measures, the evaluation team shall
2 determine eligibility based on a preponderance of the information presented.

3 ~~26-~~ 25. "Preschool speech/language delay" means performance by a
4 preschool child on a norm-referenced language test that measures at least one
5 and one-half standard deviations below the mean for children of the same
6 chronological age or whose speech, out of context, is unintelligible to a
7 listener who is unfamiliar with the child. Eligibility under this paragraph
8 is appropriate only if a comprehensive developmental assessment or
9 norm-referenced assessment and parental input indicate that the child is not
10 eligible for services under another preschool category. The evaluation team
11 shall determine eligibility based on a preponderance of the information
12 presented.

13 ~~27-~~ 26. "Prior written notice" means ~~notice, as defined in 20 United~~
14 ~~States Code sections 1414 and 1415, that includes a description of the action~~
15 ~~proposed or refused by the school, an explanation of why the school proposes~~
16 ~~or refuses to take the action, a description of any options the school~~
17 ~~considered and the reasons why those options were rejected, a description of~~
18 ~~each evaluation procedure, test, record or report the school used as a basis~~
19 ~~for the proposal or refusal, a description of any other factors that were~~
20 ~~relevant to the school's proposal or refusal, a full explanation of all of~~
21 ~~the procedural safeguards available to the parent and a listing of sources~~
22 ~~for parents to contact to obtain assistance in understanding the notice~~
23 WRITTEN PRIOR NOTICE THAT A PUBLIC EDUCATIONAL AGENCY IS REQUIRED TO SEND TO
24 PARENTS WHENEVER THE PUBLIC EDUCATIONAL AGENCY PROPOSES OR REFUSES TO
25 INITIATE OR CHANGE THE IDENTIFICATION, EVALUATION OR EDUCATIONAL PLACEMENT OF
26 A CHILD WITH A DISABILITY OR THE PROVISION OF A FREE APPROPRIATE PUBLIC
27 EDUCATION.

28 ~~28-~~ 27. "Public educational agency" means a school district, a charter
29 school, an accommodation school, a state supported institution or any other
30 political subdivision of this state that is responsible for providing
31 education to children with disabilities.

32 ~~29-~~ 28. "Related services" means those supportive services, as defined
33 in 20 United States Code section 1401, that are required to assist a child
34 with a disability who is eligible to receive special education services in
35 order for the child to benefit from special education.

36 ~~30-~~ 29. "Residential special education placement" means the placement
37 of a child with a disability in a public or private residential program, as
38 provided in section 15-765, subsection G, in order to provide necessary
39 special education and related services as specified in the child's
40 individualized education program.

41 ~~31-~~ 30. "Severe mental retardation" means performance on standard
42 measures of intellectual and adaptive behavior measures at least four
43 standard deviations below the mean for children of the same age.

1 ~~32.~~ 31. "Special education" means specially designed instruction that
2 meets the unique needs of a child with a disability and that is provided
3 without cost to the parents of the child.

4 ~~33.~~ 32. "Special education referral" means a written request for an
5 evaluation to determine whether a pupil is eligible for special education
6 services that, for referrals not initiated by a parent, includes
7 documentation of appropriate efforts to educate the pupil in the regular
8 education program.

9 ~~34.~~ 33. "Specially designed instruction" means adapting the content,
10 methodology or delivery of instruction to address the unique needs of a child
11 with a disability and to ensure that child's access to the general curriculum
12 as identified in the academic standards adopted by the state board of
13 education.

14 ~~35.~~ 34. "Specific learning disability":

15 (a) Means a specific learning disorder in one or more of the basic
16 psychological processes involved in understanding or in using language,
17 spoken or written, which may manifest itself in an imperfect ability to
18 listen, think, speak, read, write, spell or do mathematical calculations.

19 (b) Includes such conditions as perceptual disabilities, minimal brain
20 dysfunction, dyslexia and aphasia.

21 (c) Does not include learning problems which are primarily the result
22 of visual, hearing, motor or emotional disabilities, of mental retardation or
23 of environmental, cultural or economic disadvantage.

24 ~~36.~~ 35. "Speech/language impairment" means a communication disorder
25 such as stuttering, impaired articulation, severe disorders of syntax,
26 semantics or vocabulary, or functional language skills, or a voice
27 impairment, as determined by evaluation pursuant to section 15-766, to the
28 extent that it calls attention to itself, interferes with communication or
29 causes a child to be maladjusted.

30 ~~37.~~ 36. "State educational agency" means the Arizona department of
31 education.

