



SPONSOR: Rep. Jaques & Sen. Henry
Reps. Baumbach, Brady, Mitchell, Osienski, Ramone,
K. Williams; Sen. Marshall

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 292

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SERVICES FOR CHILDREN WITH AUTISM SPECTRUM DISORDER.

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

1 Section 1. Amend § 1332, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 ~~§ 1332. Program for children with autism; special staff.~~

4 (a) ~~Director specialist.~~—Whenever the Department with the approval of the State Board of Education designates
5 a particular school district to administer the statewide program for children with autism, that district may employ a
6 statewide director specialist for a period of 12 months per year. The director specialist shall hold a doctorate degree in
7 psychology or exceptional children and shall possess such other qualifications for certification as are required by the
8 Department with the approval of the State Board of Education. "Years of experience" in determining salary shall be in
9 accordance with rules and regulations adopted by the Department with the approval of the State Board of Education in this
10 respect. The director specialist shall be paid the amount for which that director specialist qualifies under § 1305(a), (b) and
11 (d) of this title plus an amount for administrative responsibility determined in accordance with § 1321(c) of this title.

12 (b) ~~Whenever the Department with the approval of the State Board of Education designates a particular school~~
13 ~~district to administer a statewide program for children with autism that district may employ specialists as herein authorized~~
14 ~~to serve the entire statewide program. Specialists so employed shall be paid according to the salary authorized for teachers~~
15 ~~in § 1305 of this title. The school district authorized to employ such specialists and the director may provide additional~~
16 ~~salary to such personnel according to § 1304 of this title and shall recover funds so expended from the school districts of~~
17 ~~residence of the children with autism by levying a fee against those school districts, including the administering district,~~
18 ~~whether or not the child with autism is a resident of that district, that is proportional to the number of persons served from a~~
19 ~~particular district. The fees so levied may be paid by the local school districts from funds collected according to Chapter 6~~
20 ~~of this title.~~

21 (c) ~~The administering school district may purchase specialized services for any such categories shown in this~~
22 ~~section rather than employ a staff person to serve that function. If the option to purchase services is exercised, then the~~

23 dollar value of each full-time equivalent shall be the number of dollars set in the state-supported salary schedule for a
24 teacher holding a master's degree with 10 years of experience and employed for 12 months. The calculation of this funding
25 shall be for the current school year. Expenditures of this nature may be used for the purchase of personal services. The
26 administering school district wishing to use funds under this option shall first make application to the Department of
27 Education for such use and proceed to exercise the option only after approval by the Department of Education; provided,
28 that the State Board may review any objection to the Department's decision.

29 (d) The Department with the approval of the State Board of Education shall adopt such rules and regulations to
30 establish and provide for parent advisory committees, a peer review committee which, at the request of the Department of
31 Education, may also review procedures, in accordance with the regulations of the Department of Education, for children
32 with educational classifications other than autism, a human rights committee, and appropriate liaisons with the Department
33 of Health and Social Services. The Department with the approval of the State Board of Education shall adopt such rules and
34 regulations to establish and provide for an Autistic Program Monitoring Board, to be composed of no less than 7 members
35 and which shall include 1 nonvoting public representative nominated annually by the statewide parent advisory committee.
36 Such representative shall not have any child enrolled in the program. The statewide Autistic Monitoring Review Board
37 shall review at least annually the education of and provision of related services to students with autism throughout
38 Delaware to ensure best practices are being used and opportunities for continuous improvement are afforded all such
39 students. Disputes within or between districts or agencies shall be resolved by this Board. Procedural safeguards guaranteed
40 to children with autism, their parents or guardians and to local school districts or agencies shall not be diminished by this
41 provision.

42 § 1332. Statewide program for services for students with autism spectrum disorder (ASD).

43 (a) The Department shall provide training and technical assistance across all public schools within this State on
44 behalf of students with an educational classification of autism spectrum disorder ("ASD"). Educational programming
45 provided under this chapter must have high-quality instruction based on research and evidence-based practice.

46 (b) The Department, with the approval of the State Board of Education, shall designate a school district or other
47 entity to administer the statewide program ("program") for students with an educational classification of ASD. If no district
48 or other entity is willing to administer the statewide program, the Department must act in that role.

