



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: March 10, 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: H.B. 86 (Expansion of K-3 Basic Special Education)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 86, which seeks to amend Title 14 of The Delaware Code relating to increased funding for kindergarten through third grade students identified as eligible for basic special education services. SCPD endorses the proposed legislation and has the following observations.

The Governor has proposed a budget to the General Assembly for Fiscal Year 2022 that includes an appropriation of not less than \$35 million for Opportunity Funding for 2021-2022 School Year. These increases are the result of litigation filed against the State of Delaware for not complying with the Education Clause of the Delaware Constitution requiring the state to provide an adequate education to all children, specifically all low income children, children with disabilities and children whose first language is not English. Currently, basic special education is provided for students in fourth through twelfth grade who are identified as eligible for basic special education and related services; there is no additional unit funding

for students in kindergarten through third grade who may be eligible for basic special education services.

The bill adds a designation of “K-3 Basic Special Education (basic)” and over three years reduces the number of students comprising a unit from the current 16.2 to 8.4. This language would be consistent with the units available to students in grades 4-12. Sections 1 through 3 of the bill change the funding chart currently in the Code to subsections and provides for a decrease in the ratio between the number of students enrolled and the unit count for basic special education from 16.2 currently to 12.2 in Fiscal Year 2022, 10.2 in Fiscal Year 2023, and 8.4 in Fiscal Year 2024. Section 4 of this bill delays the effect of each Section until the start of each new fiscal year in the 3-year cycle over which this Act’s changes are intended to occur.

SCPD is endorses the proposed legislation as it expands funding to Kindergarten through third grade students identified as eligible for basic special education. The Governor has suggested to increase the budget gradually over the next three years. This allows students in Kindergarten through third grade students that are eligible for basic special education to receive an adequate education and comply with the settlement in the litigation.

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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