

LAWS OF DELAWARE
VOLUME 84
CHAPTER 200
152nd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 188
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE PUBLIC EDUCATION EQUITY OMBUDSPERSON PROGRAM AND THE EDUCATION EQUITY COUNCIL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 41, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4147. Delaware Public Education Equity Ombudsperson Program; codification; purpose.

(a) The Delaware Public Education Equity Ombudsperson Program (Program) is hereby established and adopted in place of the contractual program currently maintained by the Department of Education. The expanded Program shall be maintained by the Department of State.

(b) The purposes of the Program are as follows:

(1) To address issues involving both individual students and systemic reform where inequities arise for students who are of low socio-economic status or members of a protected class under State or federal law.

(2) To provide non-legal intervention and assistance with schools, districts, and the Department of Education to resolve disputes or complaints concerning disparate discipline, inequitable access to school programs, or otherwise different or unfair treatment of students, particularly those who are members of protected classes or of low socio-economic status.

(3) To support schools, districts, and the Department of Education to develop and revise policies and regulations to improve education equity.

(4) To provide information and resources regarding research-based best practices to ensure equity, including discipline, academic, teacher diversity, effective instruction, curriculum, social emotional learning and extended learning supports.

(5) To assist in finding legal assistance for students or families where non-legal advocacy fails or where the nature of the dispute warrants legal assistance.

(c) The Program shall be run through a non-profit, non-state entity that is contracted for a period of 3 years by the Department of State through a request for proposal process. The Department of State is the contracting entity, but RFP development and award decisions shall be made in consultation with the Education Equity Council as set forth under § 4148 of this title.

(d) The Program staff shall be available to act as non-lawyer advocates for students and their families in any proceedings conducted by schools or local, State, or federal education agencies.

(e)(1) The Program may, if it determines it to be appropriate and desirable, refer systemic matters to attorneys for further investigation and action. The Program may refer individual matters for legal services, if requested by the family, when any of the following conditions are met:

a. Reasonable efforts have been made to resolve the issue with the school, district, and/or Department of Education and such attempts have been unsuccessful.

b. The nature of ongoing harm to the student is such that immediate legal intervention is in the best interest of the student.

(2) Funds appropriated to the Program may be used to (i) procure general legal counsel regarding the scope of rights and protections under local, state, or federal education law or (ii) pay a lawyer for assistance with, attendance at, or representation in administrative proceedings and appeals, including appeals taken to State or federal courts. In no event may Program funds be used to pay for preparation of, commencement of, participation in, or advising upon litigation or other proceedings against the State or its agencies, employees, or officials except as permitted in the preceding sentence.

(f) (1) The Program shall annually provide a report to the Education Equity Council, the Governor, the Chairs of the House and Senate Education Committee, the State Board of Education, the Department of Education, the Chairs of the Joint Finance Committee, the Controller General, the Director and Librarian of the Division of Research, and the Public Archives that contains at least the following information:

a. The number of students served by the Program in each of the preceding 3 years. This shall include a breakdown of students by grade level (elementary, middle, or high school), school district, school, race, gender, disability status, and socioeconomic status.

b. The number of students referred to a legal services provider or pro bono attorney.

c. The category of the problem the Program assisted with, including academic concerns, disciplinary issues, attendance, transportation, safety, bullying, or harassment.

d. The number of employees or consultants engaged by the Program. For employees, whether they are full or part-time, and for consultants, the number of hours worked over the course of the contract period.

e. Systemic equity issues identified by the Program, and recommended solutions.

f. The amount spent on legal services or otherwise paid to a lawyer or a law firm.

g. The number of referrals made to a lawyer, law firm, or legal services agency, including the category of the problem faced by the student, and whether the referral was made to a non-profit legal services agency or a private attorney or law firm.

(2) The report required by this paragraph may not include any personal identifying information for any student or their family and must comply with the requirements of the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g; 34 C.F.R Part 99.

§ 4148. Educational Equity Council.

(a) The Educational Equity Council (Council) is formed for the purpose of providing input and oversight into the Education Equity Ombudsperson Program (Program) and to study and recommend solutions to ongoing or systemic equity problems.

