

2021 -- S 0454

LC001539

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO EDUCATION

Introduced By: Senators Murray, DiPalma, and Valverde

Date Introduced: March 04, 2021

Referred To: Senate Education

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 16-24 of the General Laws entitled "Children With Disabilities [See  
2 Title 16 Chapter 97 - The Rhode Island Board of Education Act]" is hereby amended by adding  
3 thereto the following sections:

4 **16-24-19. Legislative findings.**

5 The legislature finds and declares that:

6 (1) Every student who receives special education is covered by the Individuals with  
7 Disabilities Education Act (IDEA). There are seven (7) basic principles which are consistent with  
8 the IDEA. These principles are as follows:

9 (i) To identify the child with special needs;

10 (ii) To provide free and appropriate public education;

11 (iii) Conduct an evaluation. Districts shall gather the information necessary to help  
12 determine the student's educational needs and guide decision making about appropriate educational  
13 programming;

14 (iv) Produce an individualized education program ("IEP") to ensure that each student's  
15 individual needs are met; districts shall create a written statement of the educational program  
16 designed to the needs of the student;

17 (v) Provide the least restrictive environment for the student so that each student receives  
18 an appropriate education designed to meet their special needs. Each student with disabilities shall  
19 be separated from their nondisabled peers only when the nature of the disability is such that they

1 cannot succeed in a general education classroom, even with supplementary aids and supports;

2 (vi) Offer opportunities for meaningful participation of parents, guardians, and caretakers  
3 of students with disabilities, and the students, when appropriate, to become involved throughout  
4 the special education process; and

5 (vii) Implement procedural safeguards to ensure that each student's rights and the rights of  
6 the parents, guardians, and caretakers of the students with disabilities are protected and establish  
7 clear steps to address issues which may arise. Parents, guardians and caretakers of students with  
8 disabilities or students with disabilities who are over the age of eighteen (18) through twenty-one  
9 (21) and enrolled in school shall have the ability to participate in meetings, examine all education  
10 records and obtain an individual educational evaluation of the student.

11 **16-24-20. The Rhode Island ombudsperson for special education.**

12 (a) There is hereby established a Rhode Island ombudsperson for parents, guardians and  
13 caretakers of students with disabilities students with disabilities or students with disabilities who  
14 are over the age of eighteen (18) through twenty-one (21) and enrolled in school. The  
15 ombudsperson shall be independent of the department of education and shall serve as an advocate,  
16 coordinator, and point of contact for those parents, guardians, and caretakers of students with  
17 disabilities or students with disabilities who are over the age of eighteen (18) through twenty-one  
18 (21) and enrolled in school, when dealing with school districts and the districts' compliance with  
19 the applicable individualized education program (referred to hereinafter in this section and §§ 16-  
20 24-21, 16-24-22, 16-24-23, 16-24-24, and 16-24-26 as an "IEP"), 504 plans established pursuant  
21 to the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) (which plans are hereinafter referred to  
22 in this section and §§ 16-24-21, 16-24-22, 16-24-23, 16-24-24, and 16-25-25 as "504 plans"), and  
23 related supports and services for students with disabilities who are provided special services  
24 pursuant to this chapter and federal law, including, but not limited to, the Individuals with  
25 Disabilities Education Act (20 U.S.C. Section 1400 et seq.), and the minimum accountability  
26 standards as they pertain to the individual student.

