

Governor's Advisory Council for Exceptional  
516 West Loockerman St., Dover, DE 19904  
302-739-4553 (voice) 302-739-6126 (fax)  
<http://www.gacec.delaware.gov>



Citizens (GACEC)

**MEMORANDUM**

**DATE:** April 26, 2021

**TO:** The Honorable Members of the Delaware General Assembly

**FROM:** Ann C. Fisher, Chairperson  
GACEC

**RE:** **House Bill No. 128 Extension of Special Education Past Age 21**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed **House Bill No. 128**, which will permit the extension of special education and related services to those students with a disability who turn 21 during the 2020-2021 school year. Council **supports** this proposed legislation as it ensures compliance with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504) and Title II of the Americans with Disabilities Act (ADA).

The bill refers to the COVID-19 Declaration of a State of Emergency for Public education. The proposed language will add the following statement: "A child with a disability who attains the age of 21 during the 2020-2021 school year is eligible for services until the end of the 2021-2022 school year if an extension of special education and related services is necessary to address unfinished learning caused by the COVID-19 coronavirus pandemic which gave rise to the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat issued by the Governor on March 12, 2020."

The bill proposes that the "individualized education program team responsible for a child with a disability whose education has been interrupted or otherwise adversely affected by the State of Emergency shall review and revise the child's Individualized Education Program to enumerate the specific basis for extension of services and the special education and related services to be and the special education and related services to be provided."

The extension beyond the age of 21 will benefit individuals receiving special education services and supports that cannot be delivered virtually or part-time with the same effectiveness as in-person. Council would however like to ask for clarification to ensure that all procedural rights and safeguards attach to the assessment by the IEP Team.

Thank you for your time and consideration of our support of this proposed legislation. Please feel free to contact me or Wendy Strauss at the GACEC office should you have any questions.