(b) The Council is composed of the following voting members:

(1) One family member representative nominated by the chair of the Governor's Advisory Council on Exceptional Citizens and appointed by the Chair of the House Education Committee.

(2) One member of the Delaware Hispanic Commission, nominated by the Delaware Hispanic Commission and appointed by the Governor.

(3) Two parents of children who attend Title I schools, nominated by not-for-profit community organizations engaged in education issues, and appointed by the Chair of the House Education Committee.

(4) One community representative nominated by not-for-profit community organizations engaged in education equity issues and appointed by the Chair of the Senate Education Committee.

(5) Two educators nominated by the Delaware State Education Association and appointed by the Chair of the House Education Committee, each of which meets at least one of the following criteria:

a. Has 1 or more children who are members of a class protected from discrimination under Delaware and Federal laws and regulations.

b. Was as a child educated for a minimum of 6 years in a Delaware Title I school or was a child with a disability or whose first language was not English.

c. Is currently a classroom educator in a Title I school or is special education certified classroom teacher or is an English language classroom educator specializing in teaching students whose first language is not English.

(6) Three members nominated by the NAACP Delaware State Conference of Branches, 1 from each county, and appointed by the Chair of the Senate Education Committee.

(7) The Secretary of State, or the Secretary's designee.

(8) Two members of the House of Representatives, 1 from the majority party and 1 from the minority party, appointed by the Speaker of the House.

(9) Two members of the Senate, 1 from the majority party and 1 from the minority party, appointed by the President Pro Tempore.

(10) A member of the Delaware Association of School Administrators, nominated by the Delaware Association of School Administrators and appointed by the Governor.

(11) A member of a school board appointed by the Chair of the Senate Education Committee.

(c) The Council is additionally composed of the following non-voting members:

(1) A member of the Delaware State Education Association, appointed by the Chair of the House Education Committee.

(2) One school or district administrator of Title I programs nominated by the Delaware Association of School Administrators and appointed by the Chair of the Senate Education Committee.

(3) One school or district administrator of Title III programs nominated by the Delaware Association of School Administrators and appointed by the Chair of the House Education Committee.

(4) One school or district administrator of programs for students with disabilities nominated by the Delaware Association of School Administrators and appointed by the Chair of the Senate Education Committee.

(5) The Secretary of Education, or the Secretary's designee.

(6) One school district Chief Financial Officer nominated by the Delaware Association of School Business officers and appointed by the Chair of the House Education Committee.

(8) A member of the Delaware Chief School Officers Association appointed by the Governor.

(9) A charter school leader appointed by the Governor.

(d) The public members of the Council shall serve for terms of 3 years; provided, however, that the initial terms may be of lengths of 1, 2, or 3 years in order to stagger the terms. A member appointed to the Council may continue to serve until such time as the member's replacement has been appointed or the member's term renewed. A member may serve no more than 2 consecutive terms, and then must be off of the Council for at least 3 years prior to being eligible for reappointment.

(e) The Secretary of State, or the Secretary's designee, shall serve as the temporary chair of the Council and shall do all of the following:

(1) Set a date, time, and place for the initial organizational meeting.

(2) Notifying the individuals who are members of the Council of the formation of the Council and notifying those persons who are responsible for nominating or appointing a member.

(f) At the first meeting of the Council, the members shall elect a chair from among the voting members.

(g) The Department of State shall provide administrative support to the Council.

(h) The duties of the Council are as follows:

(1) To work with the Department of State to annually develop a request for proposal or renewal for the Program.

(2) To approve the awarding of the contract for the Program. The Council may appoint a subcommittee to review and consult with the Department of State on the award of the contract for the Program.

(3) To meet at least twice each year to review the operation and effectiveness of the Program.

(4) To provide recommendations to the Program to improve its effectiveness.

(5) To provide recommendations to the General Assembly and the Department of Education to improve equity in the public educational system.

(i) The Council may request, and the Department of Education shall provide, or work with districts and charters to provide, global data that is relevant to student equity. The provision of such data must comply with the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g; 34 C.F.R Part 99.

Approved September 11, 2023