27 (b) The governor, with the advice and consent of the senate, shall appoint an  
28 ombudsperson, who shall be a person qualified by training and experience to perform the duties set  
29 forth in subsections (c) through (e) of this section. The appointment shall be made from a list of at  
30 least three (3) persons prepared and submitted by a committee consisting of six (6) members, all of  
31 whom shall be appointed to serve four (4) year terms. Four (4) members of the committee shall  
32 constitute a quorum. No one shall be eligible for appointment unless he or she is a resident of this  
33 state. Each member appointed to the committee shall have knowledge of federal and state special  
34 education law, knowledge of civil rights, and experience with the implementation of IEP and 504

1 plans. The members shall be as follows:

2 (1) One of whom shall be a member of the Rhode Island senate, appointed by the president  
3 of the senate;

4 (2) One of whom shall be a member of the house of representatives, appointed by the  
5 speaker of the house of representatives;

6 (3) One of whom shall be an attorney who practices in the area of special education law;  
7 (4) One of whom shall be a parent, guardian or caretaker of a student with special  
8 disabilities;

9 (5) One of whom shall be an administrator of a municipal school district, or designee; and  
10 (6) One of whom shall be a special education teacher, or designee.

11 (7) The ombudsperson shall hold office for a term of five (5) years and shall continue to  
12 hold office until his or her successor is appointed and qualified.

13 (c) The ombudsperson shall have the discretion to ensure all IEP documents, 504 plans,  
14 related supports and services to students with disabilities are properly documented and  
15 implemented, and the goals and objectives are being met, and that appropriate related supports and  
16 services are being provided.

17 (d)(1) The ombudsperson shall have authority to inquire of, investigate, and review all  
18 documents from any school, district, or special education department in this state. The  
19 ombudsperson shall have access to all IEP documents, 504 plans, related supports and services,  
20 treatment plans, progress reports and report cards of all students with disabilities.

21 (2) The ombudsperson shall have the discretion to review all documents relating to IEP  
22 documents, 504 plans, related supports and services being provided to students throughout the state,  
23 and ensure that proper documentation is being maintained by all schools and districts.

24 (3) The ombudsperson shall track metrics of the type of disagreements or complaints  
25 between a parent, guardian or caretaker of the student with disabilities or s student with disabilities  
26 who are over the age of eighteen (18) through twenty-one (21) and is enrolled in school, and the  
27 district; the type of suspect disabilities, which may uncover an unmet need in the education system;  
28 the types of interventions and supports required by a segment of children.

29 (4) The ombudsperson shall ensure protections and safeguards are provided to school staff.  
30 To this end, all conversations between teachers, health professionals and/or any school district  
31 personnel and the ombudsperson shall be deemed confidential and not subject to disclosure absent  
32 a court order.

33 (5) The ombudsperson shall implement measures to track and monitor district achievement,  
34 success, and challenges in the implementation of IEPs, 504 plans, and related supports and services.

1           (6) The ombudsperson shall appoint a designee to attend IEP meetings in schools  
2 throughout the state and speak with any person with knowledge of the student’s educational  
3 program. The designee shall have access to all school district personnel and may work with the  
4 Rhode Island child advocate as necessary.

5           (7) The ombudsperson shall establish minimum compliance measures to ensure that copies  
6 of all relevant documents which are discussed at any family meeting involving a student receiving  
7 services pursuant to this chapter are given to the student’s family at least five (5) days in advance  
8 of any scheduled meeting at which these documents are to be discussed.

9           (8) The ombudsperson shall investigate any retaliatory act alleged or committed by any  
10 administrator, school district, state department or other agency with the appropriate referrals to  
11 judicial departments or agencies for action, and any and all complaints filed by a parent, guardian  
12 or caretaker of student with disabilities or a student with disabilities who is over the age of eighteen  
13 (18) through twenty-one (21) and enrolled in school.

14           (9) The ombudsperson may appoint those assistants that may be deemed necessary whose  
15 powers and duties shall be similar to those imposed upon the ombudsperson by law and any other  
16 staff as is deemed necessary. The duties of the assistants and other staff members shall be performed  
17 under and by the advice and direction of the ombudsperson.

18           (10) All student records shall remain confidential and compliant with the Health Insurance  
19 Portability and Accountability Act (HIPAA).

20           (11) The ombudsperson shall not be held liable for any lack of compliance of an IEP or  
21 504 plan.

