



SPONSOR: Rep. Chukwuocha & Sen. Lockman
Reps. Kowalko, Osienski; Sen. Sokola

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 464

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EQUITY OMBUDSMAN PROGRAM AND EDUCATIONAL 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 insertions as shown by underline as follows:

§ 4144. Equity Ombudsman Program and Educational Equity Council.

(a) (1) The Equity Ombudsman Program shall be established and contractually maintained by the Department of Education to improve equity, but shall operate independent from the Department of Education. The Equity Ombudsman program shall address issues involving both systemic areas and for individual students, for which such inequities may arise from the student or students being a member of a class protected from discrimination under Delaware and Federal laws and regulations and shall include the following:

a. The Equity Ombudsman Program oversight shall be by the Educational Equity Council.

b. The Department of Education shall be the contracting entity, however, RFP development and grant award decisions shall be determined by Educational Equity Council including a majority of the RFP review panel being voting members of the Educational Equity Council to ensure independence.

c. The award of the ombudsman program shall be to a Delaware based not for profit nongovernmental organization (NGO).

d. The Ombudspersons shall focus on non-legal interventions with school 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.

e. The Ombudspersons will 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.

f. The Ombudsman program, if it determines it to be appropriate and desirable, seek pro bono or otherwise refer cases for legal services.

g. The ombudsman program may refer cases for litigation, when requested by the family, when the

23 following conditions are met:

24 1. That reasonable efforts have been attempted to resolve the issue with the Local Education Agency,
25 or the State Educational agency and such attempts have been unsuccessful or that the nature of ongoing harm
26 to the student is such that immediate legal intervention is in the best interest of the student.

27 2. That the Ombudsman program has provided written notice of intent to refer the case for litigation
28 to the Local Education Agency, or the State Educational agency which shall include the identified issue(s) and
29 the Education Agency's action or inactions which have harmed the student.

30 h. Cases referred for litigation shall, notwithstanding other sections of Delaware code, shall:

31 1. Be to a law firm that is a not-for-profit corporation licensed in Delaware.

32 2. That families, nor the Equity Ombudsman Program will not be liable for legal expenses.

33 3. That the Local Education Agency, or the State Educational agency shall pay the plaintiffs law
34 firm, reasonable and customary expenses, including the cost of expert witnesses when the plaintiff prevails on
35 at least one claim, and when the letter of intent of was received by the Education Agency, and the letter was
36 subsequently affirmed by at least of 2/3 vote of the Educational Equity Council.

37 4. For a claim related to the provision of a Free and Appropriate Public Education the burden of
38 proof shall be on the Local Education Agency, or the State Educational agency.

39 i. To support capacity for litigation:

40 1. \$250,000 in one time seed funding shall be provided to CLASI.

41 2. Initial and ongoing funding shall be provided at not less than \$40,000 per year.

42 3. The Educational Equity Council shall annually make recommendation to the Governor and
43 Legislature for the level of funding that is adequate for the purpose of the Equity Ombudsman Program.

44 4. Funds appropriated for this purpose shall be used exclusively in support of referrals from the
45 Equity Ombudsman Program, excepting 10% for overhead.

46 j. The Ombudsman Program shall be funded at not less than \$1,000,000 (1,500,000) (2,000,000),
47 (2,500,000) (3,000,000) per year.

48 (2) The purpose of the Equity Ombudsman Program is to prevent and address disparate discipline, inequitable
49 access to school programs, or otherwise different or unfair treatment of students, including but not limited to:

50 a. Assist families and other community members with educational needs and concerns – focusing on dispute
51 resolution, equitable access to programs, services and rigorous coursework.

52 b. Address issues of racism, ableism, and other sources of marginalization and inequality impacting students.

c. Provide technical support in coordination with DE Department of Education, Local Education Agencies (LEA's), parents and students to ensure equitable treatment of students and implementation Federal and state programs and district/school level policies and practices.

d. Monitors service requirements under Title I, Part A and Part C; Title II, Part A, Title III, Part A and Title IV, Part A, McKinney Vento and other programs as a part of State's monitoring process.

e. Support districts and Delaware DOE develop/revise policies and regulations as a part of the State's review process.

f. Provide research-based best practices to ensure equity, including discipline, academic, teacher diversity, effective instruction, curriculum, social emotional learning and extra-time supports.

(b) In addition to the advocacy purposes and responsibilities enumerated in the Joint legislative Resolution establishing the Educational Equity Council, the Council shall:

(1) Have oversight authority for the Equity Ombudsman Program.

(2) Provide approval of the ombudsman RFP and successful bidder.

(3) Make recommendations to the Governor and legislature for adequate funding of the Equity ombudsman program.

(4) Provide the legislature and Governor an annual report on the activities of the Equity Ombudsman Program and the Education Equity Council including the status and progress on improving educational equity in Delaware.

(5) Have access to educational data and reports at the same level, timeframe and priority as the Department of Education.

(6) Shall have policies and procedures in place to ensure compliance with FERPA and shall receive FERPA training from the Department of Education.

(7) Shall be supported by 1 FTE (administrative assistant level) with administrative oversight directly from the Office of the Secretary of Education.

(8) receive initial and ongoing annual funding of not less than \$10,000 (20,000).

(9) Approve additional not for profit law firms to support the Ombudsman program referrals.

(c) That the Delaware State Parent Advisory Council (DESPAC), as Delaware's Title 1 council, which was reconstituted by joint legislative resolution be supported and continued by the Department of Education.

(d) That all unused funds under this section be transferred forward to the next year's funding without impacting ongoing appropriation levels and are to be used for the same purpose.

SYNOPSIS

This Act creates the Equity Ombudsman Program and the Educational Equity Council.