



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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**MEMORANDUM**

DATE: May 28, 2010

TO: The Honorable Quinton Johnson  
The Honorable David P. Sokola

FROM: Ms. Daniese McMullin-Powell, *DMP/1/10* Chairperson  
State Council for Persons with Disabilities

RE: H.B. 387 [Notice of Special Education Hearings & Appeals to Local School Boards]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 387 which would require the Department of Education (DOE) to issue regulations with the following effects: 1) ensuring that local school board members are provided notice whenever a parent requests a special education hearing; 2) ensuring that local school board members receive a copy of any special education hearing decision; 3) ensuring that local board members are notified of any parental judicial appeal of a special education administrative hearing decision; and 4) requiring any district appeal of a special education hearing decision to be preceded by a majority vote of the local school board authorizing the appeal.

SCPD endorses the proposed legislation, but wanted to also share the following potential amendments which do not address "critical" defects but may improve the bill somewhat.

First, the term "or guardian" should be deleted in lines 3, 7, and 11. The term "parent" is broadly defined in Title 14 Del.C. §3101(7) to include guardians, students over 18, stepparents, custodians, etc. The reference to "or guardians" is therefore both unnecessary and potentially limiting. Moreover, other parts of the bill (lines 10 and 14) refer solely to "parents".

Second, since the hearing decision and related documentation are not "public records", it would be preferable to require the DOE regulations to address confidentiality of the records shared with local boards. The sponsors could consider, in line 15, deletion of the word "Lastly", capitalization of the word "the" prior to "regulation", and insertion of the following final sentence in line 17:

Finally, the regulations shall include provisions preserving the confidentiality of records related to hearing and appellate proceedings shared with school boards consistent with applicable federal and State law.

The DOE regulation could then provide guidance that personally identifiable student information should not be discussed in open sessions and board member redisclosure of special education records should not occur.

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

cc: Mr. Brian Hartman, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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