32 ~~38.~~ 37. "State placing agency" has the same meaning prescribed in
33 section 15-1181.

34 ~~39.~~ 38. "Surrogate parent" means a person who has been appointed by
35 the court pursuant to section 15-763.01 in order to represent a child in
36 decisions regarding special education.

37 ~~40.~~ 39. "Traumatic brain injury":

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

42 (b) Applies to open or closed head injuries resulting in mild,
43 moderate or severe impairments in one or more areas, including cognition,
44 language, memory, attention, reasoning, abstract thinking, judgment, problem

1 solving, sensory, perceptual and motor abilities, psychosocial behavior,
2 physical functions, information processing and speech.

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

5 ~~41-~~ 40. "Visual impairment" means a loss in visual acuity or a loss of
6 visual field, as determined by evaluation pursuant to section 15-766, that
7 interferes with the child's performance in the educational environment and
8 that requires the provision of special education and related services.

9 Sec. 4. Section 15-766, Arizona Revised Statutes, is amended to read:

10 15-766. Evaluation of child for placement in special education
11 program; due process hearing procedures

12 A. A special education referral shall be made under the direction of
13 the chief administrative official of the school district or county, or such
14 person officially designated as responsible for special education, after
15 consultation with the parent or guardian.

16 B. Before a child who is suspected of having a disability is placed in
17 a special education program, an evaluation shall be made ~~of the capabilities~~
18 ~~and limitations of the child~~ IN ACCORDANCE WITH THE INDIVIDUALS WITH
19 DISABILITIES EDUCATION ACT (20 UNITED STATES CODE SECTION 1414) TO DETERMINE
20 WHETHER A CHILD IS A CHILD WITH A DISABILITY. A SCHOOL DISTRICT OR CHARTER
21 SCHOOL SHALL SPECIFY EXPLICITLY IN THE OFFICIAL NOTIFICATION TO ANY PARENT
22 THAT AN INITIAL EVALUATION MAY BE CONDUCTED THAT THE PARENT HAS THE OPTION TO
23 CONSENT OR REFUSE THE INITIAL EVALUATION IN ACCORDANCE WITH THE INDIVIDUALS
24 WITH DISABILITIES EDUCATION ACT (20 UNITED STATES CODE SECTIONS 615 AND
25 1414). THIS EVALUATION SHALL BE CONDUCTED WITHIN SIXTY DAYS AFTER RECEIVING
26 PARENTAL CONSENT FOR THE EVALUATION. A reevaluation shall be conducted NOT
27 MORE THAN ONCE EACH YEAR, UNLESS THE PARENT AND THE PUBLIC EDUCATION AGENCY
28 OTHERWISE AGREE, AND at least every three years IF THE PUBLIC EDUCATIONAL
29 AGENCY DETERMINES THAT THE EDUCATIONAL OR RELATED SERVICES NEEDS OF THE CHILD
30 WARRANT A REEVALUATION, OR IF THE CHILD'S PARENTS OR TEACHER REQUESTS A
31 REEVALUATION, UNLESS THE PARENT AND THE PUBLIC EDUCATION AGENCY AGREE THAT A
32 REEVALUATION IS UNNECESSARY. ~~to determine if the disability remains and to~~
33 ~~determine continued placement in a special education program. The evaluation~~
34 ~~and reevaluations shall be made by a multidisciplinary evaluation team under~~
35 ~~the direction of the chief administrative official of the school district or~~
36 ~~county or such person officially designated as responsible for special~~
37 ~~education. The team shall review existing evaluation data and shall collect~~
38 ~~additional data, if necessary, to determine the eligibility of the pupil for~~
39 ~~special education and to develop an appropriate individual education~~
40 ~~program. The school district or county may conduct joint evaluations,~~
41 ~~directly or indirectly with the department of economic security, the~~
42 ~~department of health services, the department of juvenile corrections and the~~
43 ~~juvenile courts, or the school district may contract with any state agency or~~
44 ~~department for all or a portion of the components of the evaluations required~~
45 ~~by this section. The determination of eligibility for special education~~

1 ~~services is solely the responsibility of the multidisciplinary evaluation~~
2 ~~team. The evaluation pursuant to this section shall contain in writing, but~~
3 ~~is not limited to:~~

4 ~~1. A review of current evaluations, including types of tests and the~~
5 ~~results of those tests.~~

6 ~~2. Information provided by the parents, including medical and~~
7 ~~developmental information and history.~~

8 ~~3. Educational history, including the reason for the referral, current~~
9 ~~classroom based assessments and observations by teachers and related service~~
10 ~~providers.~~

