



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

John McNeal, Director  
SCPD

## MEMORANDUM

DATE: April 4, 2022

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

FROM: Ms. Terri Hancharick, Chairperson  
State Council for Persons with Disabilities

RE: H.B. 311 (Delaware Equal Accommodations Law)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 311 which would clarify the scope and protections for individuals with disabilities under the Delaware Equal Accommodations Law (DEAL) and further align definitions and scope of DEAL with federal law protecting individuals with disabilities from discrimination by places of public accommodation, including the Americans with Disabilities Act (ADA). SCPD strongly endorses H.B. 311 and has the following observations.

As background, DEAL was originally enacted in 1953 and, over time, protected classes have been added to the statute, including disability in 1986. Over many years, the state agency that enforces the law, the Division of Human Relations (DHR) within the Department of State, has taken an increasingly narrow view of what types of discrimination against people with disabilities are illegal under DEAL. Specifically, it has unilaterally decided that DEAL does not cover cases in which a person is asking for a reasonable modification (or reasonable “accommodation” which is often used interchangeably) of a policy or practice, or for a physical alteration of a structure and dismisses these cases for lack of jurisdiction without

doing any investigation. This interpretation has essentially cut off access to DEAL for people with disabilities in the state, who most of the time, do not encounter direct discrimination (e.g., I won't serve you because I don't like people with disabilities, and I don't want you here) but encounter barriers to access. These barriers are sometimes physical, but are often intangible such as policies and practices that have to be altered to allow access.

Currently, many disability discrimination cases are not being heard by DHR and this avenue for relief, which is quick, inexpensive for both sides, and offers conciliation, is essentially not available to Delawareans with disabilities.

H.B. 311 makes it abundantly clear that the law's scope is inclusive of all discrimination based on disability.

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

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

HB 311 DEAL 4-4-22