



New Arizona Law Set to Give Schools Greater Flexibility in the Delivery of Special Education

Tucked in among nearly [thirty bills](#) signed by Governor Ducey on May 22, 2017, [SB 1317](#) has profound implications for schools struggling to meet their obligation to provide special education to students with disabilities amidst a shortage of certified special education teachers.

Existing Regulations—Special Education Certified Personnel and Specially Licensed Providers Only

Under existing regulations adopted by the State Board of Education, the “specially designed instruction” laid out in a student’s IEP is required to be provided by a certified special education teacher, certified speech-language therapist, and/or ancillary service provider. [A.A.C. § R7-2-401\(G\)\(4\)](#).

Under this restrictive view, and in light of the shortage of certified special education teachers, some schools have been forced, for example, to resort to providing specialized reading instruction via Skype with a special education-certified teacher, rather than utilizing a qualified general education teacher to provide such instruction in person.

New Flexibility—General Education and Other Certified Personnel Can Provide SPED Instruction

As of August 9, 2017, SB 1317 specifically permits a “general education teacher or other certified personnel” to deliver special education to a student with disabilities, so long as: (a) doing so is “appropriate to meet the needs of a pupil and to ensure access to the general education curriculum,” and (b) a certified special education teacher “[is] involved in the planning, progress monitoring, and when appropriate, ... delivery” of such instruction.

This statutory amendment, to be codified at [A.R.S. § 15-763](#), allows schools greater flexibility in determining which personnel are best positioned to provide the specially designed instruction required to meet the student’s needs.

Education Law

For questions regarding the legal implications these changes might have for your school, or regarding special education law matters generally, please contact:



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Whether it is reviewing your discrimination and Title IX policies, handling an OCR complaint, providing training for teachers and staff, or providing legal advice as issues arise during the school day, Osborn Maledon’s Education Law team is here to help. For more information, please contact:



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The new law is designed to “provide parents of children with disabilities with more choices, promote education in the least restrictive environment, enhance collaboration between general education and special education personnel, and improve student achievement.”



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Caveat—No Free-for-All

As a caveat, however, the bill is expressly “**not** intended to allow unqualified, unprepared or untrained individuals to provide special education services or unlicensed professionals to perform a scope of services that require licensure.” (Emphasis added.)

Other Noteworthy Points

- SB 1317 separately directs the State Board of Education to adopt corresponding new rules regarding special education that: (1) “clarify the administration of specially designed instruction for students who receive special education services to include instruction from general education and other certified personnel;” and (2) “streamline processes, reduce unnecessary administrative burdens on [schools/districts] and ... affirm the central role of the local [IEP] team.” The new regulations are to be issued by November 15, 2017, so stay tuned for more changes.
- Under existing certification standards, general education teachers in Arizona are already required to “understand students with exceptional needs, including those associated with disabilities and giftedness, and know how to use strategies and resources to address these needs.” [A.A.C. § R7-2-602\(C\)\(8\)](#).
- Earlier drafts of SB 1317 were controversial and led some to believe that enactment of the bill would violate IDEA mandates and put the State’s federal funding at risk. However, in informal communications with the U.S. Department of Education, the Office of Special Education Programs (OSEP) dispelled the notion that such enforcement action was being contemplated. In fact, OSEP provided input on the final language of the bill and affirmed the need to “promote enhanced collaboration between special education and general education personnel and to permit the appropriate use of general educators in the provision of SDI [specially designed instruction].”

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