SENATE BILL \_\_\_\_

**AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE WITH RESPECT TO EDUCATION**

**Sponsors:**

WHEREAS, the individualized education program (IEP) process is the method by which educational programs and services for students with diagnosed disabilities in Delaware public schools are determined; and

WHEREAS, Senate Concurrent Resolution 63 of the 147th General Assembly established the IEP Improvement Task Force in order to examine means to improve the individualized education program process for students in Delaware public schools,” and

WHEREAS, the task force was assigned to recommend to the General Assembly and Governor “potential legislative, regulatory, funding, or other improvements to Delaware’s IEP process”; and

WHEREAS, the Task Force delivered its report to the General Assembly and Governor in January, 2015, and in so doing recommended a number of legislative and funding changes to improve the IEP process;

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

Section 1. Amend Title 14, Section 3134 of the Delaware Code by striking and adding the following language:

The notice under § 3133 of this title must include:

(1) A full explanation of all of the procedural safeguards available to the parents under ~~this subchapter~~ state and federal law and regulations;

(2) A description of the action proposed or refused by the district or agency, an explanation of why the district or agency proposes or refuses to take the action, and a description of any options the district or agency considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, test, record or report the district or agency uses as a basis for the proposal or refusal;

(4) A description of any other factors which are relevant to the district or agency's proposal or refusal;

(5) A statement that the parents of a child with a disability have protection under the procedural safeguards of ~~this subchapter~~ state and federal law and regulations and~~, if this notice is not an initial referral for evaluation,~~ the means by which a copy of a description of the procedural safeguards can be obtained; ~~and~~

(6) Sources for parents to contact to obtain assistance in understanding the provisions of this subchapter, including but not limited to specific contact information for existing parent assistance programs, legal assistance programs, and the Delaware State Bar Association;

(7) If the notice is of an individualized education program meeting or its equivalent, a separate questionnaire requesting the input of a child’s parent and, where appropriate, a child with respect to the child’s progress to date and additional steps that should be taken to adjust the child’s goals, curriculum, services, aids, modifications, or other elements of the child’s individualized education program.

(8) To the extent that a draft individualized education program will be presented to a child and/or parent at the individualized education program meeting for which notice is provided, a copy of the draft individualized education program accompanied by a letter clearly indicating to the parent and child that the document is a draft for discussion and subject to revision at the noticed meeting. If such a draft individualized education program is prepared subsequent to the notice required by this section but prior to the noticed meeting, it shall be provided to the parent and child prior to the noticed meeting, along with the explanatory letter required by this paragraph. Any draft document provided to a child or parent pursuant to this paragraph shall be clearly labeled on each page as a draft document for discussion purposes only.

(9) A notice that a parent or child may request prior to an individualized education program meeting any data in the school or school district’s possession relevant to the child’s needs and/or disability.

(10) A notice that a parent or child may request the presence of any teacher or staff member at an individualized education program meeting.

Section 2. Amend Title 14 of the Delaware Code by adding a new section 3125:

3125. Parent Councils. Each school district and charter school enrolling any child with disabilities shall, on an annual basis, contact the parents of each such child to attempt to facilitate the creation and maintenance of a parent council for the parents of students with disabilities. Parent councils will advocate generally for students with disabilities and provide person-to-person support for individual parents and children.

Section 3. Amend Title 14, Section 3131 of the Delaware Code by striking and adding the following language:

**~~§ 3131 Minutes of meetings.~~**

~~Subject to confidentiality requirements of applicable state or federal law, minutes may be taken, by disclosed recording device or stenographer, of any meeting, review or conference concerning a child with a disability's free, appropriate, public education, at the option of the parents of the child with a disability, their authorized representative or the agency conducting the meeting, review or conference. Costs of the recording shall be borne by the person or agency exercising the option under this section.~~

§ 3131 Conduct of Meetings

1. No school or school district, or any person acting under the authority of a school or school district, shall discriminate or take any adverse employment or contract action against any person based upon statements that person makes in connection with an individualized education program, including statements made in preparation for or at a meeting, review, or conference concerning a child with a disability’s free, appropriate public education. Entities or persons who violate this subsection shall be subject to the same injunctive and monetary sanctions as persons or entities that engage in unlawful employment practices pursuant to Title 19, Chapter 7 of the Delaware Code.
2. Subject to confidentiality requirements of applicable state or federal law, minutes may be taken, by disclosed recording device or stenographer, of any meeting, review or conference concerning a child with a disability's free, appropriate, public education, at the option of the parents of the child with a disability, their authorized representative or the agency conducting the meeting, review or conference. Costs of the recording shall be borne by the person or agency exercising the option under this section.
3. Discussions about employment options with children and parents during the individualized education program process should be consistent with Delaware’s employment first policy articulated at 19 Del.C. § 743.
4. The Department of Education, in consultation with the Department of Justice, shall annually survey a material number of parents and children who have individualized education programs with respect to the parents’ and children’s satisfaction with the IEP process. Information gathered through this survey shall be used by the Department of Education and Department of Justice to conduct follow-up examinations with school districts and charter schools as to their good faith compliance with state and federal laws and regulations.

Section 4. Amend Title 14, Section 506 of the Delaware Code by adding a new paragraph (g) that shall read as follows:

(g) By August 1, 2015, each charter school shall have designated a responsible person at the school to receive training from the Department of Education regarding the legal responsibilities of charter schools with respect to preparation of individualized education programs for students with disabilities and resources available to charter schools to assist in preparation of such programs.

Section 5. The Department of Education is directed to make a formal, written report to the General Assembly by April 1, 2015 on the functionality of the IEP Plus system, specific plans that it has put in place to remedy any deficiencies in the IEP Plus system and when those plans will be executed, and specific available alternatives to the IEP Plus system which would provide computerized systems for preparation of individualized education programs.

SYNOPSIS

This Act implements the legislative recommendations of the IEP Improvement Task Force created by the 147th General Assembly. The recommendations it implements are to:

1. Provide more detailed and helpful information to parents about their rights and resources in the IEP process;
2. Solicit the input of parents and children regarding the IEP process before IEP meetings occur;
3. Provide advance notice to parents and children of documents that will be discussed at IEP meetings;
4. Require the facilitation of parent councils to provide peer support for the parents of students with disabilities;
5. Ensure that teachers, staff, and contract employees do not suffer retaliation for offering their candid opinions during the IEP process;
6. Ensure that employment planning during the IEP process is consistent with Delaware’s employment first policy;
7. Require a robust annual survey of parents and children to ensure that school districts and charter schools are adhering to state and federal law with respect to the IEP process.
8. Ensure that charter schools are attentive to their responsibilities and available resources with respect to students with disabilities.
9. Require that the Department of Education report to the General Assembly on the status of and possible alternatives to the IEP Plus computer system, which has been an impediment to the preparation of IEPs by teachers, staff, and contractors.