



SPONSOR: Sen. Poore & Sen. Lawson & Rep. Heffernan & Rep. Miro & Rep. Hudson
Sens. Blevins, Hall-Long, Hocker, Lavelle, Sokola, Townsend; Reps. Baumbach, Bennett, Hensley, Jaques, Q. Johnson, Kenton, Mulrooney, Paradee, Ramone, M. Smith, Viola, K. Williams, Wilson

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE BILL NO. 33

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION AND THE INDIVIDUALIZED EDUCATION PROGRAM.

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

1 WHEREAS, the individualized education program (IEP) process is the method by which educational programs
2 and services for students with diagnosed disabilities in Delaware public schools are determined; and

3 WHEREAS, Senate Concurrent Resolution 63 of the 147th General Assembly established the IEP Improvement
4 Task Force in order to examine means to improve the individualized education program process for students in Delaware
5 public schools,” and

6 WHEREAS, the task force was assigned to recommend to the General Assembly and Governor “potential
7 legislative, regulatory, funding, or other improvements to Delaware’s IEP process”; and

8 WHEREAS, the Task Force delivered its report to the General Assembly and Governor in January, 2015, and in so
9 doing recommended a number of legislative and funding changes to improve the IEP process;

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

11 Section 1. Amend Title 14, Chapter 5 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows:

13 § 506 Restrictions.

14 (g) By August 1, 2015, each charter school shall have designated a responsible person at the school to receive
15 training from the Department of Education regarding the legal responsibilities of charter schools with respect to preparation
16 of individualized education programs for students with disabilities and resources available to charter schools to assist in
17 preparation of such programs.

18 Section 2. Amend Title 14, Chapter 31, Subchapter III and V of the Delaware Code by making deletions as shown
19 by strike through and insertions as shown by underline as follows:

20 § 3125. Parent Councils.

21 Each school district and charter school enrolling any child with disabilities shall, on an annual basis, contact the
22 parents of each such child to attempt to facilitate the creation and maintenance of a parent council for the parents of
23 students with disabilities. Parent councils will advocate generally for students with disabilities and provide person-to-
24 person support for individual parents and children. The LEAs shall collaborate and coordinate with existing parent groups
25 and other information and support groups to facilitate creation, maintenance, and effectiveness of the Parent Councils.

26 § 3131 Minutes of meetings.

27 Subject to confidentiality requirements of applicable state or federal law, minutes may be taken, by disclosed
28 recording device or stenographer, of any meeting, review or conference concerning a child with a disability's free,
29 appropriate, public education, at the option of the parents of the child with a disability, their authorized representative or the
30 agency conducting the meeting, review or conference. Costs of the recording shall be borne by the person or agency
31 exercising the option under this section.

32 § 3131 Conduct of Meetings

33 (a) No school or school district, or any person acting under the authority of a school or school district, shall
34 discriminate or take any adverse employment or contract action against any person based upon statements that
35 person makes in connection with an individualized education program, including statements made in
36 preparation for or at a meeting, review, or conference concerning a child with a disability's free, appropriate
37 public education. Entities or persons who violate this subsection shall be subject to the same injunctive and
38 monetary sanctions as persons or entities that engage in unlawful employment practices pursuant to Title 19,
39 Chapter 7 of the Delaware Code.

40 (b) Subject to confidentiality requirements of applicable state or federal law, minutes may be taken, by disclosed
41 recording device or stenographer, of any meeting, review or conference concerning a child with a disability's
42 free, appropriate, public education, at the option of the parents of the child with a disability, their authorized
43 representative or the agency conducting the meeting, review or conference. Costs of the recording shall be
44 borne by the person or agency exercising the option under this section.

45 (c) Discussions about employment options with children and parents during the individualized education program
46 process should be consistent with Delaware's employment first policy articulated at 19 Del. C. § 743.

47 (d) The Department of Education, in consultation with the Department of Justice, shall annually survey a material
48 number of parents and children who have individualized education programs with respect to the parents' and
49 children's satisfaction with the IEP process. Information gathered through this survey shall be used by the

50 Department of Education and Department of Justice to conduct follow-up examinations with school districts
51 and charter schools as to their good faith compliance with state and federal laws and regulations.

