

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2278

AN ACT

AMENDING SECTIONS 15-761, 15-773, 15-913.01, 15-1181, 15-1201, 15-1343 AND 15-1372, ARIZONA REVISED STATUTES; 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 15-761, 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 or  
11 change in daily routines and unusual responses to sensory experiences.  
12 Autism does not include children with characteristics of emotional disability  
13 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 twenty-two  
16 years of age, EXCEPT THAT A PERSON WHO IS RECEIVING SPECIAL EDUCATION  
17 SERVICES AT THE TIME THE PERSON REACHES TWENTY-TWO YEARS OF AGE SHALL  
18 CONTINUE TO RECEIVE SPECIAL EDUCATION SERVICES FROM THAT SCHOOL UNTIL THE END  
19 OF THAT SCHOOL YEAR, who has been evaluated pursuant to section 15-766 and  
20 found to have at least one of the following disabilities and who, because of  
21 the disability, needs special education and related services:

- 22 (i) Autism.  
23 (ii) Emotional disability.  
24 (iii) Hearing impairment.  
25 (iv) Other health impairments.  
26 (v) Specific learning disability.  
27 (vi) Mild, moderate or severe mental retardation.  
28 (vii) Multiple disabilities.  
29 (viii) Multiple disabilities with severe sensory impairment.  
30 (ix) Orthopedic impairment.  
31 (x) Preschool moderate delay.  
32 (xi) Preschool severe delay.  
33 (xii) Preschool speech/language delay.  
34 (xiii) Speech/language impairment.  
35 (xiv) Traumatic brain injury.  
36 (xv) Visual impairment.

37 (b) Does not include a child if the determinant factor for the  
38 classification is one or more of the following:

- 39 (i) A lack of appropriate instruction in reading, including essential  
40 components of reading instruction.  
41 (ii) A lack of appropriate instruction in mathematics.  
42 (iii) Difficulty in writing, speaking or understanding the English  
43 language due to an environmental background in which a language other than  
44 English is primarily or exclusively used.

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

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

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

11          6. "Emotional disability":

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

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

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

20           (iii) Inappropriate types of behavior or feelings under normal  
21 circumstances.

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

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

25           (b) Includes children who are schizophrenic but does not include  
26 children who are socially maladjusted unless they are also determined to have  
27 an emotional disability as determined by evaluation as provided in section  
28 15-766.

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

33          8. "Home school district" means the school district in which the  
34 person resides who has legal custody of the child, as provided in section  
35 15-824, subsection B. If the child is a ward of the state and a specific  
36 person does not have legal custody of the child, the home school district is  
37 the district that the child last attended or, if the child has not previously  
38 attended a public school in this state, the school district within which the  
39 child currently resides.

40          9. "Impartial administrative law judge" means an administrative law  
41 judge of the office of administrative hearings who is knowledgeable in the  
42 laws governing special education and administrative hearings.

43          10. "Individualized education program" means a written statement, as  
44 defined in 20 United States Code sections 1401 and 1412, for providing  
45 special education and related services to a child with a disability.

1           11. "Individualized education program team" means a team whose task is  
2 to develop an appropriate educational program for the child and has the same  
3 meaning prescribed in 20 United States Code section 1414.

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

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

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

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

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

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

25           (i) Hearing impairment.

26           (ii) Orthopedic impairment.

27           (iii) Moderate mental retardation.

28           (iv) Visual impairment.

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

32           17. "Multiple disabilities with severe sensory impairment" means  
33 multiple disabilities that include at least one of the following:

34           (a) Severe visual impairment or severe hearing impairment in  
35 combination with another severe disability.

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

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

41           19. "Other health impairments" means limited strength, vitality or  
42 alertness, including a heightened alertness to environmental stimuli, due to  
43 chronic or acute health problems which adversely affect a pupil's educational  
44 performance.

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

4           21. "Parent" means:

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

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

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

11           (d) A surrogate parent.

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

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

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

20           (a) Cognitive development.

21           (b) Physical development.

22           (c) Communication development.

23           (d) Social or emotional development.

24           (e) Adaptive development.

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

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

34           (a) Cognitive development.

35           (b) Physical development.

36           (c) Communication development.

37           (d) Social or emotional development.

38           (e) Adaptive development.