11 ~~4. Documentation of whether the child's educational problems are~~
12 ~~related to or resulting primarily from reasons of educational disadvantage.~~

13 ~~5. A determination of whether the child has a category of disability~~
14 ~~as prescribed in section 15-761.~~

15 ~~6. The child's present levels of academic performance and current~~
16 ~~educational needs.~~

17 ~~7. A determination of whether the child needs special education and~~
18 ~~related services.~~

19 ~~8. A determination of whether any additions or modifications are~~
20 ~~needed to allow the child to progress in the general curriculum.~~

21 ~~C. The results of the evaluation shall be submitted in writing and~~
22 ~~with recommendations to the chief administrative official of the school~~
23 ~~district or county or to such person designated by the chief administrative~~
24 ~~official as responsible for special education.~~

25 ~~D. C.~~ Any of the evaluation components that are enumerated in
26 subsection B of this section, that are less than three years old and that are
27 appropriate to consider under the specific circumstances may be shared by and
28 among state agencies for the purpose of expediting completion of the
29 evaluation and placement process.

30 ~~E. D.~~ The chief administrative official of the school district or
31 county or the person officially designated as responsible for special
32 education shall place the child, based upon the consensus recommendation of
33 the individualized education program team and subject to due process pursuant
34 to 20 United States Code section 1415, except that a child shall not be
35 placed in a special education program without the ~~approval~~ WRITTEN CONSENT of
36 the child's parent or guardian, ~~or retained in such a program without actual~~
37 ~~notice to the parent or guardian.~~

38 ~~F. E.~~ The due process hearing procedures prescribed in this section
39 extend to the parents of a child, a student who has reached the age of
40 majority or the public educational agency or agencies involved in any
41 decisions regarding the student. All due process hearings shall be conducted
42 in accordance with federal and state laws governing the educational rights of
43 children with known or suspected disabilities. The state board of education
44 shall adopt rules for implementing this section that comply with the
45 following:

1 1. The parent, the adult student or the public educational agency or
2 agencies may initiate due process hearing procedures under either of the
3 following circumstances:

4 (a) There is a proposal to initiate or change the identification,
5 evaluation or educational placement of the child, or the provision of a free
6 appropriate public education to the child.

7 (b) There is a refusal to initiate or change the identification,
8 evaluation or educational placement of the child, or the provision of a free
9 appropriate public education to the child.

10 2. Either the parent, the adult student or the public educational
11 agency or agencies may initiate a due process hearing by submitting a written
12 request to the state educational agency ~~or~~ AND the public educational agency
13 involved in any decisions regarding the student. The state educational
14 agency shall provide a model form that any party may use in requesting a due
15 process hearing. The public educational agency shall promptly forward any
16 requests received to the state educational agency. Any request received by
17 the state educational agency shall be transmitted immediately to the office
18 of administrative hearings and the public educational agency.

19 3. A decision made in a hearing conducted pursuant to this section
20 shall be final, except that any party involved in a hearing may bring a civil
21 action in any court of competent jurisdiction without regard to the amount in
22 controversy.

23 ~~G.~~ F. The public educational agency shall pay all costs incurred by
24 the office of administrative hearings associated with any hearing conducted
25 pursuant to this section and the public educational agency or a public agency
26 pool operated pursuant to section 11-952.01 in which the public educational
27 agency participates shall contract with the office of administrative hearings
28 for this purpose.

29 ~~H.~~ G. Title 41, chapter 6, article 10 shall apply to all hearings to
30 the extent not inconsistent with this section and federal and state law
31 regarding the education of students with disabilities.

32 Sec. 5. Repeal

33 Section 15-767, Arizona Revised Statutes, is repealed.

34 Sec. 6. Title 15, chapter 7, article 4, Arizona Revised Statutes, is
35 amended by adding a new section 15-767, to read:

36 15-767. Annual goals; notification

37 IN ACCORDANCE WITH 20 UNITED STATES CODE SECTION 1414, THE PARENTS OF A
38 CHILD WITH A DISABILITY SHALL BE NOTIFIED REGARDING THE PROGRESS THAT THE
39 CHILD IS MAKING TOWARD MEETING THE ANNUAL GOALS AS PROVIDED IN THE CHILD'S
40 INDIVIDUALIZED EDUCATION PROGRAM.

41 Sec. 7. Requirements for enactment; three-fourths vote

42 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
43 section 15-755, Arizona Revised Statutes, as amended by this act, is
44 effective only on the affirmative vote of at least three-fourths of the
45 members of each house of the legislature.