52 § 3134 Contents of notice.

53 The notice under § 3133 of this title must include:

54 (1) A full explanation of all of the procedural safeguards available to the parents under ~~this subchapter~~ state and
55 federal law and regulations;

56 (2) A description of the action proposed or refused by the district or agency, an explanation of why the district or
57 agency proposes or refuses to take the action, and a description of any options the district or agency considered and the
58 reasons why those options were rejected;

59 (3) A description of each evaluation procedure, test, record or report the district or agency uses as a basis for the
60 proposal or refusal;

61 (4) A description of any other factors which are relevant to the district or agency's proposal or refusal;

62 (5) A statement that the parents of a child with a disability have protection under the procedural safeguards of ~~this~~
63 ~~chapter~~ state and federal law and regulations and, ~~if this notice is an initial referral for evaluation,~~ the means by which a
64 copy of a description of the procedural safeguards can be obtained; ~~and~~

65 (6) Sources for parents to contact to obtain assistance in understanding the provisions of this subchapter, including
66 but not limited to specific contact information for existing parent assistance programs, legal assistance programs, and the
67 Delaware State Bar Association;

68 (7) Along with or prior to the notice of an individualized education program meeting or its equivalent, a separate
69 questionnaire requesting the input of a child's parent and, where appropriate, a child, with respect to the child's progress to
70 date and additional proposed steps that should be taken to adjust the child's goals, curriculum, services, aids, modifications,
71 or other elements of the child's individualized education program.

72 (8) To the extent that a draft individualized education program will be presented to a child and/or parent, or
73 otherwise utilized at the individualized education program meeting for which notice is provided, a copy of the draft
74 individualized education program accompanied by a letter clearly indicating to the parent and child that the document is a
75 draft for discussion and subject to revision at the noticed meeting. If such a draft individualized education program is
76 prepared subsequent to the notice required by this section but prior to the noticed meeting, it shall be provided to the parent
77 and child prior to the noticed meeting, along with the explanatory letter required by this paragraph. Any draft document
78 provided to a child or parent pursuant to this paragraph shall be clearly labeled on each page as a draft document for

79 discussion purposes only. The Department in collaboration with the Governor's Advisory Council on Exceptional Citizens
80 shall create a draft letter and associated guidance to assist the LEAs with the content and application of the above letter.

81 (9) A notice that a parent or child may request prior to an individualized education program meeting any data in
82 the school or school district's possession relevant to the child's needs and/or disability.

83 (10) A notice that a parent or child may request the presence of any teacher, paraprofessional, and any additional
84 staff members of their choosing at an individualized education program meeting.

85 Section 3. The Department of Education is directed to make a formal, written report on the functionality of the
86 IEP Plus system, specific plans that it has put in place to remedy any deficiencies in the IEP Plus system and when those
87 plans will be executed, and specific available alternatives to the IEP Plus system which would provide computerized
88 systems for preparation of individualized education programs. This report must be submitted to the General Assembly
89 within 30 days of enactment of this legislation.

SYNOPSIS

This Act implements the legislative recommendations of the IEP Improvement Task Force created by the 147th General Assembly. The recommendations it implements are to:

1. Provide more detailed and helpful information to parents about their rights and resources in the IEP process;
2. Solicit the input of parents and children regarding the IEP process before IEP meetings occur;
3. Provide advance notice to parents and children of documents that will be discussed at IEP meetings;
4. Require the facilitation of parent councils to provide peer support for the parents of students with disabilities;
5. Ensure that teachers, staff, and contract employees do not suffer retaliation for offering their candid opinions during the IEP process;
6. Ensure that employment planning during the IEP process is consistent with Delaware's employment first policy;
7. Require a robust annual survey of parents and children to ensure that school districts and charter schools are adhering to state and federal law with respect to the IEP process.
8. Ensure that charter schools are attentive to their responsibilities and available resources with respect to students with disabilities.
9. Require that the Department of Education report to the General Assembly on the status of and possible alternatives to the IEP Plus computer system, which has been an impediment to the preparation of IEPs by teachers, staff, and contractors.

Author: Senator Poore