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

44           25. "Preschool speech/language delay" means performance by a preschool  
45 child on a norm-referenced language test that measures at least one and

1 one-half standard deviations below the mean for children of the same  
2 chronological age or whose speech, out of context, is unintelligible to a  
3 listener who is unfamiliar with the child. Eligibility under this paragraph  
4 is appropriate only if a comprehensive developmental assessment or  
5 norm-referenced assessment and parental input indicate that the child is not  
6 eligible for services under another preschool category. The evaluation team  
7 shall determine eligibility based on a preponderance of the information  
8 presented.

9 26. "Prior written notice" means written prior notice that a public  
10 educational agency is required to send to parents whenever the public  
11 educational agency proposes or refuses to initiate or change the  
12 identification, evaluation or educational placement of a child with a  
13 disability or the provision of a free appropriate public education.

14 27. "Public educational agency" means a school district, a charter  
15 school, an accommodation school, a state supported institution or any other  
16 political subdivision of this state that is responsible for providing  
17 education to children with disabilities.

18 28. "Related services" means those supportive services, as defined in  
19 20 United States Code section 1401, that are required to assist a child with  
20 a disability who is eligible to receive special education services in order  
21 for the child to benefit from special education.

22 29. "Residential special education placement" means the placement of a  
23 child with a disability in a public or private residential program, as  
24 provided in section 15-765, subsection G, in order to provide necessary  
25 special education and related services as specified in the child's  
26 individualized education program.

27 30. "Severe mental retardation" means performance on standard measures  
28 of intellectual and adaptive behavior measures at least four standard  
29 deviations below the mean for children of the same age.

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

33 32. "Special education referral" means a written request for an  
34 evaluation to determine whether a pupil is eligible for special education  
35 services that, for referrals not initiated by a parent, includes  
36 documentation of appropriate efforts to educate the pupil in the regular  
37 education program.

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

43 34. "Specific learning disability" has the same meaning prescribed in  
44 20 United States Code section 1401.

- 1           35. "Speech/language impairment" means A speech or language impairment  
2 as ~~prescribed~~ DEFINED in 34 Code of Federal Regulations section 300.8.
- 3           36. "State educational agency" means the Arizona department of  
4 education.
- 5           37. "State placing agency" has the same meaning prescribed in section  
6 15-1181.
- 7           38. "Surrogate parent" means a person who has been appointed by the  
8 court or by the department of education pursuant to section 15-763.01 in  
9 order to represent a child in decisions regarding special education.
- 10          39. "Traumatic brain injury":
- 11           (a) Means an acquired injury to the brain that is caused by an  
12 external physical force and that results in total or partial functional  
13 disability or psychosocial impairment, or both, that adversely affects  
14 educational performance.
- 15           (b) Applies to open or closed head injuries resulting in mild,  
16 moderate or severe impairments in one or more areas, including cognition,  
17 language, memory, attention, reasoning, abstract thinking, judgment, problem  
18 solving, sensory, perceptual and motor abilities, psychosocial behavior,  
19 physical functions, information processing and speech.
- 20           (c) Does not include brain injuries that are congenital or  
21 degenerative or brain injuries induced by birth trauma.
- 22          40. "Visual impairment" has the same meaning prescribed in 34 Code of  
23 Federal Regulations section 300.8.
- 24          41. "Ward of the state" has the same meaning prescribed in 20 United  
25 States Code section 1401.
- 26          Sec. 2. Section 15-773, Arizona Revised Statutes, is amended to read:  
27 15-773. ~~Transfer of parental rights at age of majority~~
- 28          A. When a pupil with a disability reaches eighteen years of age, all  
29 rights previously accorded to the pupil's parent under part B of the  
30 individuals with disabilities education act (20 United States Code sections  
31 1400 through 1420) and all rights previously accorded to the pupil's parent  
32 under the laws of this state are transferred to the pupil, unless the pupil  
33 has been declared legally incompetent.
- 34          B. A pupil with a disability who is at least eighteen years of age but  
35 ~~under~~ WHO HAS NOT REACHED twenty-two years of age DURING THE CURRENT SCHOOL  
36 YEAR and who has not been declared legally incompetent, and who manifests the  
37 capacity to give and gives informed consent, may execute a delegation of  
38 right to make educational decisions pursuant to this section for the purpose  
39 of appointing the pupil's parent or agent to represent the educational  
40 interests of the pupil. A ~~student~~ PUPIL shall have the right to terminate  
41 the agreement at any time and resume the right to make decisions regarding  
42 ~~their~~ THE PUPIL'S education.
- 43          C. The delegation of right to make educational decisions shall meet  
44 all of the following requirements:

