

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 2978

By: Provenzano

4  
5  
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2011,  
8 Section 18-109.5, as amended by Section 1, Chapter  
9 228, O.S.L. 2018 (70 O.S. Supp. 2019, Section 18-  
10 109.5), which relates to definitions; modifying  
11 definition; and providing an effective date.

12  
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 70 O.S. 2011, Section 18-109.5, as  
15 amended by Section 1, Chapter 228, O.S.L. 2018 (70 O.S. Supp. 2019,  
16 Section 18-109.5), is amended to read as follows:

17 Section 18-109.5 A. As used in Section 18-201.1 of this title:

18 1. "Visual impairment" means an impairment in vision that, even  
19 with correction, adversely affects a child's educational  
20 performance. This includes both partial sight and blindness;

21 2. "Specific learning disability" means a disorder in one or  
22 more of the basic psychological processes involved in understanding  
23 or in using language, spoken or written, that may manifest itself in  
24 the imperfect ability to listen, think, speak, read, write, spell or

1 to do mathematical calculations, including conditions such as  
2 perceptual disabilities, brain injury, minimal brain dysfunction,  
3 dyslexia and developmental aphasia. The term does not include  
4 learning problems that are primarily the result of visual, hearing  
5 or motor disabilities, of intellectual disability, of emotional  
6 disturbance or of environmental, cultural or economic disadvantage;

7 3. "Deafness" means a hearing impairment that is so severe that  
8 the child is impaired in processing linguistic information through  
9 hearing, with or without amplification, that adversely affects a  
10 child's educational performance;

11 4. "Economically disadvantaged" means all children who qualify  
12 for free or reduced lunches;

13 5. "Intellectual disability" means ~~significantly subaverage a~~  
14 disability that manifests during the development period that  
15 constitutes a substantial disability to the affected person and that  
16 is attributable to an intellectual or developmental disability or  
17 related conditions including, but not limited to, Prader-Willi  
18 syndrome or other neurological conditions when those conditions  
19 result in impairment of general intellectual functioning, existing  
20 concurrently with deficits in or adaptive behavior ~~and manifested~~  
21 ~~during the development period, that adversely affects a child's~~  
22 ~~educational performance~~ similar to that of a person with an  
23 intellectual or developmental disability;  
24

1       6. "Emotional disturbance" means a condition exhibiting one or  
2 more of the following characteristics over a long period of time and  
3 to a marked degree that adversely affects a child's educational  
4 performance:

5           a. an inability to learn which cannot be explained by  
6 intellectual, sensory or health factors,

7           b. an inability to build or maintain satisfactory  
8 interpersonal relationships with peers and teachers,

9           c. inappropriate types of behavior or feelings under  
10 normal circumstances,

11          d. a general pervasive mood of unhappiness or depression,  
12 or

13          e. a tendency to develop physical symptoms or fears  
14 associated with personal or school problems.

15 The term includes children who are schizophrenic. The term does not  
16 include children who are socially maladjusted, unless it is  
17 determined that they are seriously emotionally disturbed;

18       7. "Gifted" means identified students as outlined in Section  
19 1210.301 of this title;

20       8. "Hearing impairment" means an impairment in hearing, whether  
21 permanent or fluctuating, that adversely affects a child's  
22 educational performance but that is not included under the  
23 definition of "deafness";

1       9. "Multiple disabilities" means concomitant impairments, such  
2 as intellectual disability - blindness or intellectual disability -  
3 orthopedic impairment, the combination of which causes such severe  
4 educational needs that they cannot be accommodated in special  
5 education programs solely for one of the impairments. The term does  
6 not include deaf-blindness;

7       10. "Orthopedic impairment" means a severe orthopedic  
8 impairment that adversely affects a child's educational performance.  
9 The term includes impairments caused by a congenital anomaly,  
10 impairments caused by disease such as poliomyelitis and bone  
11 tuberculosis, and impairments from other causes such as cerebral  
12 palsy, amputations and fractures or burns that cause contractures;

13       11. "Other health impairment" means having limited strength,  
14 vitality or alertness, including a heightened alertness to  
15 environmental stimuli, that results in limited alertness with  
16 respect to the educational environment that adversely affects a  
17 child's educational performance and is due to chronic or acute  
18 health problems such as asthma, attention deficit disorder or  
19 attention deficit hyperactivity disorder, diabetes, epilepsy, a  
20 heart condition, hemophilia, lead poisoning, leukemia, nephritis,  
21 rheumatic fever, sickle cell anemia and Tourette syndrome;

22       12. "Speech or language impairment" means a communication  
23 disorder, such as stuttering, impaired articulation, a language  
24

1 impairment, or a voice impairment, that adversely affects a child's  
2 educational performance;

3 13. "Deaf-blindness" means concomitant hearing and visual  
4 impairments, the combination of which causes such severe  
5 communication and other developmental and educational problems that  
6 they cannot be accommodated in special education programs solely for  
7 children with deafness or children with blindness;

8 14. "Autism" means a developmental disability significantly  
9 affecting verbal and nonverbal communication and social interaction,  
10 generally evident before age three (3), that adversely affects a  
11 child's educational performance. Other characteristics often  
12 associated with autism are engagement in repetitive activities and  
13 stereotyped movements, resistance to environmental change or change  
14 in daily routines, and unusual responses to sensory experiences.  
15 Autism does not apply if a child's educational performance is  
16 adversely affected primarily because the child has an emotional  
17 disturbance, as defined in this subsection;

18 15. "Traumatic brain injury" means an acquired injury to the  
19 brain caused by an external physical force, resulting in total or  
20 partial functional disability or psychosocial impairment, or both,  
21 that adversely affects a child's educational performance. Traumatic  
22 brain injury applies to open or closed head injuries resulting in  
23 impairments in one or more areas such as cognition; language;  
24 memory; attention; reasoning; abstract thinking; judgment; problem-

1 solving; sensory, perceptual, and motor abilities; psychosocial  
2 behavior; physical functions; information processing; and speech.  
3 Traumatic brain injury does not apply to brain injuries that are  
4 congenital or degenerative or to brain injuries induced by birth  
5 trauma;

6 16. "Bilingual" means those students who have limited English  
7 speaking abilities or who come from homes where English is not the  
8 dominant language as reported on the current year application for  
9 accreditation;

10 17. "Special Education Summer Program" means those summer  
11 school programs which school districts may provide for children who  
12 are severely or profoundly multiple-handicapped if their  
13 individualized education program states the need for a continuing  
14 educational experience to prevent loss of educational achievement or  
15 basic life skills. Any school district receiving funds for such  
16 special education summer programs shall provide services as provided  
17 in Section 13-101 of this title; and

18 18. "Optional Extended School Year Program" means the program  
19 defined in Section 1-109.1 of this title.

20 B. The State Board of Education is hereby authorized to modify  
21 and redefine by rule the definitions set out in this section  
22 whenever such modification is required to receive federal assistance  
23 therefor.

24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 2. This act shall become effective November 1, 2020.

57-2-10655 AB 01/13/20