49 (c) The entity administering the program must employ a statewide director ("Director") for a period of 12 months
50 each year. The Director must be hired in consultation with the Peer Review Committee and have the following
51 qualifications and expertise with ASD:

52 (1) A doctorate degree in psychology, exceptional children, or Applied Behavior Analysis ("ABA").

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54 (2) At least 5 years of experience working with individuals with ASD.

55 (3) Graduate-level training in evidence-based practices in curriculum, instruction, and behavioral support
56 such as ABA instructional strategies.

57 (4) Experience planning or leading skill development in communication and social skill training programs
58 for individuals with ASD.

59 (5) Experience as a consultant to teams and an understanding of basic principles related to performance
60 management.

61 (6) Successful experience leading the development and implementation of an autism services program.

62 (7) Successful experience leading the development and implementation of a structured professional
63 development program and a performance management plan.

64 (8) Successful direction and management of similar autism projects.

65 (9) Other qualifications for certification as required by the Department, with the approval of the State
66 Board of Education.

67 (d) The Department shall pay the Director a salary in an amount for which the Director qualifies under § 1305(a),
68 (b), and (d) of this title plus an amount for administrative responsibility determined in accordance with § 1321(c) of this
69 title. The Director's salary, including "years of experience," shall be determined in accordance with rules and regulations
70 adopted by the Department with the approval of the State Board of Education.

71 (e) The program shall provide training and technical assistance for all public schools. The training and technical
72 assistance under this subsection (e) of this section is a 3 year pilot program that ends on June 30, 2021, unless extended by
73 an Act of the General Assembly.

74 (1) The program must provide training and technical assistance by doing all of the following:

75 a. Identifying those practices specifically relevant to the education of students with an educational
76 classification of ASD that are established as evidence-based through the best available outcome research
77 or by expert consensus.

78 b. Promoting utilization of these practices by leading training and technical assistance activities
79 specifically relevant to students with an educational classification of ASD.

80 c. Assisting with implementation of all aspects of training and technical assistance in all public
81 schools, for students from birth to age 21 with an educational classification of ASD.

82 d. Supervising or managing contracts for training specialists employed under paragraph (e)(2) of this
83 section.

84 e. Consulting and working collaboratively with the Department on all aspects of education programs
85 related to ASD.

86 f. Serving as the primary liaison between the Department and other state agencies, committees, and
87 programs on questions regarding programs for students with an educational classification of ASD.

88 (2) The program must have training specialists as follows:

89 a. At least 1 training specialist per 100 students with an educational classification of ASD. The total
90 number of positions must be determined annually through the September 30 count of students with an
91 educational classification of ASD. The program must be phased in with a minimum of 2 training
92 specialists in Fiscal Year 2019, 2 training specialists added in Fiscal Year 2020, and additional training
93 specialists added each fiscal year until the number of training specialists required under this paragraph
94 (e)(2)a. of this section is met or the pilot program ends under this subsection.

95 b. "Training specialists" must include qualified speech-language pathologists, behavior analysts, and
96 other personnel with expertise in evidence-based instruction for people with ASD, in classroom,
97 community, and home-based consultation.

98 c. Training specialists must serve eligible students within all public schools.

99 d. A training specialist must have a master's degree and 3 years of experience of demonstrated
100 consultative experience with students with ASD.

101 e. The duties of a training specialist include providing training and technical assistance for staff
102 working with students with an educational classification of ASD, including classroom consultation; plan
103 development and performance feedback; parent training; and providing training for regular education
104 staff on ASD and evidence-based strategies for inclusion practices.

105 (3) The program may, after approval by the Department, purchase specialized services instead of hiring
106 staff to provide the education and training required under this section.

107 a. The dollar value of each full-time equivalent, when purchasing services to be provided by an
108 outside contractor, is the number of dollars set in the state-supported salary schedule for a teacher holding
109 a master's degree with 10 years of experience and employed for 12 months.

110 b. The calculation of this funding is for the current school year.

111 c. The State Board of Education may review any objection to the Department's decision.

112 (4) State appropriations must be phased in over several years, starting in Fiscal Year 2019 and in equal
113 increments each subsequent fiscal year until fully funded or the pilot program ends under this subsection.

114 (5) Additional funding may be provided through any of the following:

115 a. Units and funds appropriated by the General Assembly.