- 1           1. Contain language indicating the pupil is eighteen years of age or  
2 older but ~~under~~ HAS NOT REACHED twenty-two years of age DURING THE CURRENT  
3 SCHOOL YEAR.
- 4           2. Contain language that the pupil intends to delegate the pupil's  
5 educational rights under state and federal law to a specified individual who  
6 is at least eighteen years of age.
- 7           3. Contain language that the pupil has not been declared legally  
8 incompetent.
- 9           4. Contain language that the pupil is entitled to be present during  
10 the development of any individualized education plan and that any issues or  
11 concerns raised by the pupil will be addressed.
- 12           5. Not exceed one year in duration, but may be renewed with the  
13 written or other formal authorization of the pupil and the person who accepts  
14 the delegation each year until the END OF THE SCHOOL YEAR IN WHICH THE pupil  
15 reaches twenty-two years of age.
- 16           6. Contain language permitting the pupil to terminate at any time.
- 17           7. Be signed by the pupil or contain some other manifestation of  
18 assent that the pupil has agreed to the terms of the delegation.
- 19           8. Be signed or assented to by the person who accepts the delegation.
- 20           9. Be notarized.
- 21           D. A notarized instrument that is signed or assented to by the pupil  
22 and the person who accepts the delegation and that is in substantially the  
23 following form shall be presumed to satisfy the requirements of subsection C:  
24           Delegation of Right to Make Educational Decisions  
25           I, \_\_\_\_\_, am eighteen years of age but under  
26 twenty-two years of age OR HAVE REACHED TWENTY-TWO YEARS OF AGE  
27 DURING THE CURRENT SCHOOL YEAR and a pupil who has the right to  
28 make educational decisions for myself under state and federal  
29 law. I have not been declared legally incompetent, and as of  
30 the date of the execution of this document, I delegate my right  
31 to give consent and to make decisions concerning educational  
32 matters to \_\_\_\_\_, who will be considered my  
33 "parent" for the purposes of 20 United States Code section 1401  
34 and will exercise all the rights and responsibilities concerning  
35 my education that are conferred on a parent pursuant to state  
36 and federal law. I understand and give my consent that  
37 \_\_\_\_\_ will make all decisions relating to my education  
38 on my behalf. I understand that I am entitled to be present  
39 during the development of any individualized education plan and  
40 that any issues or concerns I may have will be addressed. This  
41 delegation will be in effect for one year from today's date and  
42 may be renewed only by my written or formal authorization. I  
43 understand that I have the right to terminate this agreement at  
44 any time and resume the right to make decisions regarding my  
45 education.



1 E. The delegation of right to make educational decisions pursuant to  
2 this section may be given in writing, by audio or video means or in any other  
3 alternative format that is necessitated by the pupil's disability.

4 Sec. 3. Section 15-913.01, Arizona Revised Statutes, is amended to  
5 read:

6 15-913.01. Education program: county jails

7 A. Each county that operates a county jail shall offer an education  
8 program to serve all prisoners who are under eighteen years of age and  
9 prisoners with disabilities ~~who are age twenty-one or younger~~ THROUGH THE END  
10 OF THE SCHOOL YEAR IN WHICH THE PRISONER TURNS TWENTY-TWO YEARS OF AGE and  
11 who are confined in the county jail. The county school superintendent and  
12 the sheriff in each county shall agree on the method of delivery of the  
13 education program.

14 B. The county school superintendent shall develop policies and  
15 procedures for the transfer of educational records of any prisoner confined  
16 in a county jail who has been transferred from a juvenile detention center or  
17 from any other public agency which has provided educational services to that  
18 prisoner.

19 C. A county may operate its county jail education program through an  
20 accommodation school that provides alternative education services pursuant to  
21 section 15-308, except that each pupil enrolled in the accommodation school  
22 county jail education program shall be funded at an amount equal to  
23 seventy-two per cent of the amount for that pupil if that pupil were enrolled  
24 in another accommodation school program.

25 D. If a county chooses not to operate its county jail education  
26 program through an accommodation school, the county school superintendent may  
27 establish a county jail education fund to provide financial support to the  
28 program. The county jail education fund for each program shall consist of a  
29 base amount plus a variable amount. For fiscal year 1999-2000 the base  
30 amount is fourteen thousand four hundred dollars and the variable amount  
31 shall be determined pursuant to subsection E of this section. The base  
32 amount and variable amount for each county or counties served shall be funded  
33 with state general fund monies, subject to appropriation. The county school  
34 superintendent must submit claims for payments to the state superintendent of  
35 public instruction. The county school superintendent shall deposit the  
36 payments into the county jail education fund.