22           (12) All records or files of the ombudsperson shall be readily available to any parent,  
23 guardian or caretaker of a student with disabilities or a student with disabilities who is over the age  
24 of eighteen (18) through twenty-one (21) and enrolled in school to inspect and/or copy for purposes  
25 of any agency or judicial proceeding.

26           (e) On or before August 1, 2024, and annually on or before August 1 thereafter, the  
27 ombudsperson shall prepare a detailed report to the governor, the general assembly and the  
28 department of education advising on the status of services being provided to students with  
29 disabilities in Rhode Island schools and summarizing the work of the ombudsperson during the  
30 previous school year. The report shall be available to the public.

31           This report shall also include a summary of the parent complaints being filed against  
32 schools by families in regard to these services. The complaints shall remain confidential and shall  
33 not be made available to the public. For purposes of this section, the complaints are as to the lack  
34 of compliance of IEP and 504 plans or the denial of eligibility and/or lack of services.

1 (f) The general assembly shall annually appropriate the sum of five hundred thousand  
2 dollars (\$500,000) for the payments of the salaries of the staff and for payment of office expenses  
3 and other actual expenses incurred by the ombudsperson in the performance of his or her duties;  
4 and the controller is authorized and directed to draw his or her orders upon the general treasurer for  
5 the payment of any sum or sums or so much that may from time to time be required upon receipt  
6 by him or her of proper vouchers approved by the ombudsperson.

7 (g) As used in this chapter, the term “family” includes parents, legal guardians, and  
8 caretakers of students with disabilities, or any student with disabilities who is over the age of  
9 eighteen (18) through twenty-one (21) and enrolled in school.

10 (h)(1) As used in this chapter, the term “students with disabilities” shall apply to all children  
11 with disabilities, regardless of residence, enrolled by their parent, guardian or caretaker in private,  
12 including religious, schools that are served by the local educational agency and meet the  
13 requirements of an elementary or secondary school pursuant to chapter 60 of title 16, in accordance  
14 with 34 C.F.R. § 300.131 (Child Find for parentally-placed private school children with  
15 disabilities); 34 C.F.R. § 300.13 (Elementary School); and 34 C.F.R. § 300.36 (Secondary School);  
16 or

17 (2) Students with disabilities who are over the age of eighteen (18) through twenty-one  
18 (21) and enrolled in school.

19 (3) For children age three (3) through five (5) years, the screening procedures must be  
20 consistent with the Rhode Island guidelines for implementing child outreach screening, as adopted  
21 by the Rhode Island board of education.

22 **16-24-21. Evaluation of process.**

23 (a) The department, in conjunction with the ombudsperson established pursuant to § 16-  
24 24-20, shall develop a meeting evaluation form to be provided to parents, guardians, and caretakers  
25 of students with disabilities or a student with disabilities who is over the age of eighteen (18)  
26 through twenty-one (21) and enrolled in school. The meeting evaluation form shall be provided to  
27 parents, guardians, and caretakers of students with disabilities or a student with disabilities who is  
28 over the age of eighteen (18) through twenty-one (21) and enrolled in school after every meeting  
29 with representatives from the school regarding a student with disabilities. The department shall  
30 make this form available on its website and shall have such forms printed in the language of the ten  
31 (10) most commonly-used languages in Rhode Island.

32 (b) The meeting evaluation form shall be designed to allow parents, guardians, and  
33 caretakers of students with disabilities or a student with disabilities who is over the age of eighteen  
34 (18) through twenty-one (21) and enrolled in school to provide feedback on their experience,

1 understanding, and level of satisfaction with the processes involving IEPs, 504 plans, and related  
2 supports and services. The meeting evaluation form shall also include sample or suggested  
3 questions that may be asked by parents, guardians, and caretakers during this process.

4 (c) Schools shall ensure that any parents, guardians, and caretakers of students with  
5 disabilities or a student with disabilities who is over the age of eighteen (18) through twenty-one  
6 (21) and enrolled in school are given meeting evaluation forms in a language understood by the  
7 person receiving the form.

