



SPONSOR: Rep. Q. Johnson & Sen. Sokola
Reps. Barbieri, Bennett, Jaques, Lavelle, Longhurst, M.
Marshall, Mitchell, Mulrooney, Schooley, Scott, Walls;
Sens. Hall-Long, Henry

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EXCEPTIONAL PERSONS.

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

1 Section 1. Amend §3101(3), Title 14 of the Delaware Code by deleting subsection (3) in its entirety and
2 substituting in lieu thereof a new subsection (3) as follows:

3 “(3) ‘Free appropriate public education’ means special education that is specially designed instruction including
4 classroom instruction, instruction in physical education, home instruction and instruction in hospitals and institutions, and
5 related services as defined by Department of Education rules and regulations approved by the State Board of Education and
6 as may be required to assist a handicapped person to benefit from an education that:

- 7 a. Is provided at public expense, under public supervision and direction and without charge in the public school
8 system;
- 9 b. Meets the standards of the Department of Education as set forth in this title or in the rules and regulations of the
10 Department as approved by the State Board;
- 11 c. Includes elementary, secondary or vocational education in the State;
- 12 d. Is individualized to meet the unique needs of the handicapped person;
- 13 e. Provides significant learning to the handicapped person; and
- 14 f. Confers meaningful benefit on the handicapped person that is gauged to the handicapped person’s potential.

15 No court, administrative tribunal, school district, or school shall use a definition of ‘free appropriate public
16 education’ that states or implies that the term encompasses fewer services than enumerated in this definition. Courts,
17 administrative, tribunals, and schools may use a definition of ‘free appropriate public education’ that states or implies that
18 the term encompasses more services than enumerated in this definition, if so dictated by a decision of the United States
19 Third Circuit Court of Appeals or the United States Supreme Court.

20 The related services to be provided shall be based upon a program for each child as approved by the Department;
21 provided, that the State Board may review any objection to the Department's decision. Funds for such services are to be
22 paid from the Educational Contingency Fund of the Department of Education.”.

SYNOPSIS

This bill would require courts, administrative tribunals, school districts, and schools to use the definition of “free and appropriate education” with respect to disabled children that has been enumerated for this region of the country by the United States Third Circuit Court of Appeals in Ridgewood Board of Education v. N.E., 172 F.3d 238 (3d. Cir. 1999).

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