

**Position Paper on H.B. 119
Prepared by**

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**We have also used an analysis by Brian Hartman of the
Disability Law Program.**

House Bill 119 has been introduced to amend Title 14 of the Delaware Public Education Code. The stated intent is to allow more local control to districts over expenditures of state funds so they can save money.

Key Sponsors: Rep. Schooley, Sen. Sokola
Reps. Bennett, Brady, Q. Johnson, Keeley, Longhurst, Manalokos, M. Marshall, Mitchell, Mulrooney, Plant, Scott, Viola, Walls, Sens. Blevins, Bushweller, Cloutier, Hall-Long, Henry, Katz, Peterson, Simpson, Sorenson, Venables

This bill is unacceptable and we need you to call your representative and senator to oppose it immediately. The State Code for DAP has been in place for 30 years, providing the infrastructure and staff ratios for a highly successful and innovative program. The bill will negatively impact the Delaware Autism Program and educational services for students with autism (and other disabilities) in the following ways:

1. It deletes the extended school year. Specifically, the bill deletes Title 14, Section 1703, subsections (e) and (f) which call for 12 month programs for children with specific disabilities *including autism* and allows extension of the school year for children with autism to be 1,425 hours. This is highly objectionable and will result in the loss of extended programming for hundreds of students with extreme disability profiles including our students. It totally takes away our children's protection for an extended school year.

2. It allows waivers to any regulation, rule, policy, and some statutes.
Any district and any individual school would be authorized to obtain a waiver of any regulation, rule, policy, prescribed course of study, and some statutes based on unclear criteria. Everything is waivable! History instructs that waivers often become the norm. Rather than meet the standard, the norm is to simply obtain a waiver. The exception becomes the rule and legislative intent is undermined. This could impact all our staff ratios including teacher/student, speech, psychologists, etc.
3. The Legislature's historical approach to waivers is to limit authorization by both discrete context and time and to monitor waiver effects. For example, the authorization for a waiver of the 1-22 teacher/pupil ratio is specific to this context, must be reapproved annually, and is subject to analysis by the Department of Education (Title 14 Del.C. §1705A-1705B). In contrast, H.B. No. 119 has no limits in context or time and contemplates no review. Thus, schools and districts could be given indefinite or permanent waivers of some State laws and all State regulations. So, what may begin as a temporary change to address a budget crisis can become permanent.
4. The bill authorizes districts to cap hours of instruction for individual students with disabilities based on a unilateral administrative decision. Such decisions can only be made by an IEP team with parental involvement, not through a unilateral decision by district administration. Moreover, to avoid illegal discrimination (14 DE Admin Code 225; 34 C.F.R. Part 104), the minimum hours for students with disabilities cannot be less than the minimum hours for students without disabilities.

This bill ostensibly gives districts greater local control. Local control will not help our students and we know that districts will not give parents all the information they require to build appropriate educational supports into the IEP. We need to maintain the code that

guides the Delaware Autism Program to ensure that our students have staff ratios, appropriate specialists, an extended school year and respite. Parents fought for this code 30 years ago, and parents need to fight today to maintain it.

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