



SPONSOR: Rep. K. Williams & Rep. Dorsey Walker & Sen. Sturgeon
& Sen. Gay
Reps. Baumbach, Bentz, Bush, Chukwuocha, Heffernan,
K. Johnson, Lambert, Longhurst, Lynn, Minor-Brown,
Mitchell, S. Moore, Morrison, Osienski, Ramone; Sens.
Ennis, Lockman, Mantzavinos, S. McBride, Poore,
Sokola, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 144

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 and redesignating accordingly:

3 § 1703. Unit of pupils [Effective July 1, 2022; Effective until 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) (4) K-3 Basic Special Education (Basic) — 10.2~~

12 ~~(4) (5) 4-12 Regular Education — 20~~

13 ~~(5) (6) 4-12 Basic Special Education (Basic) — 8.4~~

14 ~~(6) (7) Pre-K-12 Intensive Special Education (Intensive) — 6~~

15 ~~(7) (8) 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 grade 3 shall be 1 unit for 10.2 students. The
27 basic special education (basic) unit for grades 4 through 12 shall be 1 unit for 8.4 students. The intensive special education
28 (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The complex special education (complex) unit
29 for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is defined as enrollment until receipt of a regular
30 high school diploma or the end of the school year in which the student attains the age of 21, whichever occurs first, as
31 defined in Chapter 31 of this title.

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

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

- 36 1. Partial unit funding is provided for between 1 and 7 students based on the cash-in value of the unit.
- 37 2. The cash-in value of the unit is tied to the teacher state salary schedule at the master’s level plus
38 10 years of experience as defined in § 1305(a) of this title.
- 39 3. The units include Divisions II and III.
- 40 4. Districts must use all funds generated by preschool 2 basic special education unit to support
41 services for the students counted in the preschool 3+ basic special education unit and the preschool 2 basic
42 special education unit. Districts are not limited to using the funds to employ teachers only. The funds may be
43 used to hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or
44 other related services personnel as determined at the local level. The units may also be used to secure
45 contractual services per requirements for the contractual option described in Chapter 13 of this title.
- 46 5. Districts may use tuition to pay for the local share and excess costs of special education and
47 related services.
- 48 6. The units are considered teacher/instructional units for purposes of other unit counts.

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

51 ~~(1)-(2)~~ Preschool 3+ basic special education unit. — a. ~~Student~~ A student shall be counted in the preschool 3+
52 basic special education unit if the student is identified as eligible for special education and related services and not
53 counted in the intensive unit, complex unit or preschool 2 basic special education unit ~~unit or complex unit described~~
54 below and is:

- 55 1. Eligible for special education and related services from birth; or
- 56 2. At least 3 years of age; or
- 57 3. Eligible as described in the interagency agreement with the Department of Health and Social
58 Services; or
- 59 4. Not yet entered kindergarten.

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

- 61 1. Partial unit funding is provided for between 1 and ~~12.8~~ 8.4 students based on the cash-in value of
62 the unit.
- 63 2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus
64 10 years of experience as defined in § 1305(a) of this title.
- 65 3. The units include Divisions II and III.
- 66 4. Districts must use all funds generated by preschool 3+ basic special education unit to support
67 services for the students counted in the preschool 3+ basic special education unit and the preschool 2 basic
68 special education unit. Districts are not limited to using the funds to employ teachers only. The funds may be
69 used to hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or
70 other related services personnel as determined at the local level. The units may also be used to secure
71 contractual services per requirements for the contractual option described in Chapter 13 of this title.
- 72 5. Districts may use tuition to pay for the local share and excess costs of special education and
73 related services.
- 74 6. The units are considered teacher/instructional units for purposes of other unit counts.
- 75 7. A student is not required to receive a minimum number of hours in special education instruction to
76 count in the preschool unit.

77 § 1703. Unit of pupils [Effective July 1, 2023].

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

81 ~~(1) Preschool — 12.8~~

82 (1) Preschool 2 Basic Special Education — 7

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

84 ~~(2) (3) K-3 Regular Education — 16.2~~

85 ~~(3) (4) K-3 Basic Special Education (Basic) — 8.4~~

86 ~~(4) (5) 4-12 Regular Education — 20~~

87 ~~(5) (6) 4-12 Basic Special Education (Basic) — 8.4~~

88 ~~(6) (7) Pre-K-12 Intensive Special Education (Intensive) — 6~~

89 ~~(7) (8) Pre-K-12 Complex Special Education (Complex) — 2.6~~

90 (b) All such units must be authorized by the Department of Education under rules and regulations promulgated by
91 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
92 category may be a major fraction.

93 (c) In the case of kindergarten, “unit” or “unit of pupils” is defined as 32.4 pupils for half-day kindergarten and
94 16.2 pupils for full-day kindergarten.

95 (d) For funding purposes, the following conditions shall prevail for the calculations of the number of units for
96 children with disabilities and all other children. The preschool 2 basic special education unit shall be 1 unit for 7 students.
97 The preschool 3+ basic special education unit shall be 1 unit for 12.8–8.4 students. The regular education unit for
98 kindergarten through third grade unit (K-3 regular education) shall be 1 unit for 16.2 students, except as noted in subsection
99 (c) of this section above. The regular education unit for grades 4 through 12 (4-12 regular education) shall be 1 unit for 20
100 students. The basic special education (basic) unit for kindergarten through 12 shall be 1 unit for 8.4 students. The intensive
101 special education (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The complex special
102 education (complex) unit for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is defined as enrollment
103 until receipt of a regular high school diploma or the end of the school year in which the student attains the age of 21,
104 whichever occurs first, as defined in Chapter 31 of this title.

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

108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137

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

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

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

3. The units include Divisions II and III.

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

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

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

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

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

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

2. At least 3 years of age; or

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

4. Not yet entered kindergarten.

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

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

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

- 138 3. The units include Divisions II and III.
- 139 4. Districts must use all funds generated by preschool 3+ basic special education unit to support
140 services for the students counted in the preschool 3+ basic special education unit and the preschool 2 basic
141 special education unit. Districts are not limited to using the funds to employ teachers only. The funds may be
142 used to hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or
143 other related services personnel as determined at the local level. The units may also be used to secure
144 contractual services per requirements for the contractual option described in Chapter 13 of this title.
- 145 5. Districts may use tuition to pay for the local share and excess costs of special education and
146 related services.
- 147 6. The units are considered teacher/instructional units for purposes of other unit counts.
- 148 7. A student is not required to receive a minimum number of hours in special education instruction to
149 count in the preschool unit.
- 150 Section 2. This Act takes effect on July 1, 2022.

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 that will be in effect for K-3 basic special education after the passage of HB86 in 2021. 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, 2022.