8 (d) Persons receiving the meeting evaluation forms shall be encouraged to return those  
9 forms to the issuing school within ten (10) days upon receipt and may provide a copy of the meeting  
10 evaluation form to the ombudsperson. Copies of the completed meeting evaluation forms shall be  
11 retained in the student's file, and shall also be distributed to the school's special education team  
12 chair or department head, as applicable, and to the school district's director of special education.

13 (e) Schools shall review the forms and shall respond appropriately, if necessary.

14 (f) Meeting evaluation forms shall not be deemed to be public records pursuant to chapter  
15 2 of title 38 ("access to public records") and shall be compliant with the Health Insurance Portability  
16 and Accountability Act (HIPAA).

17 (g) The meeting evaluation forms shall inquire regarding:

18 (1) Whether documents received by the family related to special education services were  
19 given in a timely manner;

20 (2) The quality of the student's special education team interaction with the parents;

21 (3) The family's level of confidence in the school or district's explanation, development,  
22 and implementation of the IEP, 504 plan, or related supports and services;

23 (4) The family's level of confidence in the collaboration with their student's team  
24 members;

25 (5) The family's satisfaction level that their voices were heard and that the family's  
26 concerns were recognized by the district; and

27 (6) The family's level of confidence that there are avenues to address any concerns or  
28 complaints the family may have in the future regarding their student.

29 (h) Each school district or regional special education program shall provide written  
30 notification which shall be distributed to the family at the time a student with disabilities is referred  
31 to special education, in conjunction with the meeting evaluation form set forth in subsection (a) of  
32 this section. The notification shall specify that a majority of the local advisory committee (LAC)  
33 on special education is parents, guardians or caretakers of students with disabilities, and shall  
34 include the name, address, e-mail, and telephone number of the chairperson of the local advisory

1 committee (LAC) for special education or the regional advisory committee on special education.  
2 The school district or regional special education program shall ensure the notification is distributed  
3 in the ten (10) most commonly used languages in Rhode Island.

4 **16-24-22. Progress reports.**

5 The department shall develop a model uniform checklist and progress report which schools  
6 shall issue to parents, guardians, and caretakers of students with disabilities or a student with  
7 disabilities who is over the age eighteen (18) through twenty-one (21) and enrolled in school to  
8 inform those persons of the progress being made by their student in accordance with an IEP or 504  
9 plan. The model uniform checklist and progress report shall be posted on the department's website.  
10 Schools may, but shall not be required to utilize the model progress report, but schools shall include  
11 all information required on the uniform checklist within the schools' progress reports. Provided, in  
12 the event that information listed on the uniform checklist is not applicable to the particular student,  
13 the progress report shall indicate it is not applicable. These progress reports and checklists shall not  
14 be deemed to be public records pursuant to chapter 2 of title 38 ("access to public records").  
15 Progress reports shall be based upon data and evidence driven.

16 **16-24-23. Model uniform information pamphlet.**

17 The department shall develop a model uniform information pamphlet which shall be  
18 distributed to the family in conjunction with the student's report card. The information pamphlet  
19 shall include the name, address, e-mail, and telephone number of the Rhode Island ombudsperson  
20 for special education; shall describe the roles, availability and authority of the ombudsperson; and  
21 shall be clear and conspicuous. The department shall ensure the information pamphlet is distributed  
22 in the ten (10) most commonly used languages in Rhode Island.

23 **16-24-24. Local advisory committee on special education.**

24 (a) There is hereby authorized, created and established an advisory committee on special  
25 education to be appointed by the school committee of each local educational or regional special  
26 education program.

