



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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Dover, Delaware 19901  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

## MEMORANDUM

DATE: May 5, 2021

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Terri Hancharick – Chairperson *TH*  
State Council for Persons with Disabilities

RE: HB 128 (Extension of Special Education Past Age 21)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 128, which seeks to amend Chapter 14 of the Delaware Code relating to Exceptional Children by adding § 3101 subsection (2)(c) which permits the extension of special education and related services to those students with a disability who turned 21 during the 2020-2021 school year. SCPD has the following observations.

The bill refers to the COVID-19 Declaration of a State of Emergency for Public education. The proposed language will add “A child with a disability who attains the age of 21 during the 2020-2021 school year is eligible for services until the end of the 2021-2022 school year if an extension of special education and related services is necessary to address unfinished learning caused by the COVID-19 coronavirus pandemic which gave rise to the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat issued by the Governor on March 12, 2020.” The bill proposes that the “individualized education program team responsible for a child with a disability whose education has been interrupted or otherwise adversely affected by the State of Emergency shall review and revise the child’s Individualized Education Program (IEP) to enumerate the specific basis

for extension of services and the special education and related services to be and the special education and related services to be provided.”

SCPD endorses the proposed legislation as it *ensures* compliance with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and Title II of the Americans with Disabilities Act. It will benefit individuals who received special education services and supports virtually or part-time which is not nearly as effective as in-person learning. However, SCPD requests clarification that all procedural rights, indeed, attach to the assessment by the IEP Team.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position and observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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