37 E. The variable amount shall be determined as follows:

38 1. Determine the number of days in the prior fiscal year that each  
39 pupil who is a prisoner and had been in the county jail for more than  
40 forty-eight hours received an instructional program of at least two hundred  
41 forty minutes. No school district may count a pupil as being in attendance  
42 in that school district on a day that the pupil is counted as a prisoner for  
43 the purposes of this paragraph.

44 2. Multiply the number of days determined under paragraph 1 of this  
45 subsection by the following amount:

1 (a) For fiscal year 1999-2000, ten dollars eighty cents.

2 (b) For fiscal year 2000-2001 and each year thereafter, the amount for  
3 the prior year adjusted by any growth rate prescribed by law, subject to  
4 legislative appropriation.

5 3. For each pupil who is a child with a disability as defined in  
6 section 15-761, who is a prisoner and who had been in the county jail for  
7 more than forty-eight hours:

8 (a) Determine the amount prescribed in section 15-1204, subsection E,  
9 paragraph 1 or 2, multiply the amount by .72 and add seventy-two dollars for  
10 capital outlay costs.

11 (b) Divide the sum determined under subdivision (a) of this paragraph  
12 by one hundred seventy-five.

13 (c) Subtract the amount prescribed in paragraph 2 of this subsection  
14 from the quotient determined in subdivision (b) of this paragraph.

15 (d) Determine the number of days in the prior fiscal year that the  
16 pupil received an instructional program of at least two hundred forty  
17 minutes.

18 (e) Multiply the amount determined in subdivision (d) of this  
19 paragraph by the difference determined in subdivision (c) of this paragraph.

20 4. Add the amounts determined in paragraph 3 of this subsection for  
21 all pupils with disabilities who are prisoners.

22 5. Add the sum determined in paragraph 4 of this subsection to the  
23 product determined in paragraph 2 of this subsection. This sum is the  
24 variable amount.

25 F. If a county jail education program serves more than one county, the  
26 county school superintendents and the sheriffs of the counties being served  
27 shall agree on a county of jurisdiction. The county school superintendent  
28 shall deposit into the county jail education fund of the county of  
29 jurisdiction monies that are received from the superintendent of public  
30 instruction pursuant to this section for all counties served by the county of  
31 jurisdiction.

32 G. If a county operated a county jail education program through an  
33 accommodation school in the year before it begins to operate its county jail  
34 education program as provided in subsection D of this section, for the first  
35 year of operation as provided in subsection D of this section, the student  
36 count of the accommodation school shall be reduced by the average daily  
37 membership attributable to the accommodation school's county jail program in  
38 its last fiscal year of operation. The provisions of section 15-942 shall  
39 not apply to this reduction in student count.

40 Sec. 4. Section 15-1181, Arizona Revised Statutes, is amended to read:

41 15-1181. Definitions

42 In this article, unless the context otherwise requires:

43 1. "Child" means a person who is at least three years of age by  
44 September 1 of the current year but who is under twenty-two years of age,  
45 EXCEPT THAT A PERSON WHO IS RECEIVING SPECIAL EDUCATION SERVICES AT THE TIME

1 THE PERSON REACHES TWENTY-TWO YEARS OF AGE SHALL CONTINUE TO RECEIVE SPECIAL  
2 EDUCATION SERVICES FROM THAT SCHOOL UNTIL THE END OF THAT SCHOOL YEAR.

3 2. "Foster parent" means a person who may serve as the parent of a  
4 child with disabilities if that person has an ongoing, long-term parental  
5 relationship with the child, is willing to make educational decisions for the  
6 child and has no personal interest that would conflict with the interests of  
7 the child.

8 3. "Fund" means the special education fund.

9 4. "Home school district" has the same meaning prescribed in section  
10 15-761.

11 5. "Individualized education program" has the same meaning prescribed  
12 in section 15-761.

13 6. "Parent" means the natural or adoptive parent of a child, the legal  
14 guardian of a child, a relative with whom a child resides and who is acting  
15 as the parent of that child or a surrogate parent who has been appointed for  
16 a child pursuant to section 15-763.01. Parent does not mean this state if  
17 the child is a ward of the state.

