



SPONSOR: Rep. K. Williams & Rep. Heffernan & Sen. Sturgeon
Reps. Baumbach, Bush, Griffith, Hensley, Lambert,
Lynn, Morrison, Osienski, Phillips, Romer; Sens. Gay,
Hoffner, S. McBride, Poore, Sokola, Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 33

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO FUNDING FOR
PREKINDERGARTEN SPECIAL EDUCATION.

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

1 Section 1. Amend § 1703, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1703. Unit of pupils [Effective July 1, 2023].

4 (a) As used in this chapter, “unit” or “unit of pupils” means as defined in the following schedule of numbers of
5 pupils enrolled in schools beginning in kindergarten and through grade 12; and for children prior to entry into kindergarten
6 who are eligible for special education services as defined in Chapter 31 of this title:

7 ~~(1) Preschool — 12.8~~

8 (1) Preschool 2 Basic Special Education — 7

9 (2) Preschool 3+ Basic Special Education — 8.4

10 ~~(2) (3) K-3 Regular Education — 16.2~~

11 ~~(3) K-3 Basic Special Education (Basic) — 8.4~~

12 (4) 4-12 Regular Education — 20

13 (5) ~~4-12~~ K-12 Basic Special Education (Basic) — 8.4

14 (6) Pre-K-12 Intensive Special Education (Intensive) — 6

15 (7) Pre-K-12 Complex Special Education (Complex) — 2.6

16 (b) All such units must be authorized by the Department of Education under rules and regulations promulgated by
17 the Department. Partial unit funding is provided for all units based on the cash-in value of the unit. Only the last unit in any
18 category may be a major fraction.

19 (c) In the case of kindergarten, “unit” or “unit of pupils” is defined as 32.4 pupils for half-day kindergarten and
20 16.2 pupils for full-day kindergarten.

21 (d) For funding purposes, the following conditions shall prevail for the calculations of the number of units for
22 children with disabilities and all other children. The preschool 2 basic special education unit shall be 1 unit for 7 students.
23 The preschool 3+ basic special education unit shall be 1 unit for ~~12.8~~ 8.4 students. The regular education unit for

24 kindergarten through third grade unit (K-3 regular education) shall be 1 unit for 16.2 students, except as noted in subsection
25 (c) of this section above. The regular education unit for grades 4 through 12 (4-12 regular education) shall be 1 unit for 20
26 students. The basic special education (basic) unit for kindergarten through 12 shall be 1 unit for 8.4 students. The intensive
27 special education (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The complex special
28 education (complex) unit for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is defined as enrollment
29 until receipt of a regular high school diploma or the end of the school year in which the student attains the age of 22,
30 whichever occurs first, as defined in Chapter 31 of this title.

31 (1) Preschool 2 Basic Special Education unit. — a. A student shall be counted in the preschool 2 basic special
32 education unit if the student is 2 years of age and is identified as eligible for special education and related services and
33 not counted in the intensive unit or complex unit.

34 b. The following provisions shall apply to the preschool 2 basic special education unit:

35 1. Partial unit funding is provided for between 1 and 7 students based on the cash-in value of the unit.

36 2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus
37 10 years of experience as defined in § 1305(a) of this title.

38 3. The units include Divisions II and III.

39 4. Districts must use all funds generated by preschool 2 basic special education unit to support
40 services for the students counted in the preschool 3+ basic special education unit and the preschool 2 basic
41 special education unit. Districts are not limited to using the funds to employ teachers only. The funds may be
42 used to hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or
43 other related services personnel as determined at the local level. The units may also be used to secure
44 contractual services per requirements for the contractual option described in Chapter 13 of this title.

45 5. Districts may use tuition to pay for the local share and excess costs of special education and
46 related services.

47 6. The units are considered teacher/instructional units for purposes of other unit counts.

48 7. A student is not required to receive a minimum number of hours in special education instruction to
49 count in the preschool unit.

50 (+) (2) Preschool 3+ basic special education unit. — a. ~~Student~~ A student shall be counted in the preschool 3+
51 basic special education unit if the student is identified as eligible for special education and related services and not
52 counted in the intensive unit or complex unit described below unit, complex unit, or preschool 2 basic special
53 education unit and is:

54 1. Eligible for special education and related services from birth; or

55 2. At least 3 years of age; or

56 3. Eligible as described in the interagency agreement with the Department of Health and Social
57 Services; or

58 4. Not yet entered kindergarten.

59 b. The following provisions shall apply to the preschool 3+ basic special education unit:

60 1. Partial unit funding is provided for between 1 and ~~12.8~~ 8.4 students based on the cash-in value of
61 the unit.

62 2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus
63 10 years of experience as defined in § 1305(a) of this title.

64 3. The units include Divisions II and III.

65 4. Districts must use all funds generated by preschool 3+ basic special education unit to support
66 services for the students counted in the preschool 3+ basic special education and the preschool 2 basic special
67 education unit. Districts are not limited to using the funds to employ teachers only. The funds may be used to
68 hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or other
69 related services personnel as determined at the local level. The units may also be used to secure contractual
70 services per requirements for the contractual option described in Chapter 13 of this title.

71 5. Districts may use tuition to pay for the local share and excess costs of special education and
72 related services.

73 6. The units are considered teacher/instructional units for purposes of other unit counts.

74 7. A student is not required to receive a minimum number of hours in special education instruction to
75 count in the preschool unit.

76 Section 2. This Act takes effect on July 1, 2023.

SYNOPSIS

This Act increases funding for preschool children with disabilities who are not counted in either "intensive" or "complex" special education units by revising the current ratio of 12.8 students per unit to 8.4 students per unit for children 3 years of age and older enrolled in a preschool program. This is the same ratio in effect as of July 1, 2023, for K-3 basic special education. The Act also creates a new "preschool 2" unit with a ratio of 7 students per unit. This is to accommodate 2-year-olds with disabilities who are enrolled in school district programs. The Office of Child Care Licensing requires a 1:7 ratio for classrooms that have 2-year-olds in them.

The preschool funding change is effective July 1, 2023.