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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 19

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EXCEPTIONAL CHILDREN IN HOMESCHOOLS.

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

1 Section 1. Amend § 3101, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3101. Definitions.

4 The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them
5 except when the context clearly indicates a different meaning:

6 (2) "Child with a disability" means a child who because of mental, physical, emotional, developmental, ~~speech~~
7 speech, or learning disability problems, as defined by the Department of Education rules and regulations approved by
8 the State Board of Education, requires special education and related services in order to develop that person's own
9 capabilities. A child with a disability is eligible for services beginning on the child's third birthday, or earlier if
10 otherwise provided in this title.

11 (5)a. "Free appropriate public education" means special education that is specially designed instruction
12 including classroom instruction, instruction in physical education, home ~~instruction~~ instruction, and instruction in
13 hospitals and institutions, and related services as defined by Department of Education rules and regulations approved
14 by the State Board of Education and as may be required to assist a child with a disability to benefit from an education
15 ~~that:~~ that does all of the following:

16 a. 1. Is provided at public expense, under public supervision and ~~direction~~ direction, and without
17 charge in the public school ~~system;~~ system.

18 b. 2. Meets the standards of the Department of Education as set forth in this title or in the rules and
19 regulations of the Department as approved by the State ~~Board;~~ Board.

20 e. 3. Includes elementary, ~~secondary~~ secondary, or vocational education in the ~~State;~~ State.

21 d. 4. Is individualized to meet the unique needs of the child with a ~~disability;~~ disability.

22 e. 5. Provides significant learning to the child with a ~~disability;~~ and disability.

23 §. 6. Confers meaningful benefit on the child with a disability that is gauged to the child with a
24 disability's potential.

25 b. No court, administrative tribunal, school district, or school shall use a definition of "free appropriate
26 public education" that states or implies that the term encompasses a lesser educational program than enumerated in
27 this definition. Courts, ~~administrative~~, administrative tribunals, and schools may use a definition of "free
28 appropriate public education" that states or implies that the term encompasses a more enhanced educational
29 program than described in this definition, if consistent with a decision of the United States Third Circuit Court of
30 Appeals or the United States Supreme Court.

31 c. The related services ~~to be~~ provided shall be based upon a program for each child as approved by the
32 Department; provided, that the State Board may review any objection to the Department's decision. Funds for such
33 services are to be paid from the Educational Contingency Fund of the Department of Education.

34 d. For a student in a homeschool, under § 2703A of this title, "free appropriate public education" means
35 speech language pathology and audiology services required to assist a child with a disability to benefit from an
36 education under paragraphs (5)a.1. through (5)a.6. of this section.

37 Section 2. Amend § 3110, Title 14 of the Delaware Code by making deletions as shown by strike through and
38 insertions as shown by underline as follows:

39 § 3110. Rules and regulations.

40 (a) The Department of Education is designated as the state agency that, with the approval of the State Board, shall
41 make rules and regulations to carry out this and other titles relative to the identification, evaluation, education, ~~training~~
42 training, and transportation of exceptional children including specific definitions for the categories of units for exceptional
43 children authorized for funding in § 1703 of this title.

44 (b) The rules promulgated by the Department of Education with the approval of the State Board of Education shall
45 provide ~~the~~ all of the following:

46 (1) The criteria by which identified children with disabilities, as defined in § 3101 of this title, disabilities
47 shall be assigned to a public school facility, or, if otherwise eligible for admission, to an institution of another state
48 agency, or released for authorized placement in a private school or agency, ~~pursuant to subchapter~~ under Subchapter III
49 of this chapter.

50 (2) That a child with a disability who attends a homeschool under § 2703A of this title, is eligible for speech
51 language pathology and audiology services in the same manner as a student who attends a private school is eligible for
52 equitable services.

53 Section 3. Amend § 3122, Title 14 of the Delaware Code by making deletions as shown by strike through and
54 insertions as shown by underline as follows:

55 § 3122. Identification and reporting of child with a disability.

56 (a) Except as ~~noted in~~ provided under subsection (b) of this section regarding parentally-placed private school
57 children, each school district shall ~~be required to~~ identify, ~~locate~~ locate, and evaluate, or reevaluate, any children with
58 disabilities residing within the confines of that school district, including children with disabilities who are homeless
59 children or wards of the State, regardless of the severity of the disability, and who are in need of special education and
60 related services.

61 (b)(1) Each school district, excluding vocational school districts, shall ~~be required to~~ identify, ~~locate~~ locate, and
62 evaluate, or reevaluate, any children with disabilities who are enrolled by their parents in private schools located within the
63 confines of that school district, regardless of the severity of the disability, and who are in need of special education and
64 related services.

65 (2)a. On request of a parent or guardian of a student, each school district, excluding vocational school
66 districts, shall evaluate, or reevaluate, a child with a disability who attends a homeschool under § 2703A of this title
67 located within the confines of that school district, regardless of the severity of the disability, and who is in need of
68 special education and related services for speech language pathology and audiology services.

69 b. The school district shall evaluate or reevaluate a child under paragraph (b)(2)a. of this section in the
70 same manner as children under paragraph (b)(1) of this section.

71 c. A child with a disability is eligible to receive related services for speech language pathology and
72 audiology services under paragraph (b)(2) of this section as follows:

73 1. The parent or guardian educating the child must comply with the school district evaluation
74 requirements and the services plan provided by the school district.

75 2. The child is eligible for services in the same manner as is a child who receives the services in a
76 school district or charter school.

SYNOPSIS

This Act makes children with disabilities who attend homeschools eligible to receive speech language pathology and audiology services in the same manner as students who attend private schools.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Wilson