18 7. "Place" or "placement" means placement of a child in a private  
19 residential facility for residential special education placement as defined  
20 in section 15-761 or by a state placing agency for care, safety or treatment  
21 reasons.

22 8. "Private residential facility" means a private facility that is  
23 licensed by the department of economic security or department of health  
24 services and to which one of the following also applies:

25 (a) For special education placements, the facility has been approved  
26 by the division of special education pursuant to section 15-765 for the  
27 purpose of providing special education and related services.

28 (b) For other than special education placements, the facility has been  
29 accredited by the north central association of colleges and secondary  
30 schools, except that private facilities applying for initial approval as a  
31 private school are not required to receive accreditation until three years  
32 after the date of initial approval as long as continual progress toward  
33 accreditation is maintained.

34 9. "Related services" means related services as defined in section  
35 15-761.

36 10. "Residential special education placement" has the same meaning  
37 prescribed in section 15-761.

38 11. "Special education" has the same meaning prescribed in section  
39 15-761.

40 12. "State placing agency" means the department of juvenile  
41 corrections, the department of economic security, the department of health  
42 services or the administrative office of the court.

1           Sec. 5. Section 15-1201, Arizona Revised Statutes, is amended to read:

2           15-1201. Definitions

3           In this article, unless the context otherwise requires:

4           1. "Fund" means the special education fund established by section  
5 15-1182.

6           2. "Institution" means the Arizona state schools for the deaf and the  
7 blind, the Arizona training program facilities as provided in section 36-551  
8 and the Arizona state hospital.

9           3. "Place" or "placement" means placement of a person in an  
10 institution, as defined in this section, for special education only or for  
11 special education and residential and custodial care.

12           4. "Special education" means the adjustment of the environmental  
13 factors, modification of the course of study and adaptation of teaching  
14 methods, materials and techniques to provide educationally for those children  
15 who are at least three but not more than ~~twenty-one~~ TWENTY-TWO years of age,  
16 EXCEPT THAT A PERSON WHO IS RECEIVING SPECIAL EDUCATION SERVICES AT THE TIME  
17 THE PERSON REACHES TWENTY-TWO YEARS OF AGE SHALL CONTINUE TO RECEIVE SPECIAL  
18 EDUCATION SERVICES FROM THAT SCHOOL UNTIL THE END OF THAT SCHOOL YEAR, and  
19 who are gifted or disabled to such an extent that they do not profit from the  
20 regular course of study or need special education services in order to  
21 profit. Difficulty in writing, speaking or understanding the English  
22 language due to an environmental background in which a language other than  
23 English is spoken primarily or exclusively shall not be considered a  
24 sufficient handicap to require special education.

25           Sec. 6. Section 15-1343, Arizona Revised Statutes, is amended to read:

26           15-1343. Persons entitled to education

27           A. A person is entitled to an education in the schools for the deaf  
28 and the blind without charge if the person is a resident of this state, age  
29 three through ~~twenty-one years~~ THE END OF THE SCHOOL YEAR IN WHICH THE PERSON  
30 TURNS TWENTY-TWO YEARS OF AGE and sensory impaired to an extent that he  
31 cannot acquire an appropriate education in the school district of residence.

32           B. The school district of residence that refers a pupil for admission  
33 to the schools shall determine that the pupil is a resident of this state or  
34 is otherwise eligible for an education without charge pursuant to sections  
35 15-823 and 15-824.

36           Sec. 7. Section 15-1372, Arizona Revised Statutes, is amended to read:

37           15-1372. Equalization assistance for state educational system  
38 for persons in the state department of corrections;  
39 fund

40           A. The state department of corrections shall provide educational  
41 services for pupils who are under the age of eighteen years and pupils with  
42 disabilities ~~who are age twenty-one or younger~~ THROUGH THE END OF THE SCHOOL  
43 YEAR IN WHICH THE PUPIL TURNS TWENTY-TWO YEARS OF AGE who are committed to  
44 the state department of corrections. The department of education shall  
45 provide technical assistance to the state department of corrections on

1 request and shall assist the state department of corrections in establishing  
2 program and personnel standards.

3 B. The state education fund for correctional education is established.  
4 Subject to legislative appropriation, fund monies shall be used for the  
5 purposes of providing education to pupils as specified in subsection A of  
6 this section. Notwithstanding section 35-173, monies appropriated to the  
7 fund shall not be transferred to or used for any program not directly related  
8 to the educational services required by this section. State equalization  
9 assistance, other state and federal monies received from the department of  
10 education for which the pupils in correctional education programs qualify and  
11 monies appropriated for correctional education except monies appropriated  
12 pursuant to subsection C of this section shall be deposited in the fund. The  
13 state treasurer shall maintain separate accounts for fund monies if the  
14 separate accounts are required by statute or federal law.