116 b. Units and funds allocated by the Department.

117 c. Pass through funds and direct grants.

118 d. Tuition funds from public school districts as established by the rules and regulations of the
119 Department, according to Chapter 6 of this title.

120 e. Fees for service for support where other funding is inadequate.

121 f. Other funds as available, including funds in excess of standard match funding under this title.

122 (f) The Department, with the approval of the State Board of Education, shall adopt such rules and regulations to
123 establish and provide for the following committees:

124 (1) Parent Advisory Committees (“PAC”).

125 (2) Peer Review Committee (“PRC”) which, at the request of the Department, may also review
126 educational procedures and programming for students with an educational classification of ASD and related
127 disabilities.

128 (3) Statewide Monitoring Review Board (“SMRB”), composed of no less than 7 members, including 2
129 nonvoting public representatives nominated annually by the PAC. A public representative may not have a child
130 with an educational classification of ASD enrolled in a Delaware public school program.

131 a. The SMRB shall review, at least annually, the education and provision of related services provided
132 to students with an educational classification of ASD throughout all public schools to ensure the
133 application of evidence-based practice and opportunities for meaningful and measurable progress and
134 inclusion, as appropriate, are afforded to all such students.

135 b. The SMRB shall make findings and recommendations based on its review to include data
136 measuring these specific recommendations and suggestions for corrective action to ensure consistent
137 quality and equity of services throughout this State.

138 c. The SMRB shall submit its findings and recommendations, at least annually, to the Department
139 and the Education Committees of the General Assembly. The SMRB’s report must be available on each
140 school district or school website.

141 c. The SMRB shall resolve disputes within or between public schools and the Director. This
142 paragraph (h)(3)c. of this section does not diminish the procedural safeguards guaranteed to children with
143 an educational classification of ASD, their parents or guardians, or public schools or agencies.
144 d. If a public school is found to be out of compliance with the specific recommendations in
145 subsection (h)(3) of this section, the Department and the Director must allow the public school the
146 opportunity for technical assistance and progressive implementation of a corrective action plan for
147 improvement agreed upon by the school and the Director.

148 Section 2. This Act is known as “The Alex Eldreth Autism Education Law”.

SYNOPSIS

This Act implements the recommendations of the March 2105 Autism Educational Task Force report regarding § 1332 of Title 14, the Program for Children with Autism and its Special Staff. Enacted nearly three decades ago, this law established a network of educational programs initially within a separate school structure known as The Delaware Autism Program (DAP). Today, this network continues as a combination of both separate school programs and within local school district support services.

However, the current model does not reflect current practices in special education, especially regarding inclusive education, and parents’ desire to have their children educated in their local communities. In addition, the increase in students with an educational classification of autism spectrum disorder (“ASD”) has made it difficult for the Statewide Director to provide the level of services and support that once was offered.

This Act establishes the qualifications and duties of the Statewide Director and enhances the current mandatory committee structure to include a Parent Advisory Committee, in addition to the Peer Review Committee and Statewide Monitoring Review Board, to increase family input, monitoring, and protections.

This Act creates a 3 year pilot program that revises the concept of DAP toward a system in which the statewide Director will work in collaboration with a team of experts to provide technical assistance and training to districts and educational entities. It allows for and provides adequate resources for all students with ASD in Delaware by eliminating the distinction between DAP-approved programs and other in-district options and by providing in-state experts at a lower cost than out-of-state residential treatment and consultants. The pilot program created under this Act makes changes that recognize and support the need for specialized technical assistance and training staff to be available to build capacity for teachers in all districts and other programs educating students with ASD. These changes expand available supports so that excellent, evidence-based training and technical assistance can be made available to all Delaware schools and the students who attend them. The pilot program created under this Act establishes a technical assistance team of educational autism specialists numbering a ratio of 1 for every 100 students (currently estimated at 15 positions).

The fiscal mechanism to support the pilot program will be accomplished through mandated district participation that is consistent with the current needs-based funding system in Delaware and by redirecting state spending towards lower cost, community-based supports from out-of-state residential placements. The number of training specialists will be phased in over several years or until the pilot program ends.

Finally, this Act is known as "The Alex Eldreth Autism Education Law" in memory Alex Eldreth, who passed away unexpectedly on November 24, 2017, and his dedication to this work.