27 (b) Each local or regional committee shall be composed of persons involved in or  
28 concerned with the education of students with disabilities. Parents, guardians and caretakers of  
29 students with disabilities shall compose a majority of the committee membership, and at least fifty  
30 percent (50%) of this majority shall be selected by the parents, guardians and caretakers of students  
31 with disabilities. A regional committee shall reflect an equal distribution of representatives from  
32 each of the school districts that comprise the regional program. Members of the committee shall  
33 consist of an individual with a disability, a public school administrator, a special education teacher,  
34 a general education teacher and other members of the community at the discretion of the school

1 committee and school board.

2 (c) The local advisory committee shall advise the school district or regional program on  
3 matters concerning the unmet needs of students with disabilities, comment on improvement plans  
4 including school support plans resulting from Individuals with Disabilities Education Act (IDEA)  
5 Part B compliance reports, local compliance with state and federal laws pertaining to the education  
6 of students with disabilities, comment on applications for federal and state funds and serve as  
7 advocates in partnership with parents, guardians and caretakers of students with disabilities or  
8 students with disabilities who are over the age of eighteen (18) through twenty-one (21) and  
9 enrolled in school to ensure that they receive the entitlements provided to them under state and  
10 federal law.

11 (d) The local or regional educational agency shall provide support to the local advisory  
12 committee by contracting for technical assistance services with the Rhode Island designated parent  
13 training and technical assistance agency or other community-based nonprofit parent organization.  
14 Such technical assistance shall include the role of the advisory committees in advocating for  
15 children, state and federal regulations, community resources, strategic planning and development  
16 of an annual report to the school committee. The local or regional educational agency shall also  
17 provide school and district improvement plans to the committee for comment and make available  
18 appropriate records and data as permitted by law. The public agency shall also support the  
19 committee in disseminating information to parents, guardians and caretakers of students with  
20 disabilities or students with disabilities who are over the age of eighteen (18) through twenty-one  
21 (21) and enrolled in school regarding the role of the local advisory committee, information  
22 pertaining to special education and inform the committee of professional development  
23 opportunities that are available within the local educational agency.

24 **16-24-25. Audit.**

25 (a) By providing notice to parents, guardians or caretakers of students with disabilities or  
26 students with disabilities who are over the age of eighteen (18) through twenty-one (21) and  
27 enrolled in school that records will be reviewed and/or audited it increases the awareness of parental  
28 educational rights, increases opportunities for parent assistance and guidance, increases parent  
29 engagement, and provides the opportunity of communication and resolution between the district  
30 and the students, parents, guardians or caretakers of students with disabilities or students with  
31 disabilities who are over the age of eighteen (18) through twenty-one (21) and enrolled in school.

32 (b) Commencing on December 1, 2022, the Rhode Island ombudsperson for special  
33 education shall conduct random audits of school districts to ensure accountability and compliance  
34 by the school district with the implementation of IEPs, 504 plans, and related supports and services



1 for students of those school districts, and provide the department with yearly data, including denials  
2 of eligibility of services, that will guide the department in improving educational outcomes.  
3 Random audits may be conducted of any school district or individual school if requested by the  
4 Rhode Island ombudsperson for special education, if there is a complaint filed by a parent, guardian  
5 or caretaker of a student with disabilities or a student with disabilities who is over the age of  
6 eighteen (18) through twenty-one (21) and enrolled in school, if there is a lawsuit filed against a  
7 district, or if annually scheduled. These audits shall track, monitor metrics and provide  
8 recommendations to the department and school district for remediation of non-compliance issues  
9 and recommendations for improvements of systems and recordkeeping. A copy of the audit shall  
10 be provided to the department, school district, school committee and/or any other child protection  
11 agency as necessary.

12 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO EDUCATION

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1           This act would establish the Rhode Island ombudsman for special education, independent  
2 of the department of elementary and secondary education, to ensure school districts throughout the  
3 state meet the minimum standards required to comply with individualized education programs for  
4 students with disabilities. This act would further direct that families be provided forms to evaluate  
5 their level of confidence and satisfaction with the schools in the process being followed in regard  
6 to their student, as well as informational pamphlets in regards to the services provided and contact  
7 information.

8           This act would take effect upon passage.

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