15 C. The state department of corrections may seek appropriations for  
16 capital needs for land, buildings and improvements, including repairs and  
17 maintenance, required to maintain the educational services required by this  
18 section.

19 D. The state board of education shall apportion state aid and deposit  
20 it, pursuant to sections 35-146 and 35-147, in the state education fund for  
21 correctional education in an amount as determined by subsection E of this  
22 section. The apportionments are as follows:

23 1. On July 1, one-third of the total amount to be apportioned during  
24 the fiscal year.

25 2. On October 15, one-twelfth of the total amount to be apportioned  
26 during the fiscal year.

27 3. On December 15, one-twelfth of the total amount to be apportioned  
28 during the fiscal year.

29 4. On January 15, one-twelfth of the total amount to be apportioned  
30 during the fiscal year.

31 5. On February 15, one-twelfth of the total amount to be apportioned  
32 during the fiscal year.

33 6. On March 15, one-twelfth of the total amount to be apportioned  
34 during the fiscal year.

35 7. On April 15, one-twelfth of the total amount to be apportioned  
36 during the fiscal year.

37 8. On May 15, one-twelfth of the total amount to be apportioned during  
38 the fiscal year.

39 9. On June 15, one-twelfth of the total amount to be apportioned  
40 during the fiscal year.

41 E. The director of the state department of corrections shall calculate  
42 a base support level as prescribed in section 15-943 and a capital outlay  
43 revenue limit as prescribed in section 15-961 for the educational services  
44 required by this section, except that:

1           1. Notwithstanding section 15-901, the student count shall be  
2 determined using the following definitions:

3           (a) "Daily attendance" means days in which a pupil attends an  
4 educational program for a minimum of one hundred eighty minutes not including  
5 meal and recess periods. Attendance for ninety or more minutes but fewer  
6 than one hundred eighty minutes shall be counted as one-half day's  
7 attendance.

8           (b) "Fractional student" means a pupil enrolled in an educational  
9 program of ninety or more minutes but fewer than one hundred eighty minutes  
10 per day not including meal and recess periods. A fractional student shall be  
11 counted as one-half of a full-time student.

12           (c) "Full-time student" means a pupil enrolled in an educational  
13 program for a minimum of one hundred eighty minutes per day not including  
14 meal and recess periods.

15           (d) "Pupil with a disability" has the same meaning as child with a  
16 disability prescribed in section 15-761.

17           2. All pupils shall be counted as if they were enrolled in grades nine  
18 through twelve.

19           3. The teacher experience index is 1.00.

20           4. The calculation for additional teacher compensation monies as  
21 prescribed in section 15-952 is available.

22           5. Section 15-943, paragraph 1 does not apply.

23           6. The base support level and capital outlay amounts calculated  
24 pursuant to this section shall be multiplied by 0.67.

25           7. The school year shall consist of a period of not less than two  
26 hundred eight days.

27           F. The director of the state department of corrections may use  
28 sections 15-855, 15-942 and 15-948 in making the calculations prescribed in  
29 subsection E of this section. The director of the state department of  
30 corrections and the department of education shall prescribe procedures for  
31 calculating average daily attendance and average daily membership.

32           G. Equalization assistance for correctional education programs  
33 provided for those pupils specified in subsection A of this section is  
34 determined by adding the amount of the base support level and the capital  
35 outlay revenue limit for the budget year calculated as prescribed in  
36 subsection E of this section.

37           H. The director of the state department of corrections shall keep  
38 records and provide information as the department of education requires to  
39 determine the appropriate amount of equalization assistance. Equalization  
40 assistance shall be used to provide educational services in this section.

41           I. The department of education and the state department of corrections  
42 shall enter into an intergovernmental agreement that establishes the  
43 necessary accountability between the two departments regarding the  
44 administrative and funding requirements contained in subsections A and B of  
45 this section. The agreement shall:

- 1           1. Provide for appropriate education to all committed youths as  
2 required by state and federal law.
- 3           2. Provide financial information to meet requirements for equalization  
4 assistance.
- 5           3. Provide for appropriate pupil intake and assessment procedures.
- 6           4. Require pupil performance assessment and the reporting of results.