



SPONSOR: Rep. S. Moore & Rep. Chukwuocha & Rep. K. Williams
& Sen. Lockman
Reps. K. Johnson, Morrison, Romer

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 188

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:

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

3 § 4147. Delaware Public Education Equity Ombudsperson Program; codification; purpose.

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

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

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

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

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

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

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

21 (c) The Program shall be run through a non-profit, non-state entity that is contracted annually by the Department
22 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) Staff of the Program must be permitted to act as non-lawyer advocates for students and their families in any proceedings conducted by schools or local, State, or federal education agencies, unless prohibited by law.

(e) (1) The Program may, if it determines it to be appropriate and desirable, refer systemic matters to legal services organizations or pro bono programs for further investigation. 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.

c. In no event may funds appropriated to the Program be used to pay for or subsidize lawyers', legal services organizations' or pro bono programs' preparation of, commencement of, participation in, or advising upon litigation or other proceedings asserted against the State or its agencies, employees or officials. This restriction does not apply to assistance provided to a student in appeals on the record from administrative proceedings conducted by schools or local, State, or federal education agencies.

(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.

(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 family/advocate member representative nominated by the Governor's Advisory Council on English Learners and appointed by the Chair of the Senate Education Committee.

(3) Two community representatives nominated by civil rights organizations actively engaged in education equity issues and appointed by the Chair of the House Education Committee.

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

(5) Three 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.

(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.

(7) A member of a school board appointed by the Chair of the Senate 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 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.

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

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

(g) 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.

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

SYNOPSIS

This Act codifies the Equity Ombudsman program, the purpose of which is to provide students and families encountering inequity in the school system with non-lawyer advocates to assist them. The Educational Equity Council, as a stakeholder council, provides oversight to the Equity Ombudsman program, to provide broad review, analysis and recommendations, for the improvement of student equity and outcomes in Delaware's public education system.