



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**

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**MEMORANDUM**

DATE: June 26, 2014

TO: Members of the Delaware House of Representatives

FROM: Ms. Daniese McMullin-Powell, <sup>Dm-p</sup>Chairperson  
State Council for Persons with Disabilities

RE: H.R. 20 (Deaf Education Task Force Report)

The State Council for Persons with Disabilities (SCPD) has briefly reviewed the H.R. 20 Deaf Education Task Force Report published on May 21, 2014. In addition, Council received an overview of concerns regarding the Report from a Choices Delaware representative at its June 16, 2014 meeting (see attached June 5, 2014 letter). As background, SCPD has been involved with the education of children with hearing loss and promoted implementation of a Listening and Spoken Language (LSL) initiative since being made aware of this potential option in March 2010 (see attached letter). SCPD has collaborated with the Lt. Governor; the Governor's Advisory Council for Exceptional Citizens; the Council on Deaf & Hard of Hearing Equality (CODHHE); Statewide Programs for the Deaf, Hard of Hearing and Deaf/Blind; Choices; and others to promote educational options in Delaware for students with hearing loss.

SCPD did not formally endorse the June 5, 2014 Choices letter; however, Council does have the following concerns in similar contexts which impact educational options and opportunities for students with hearing loss:

- Effectiveness of the current LSL program given the history of problems and staff turnover.
- Effectiveness of the current system and process which is intended to direct students with hearing loss to the most appropriate educational setting. At present, the system appears to disproportionately direct students to the Delaware School for the Deaf (DSD) even if there may be more appropriate options.
- Formal membership of the H.R. Task Force which lacked representation from organizations and agencies that would have added expertise and value to the group, and ultimately, the final Report (see attached October 25, 2013 CODHHE letter and Choices letter)

- Performance level of students graduating from DSD. Indeed, the Report states that “(t)he majority of students who are deaf and hard of hearing with IEPs are performing at Level 1 on the reading portion of the DCAS.....well below standard.” The Report also notes that “students with IEPs require specialized instruction and therefore most are expected to have some academic gaps.” SCPD strongly objects to this generalized expectation of students who are deaf and hard of hearing to perform at lower levels. This is an “alarming” statement and may result in students with hearing loss ultimately not having the same opportunities in life as everyone else.
- Operating capacity and cost per student at DSD.

SCPD truly appreciates the intent of H.R. 20 which was to study and make recommendations regarding the current condition of educational services to students with hearing loss and determine administrative placement of DSD and Statewide Services. However, Council believes the findings may not be entirely accurate given natural biases of the formal membership of the Task Force. The aforementioned issues noted by SCPD and the Report are complicated. Therefore, Council strongly recommends that they be thoroughly vetted through a more collaborative process (including other noted agencies and organizations not formally included on the H.R. 20 Task Force) before any other task forces are established or final plans are developed.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations on this most important issue.

cc: The Honorable Matthew Denn  
The Honorable Mark Murphy  
Ms. Mary Ann Mieczkowski  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

HR 20 letter of concerns 6-23-14



# Choices Delaware

*Making Language Choices Available to Delaware Families of Children with Hearing Loss*

JUN 11 2014

From: Nick Fina, Ed.D.

Project Leader, Choices Delaware

Date: June 5, 2014

To: The Honorable Peter Schwartzkopf  
Speaker of the House

Cc: Members of the House and Senate Education Committees  
Members of the Joint Finance Committee  
The Honorable Patricia Blevins, President Pro Tem of the Senate  
The Honorable Edward Osienski, Member of the House  
The Honorable S. Quinton Johnson, Member of the House  
The Honorable Matthew Denn, Lieutenant Governor  
The Honorable Mark Murphy, Secretary of Education  
Dr. Michael Watson, Chief Academic Officer, Department of Education  
Ms. Mary Ann Mieczkowski, Director of Exceptional Children Resources  
Dr. Teri Quinn Gray, President of the Delaware State Board of Education  
Mr. Kyle Hodges, State Council for Persons with Disabilities  
Ms. Wendy Strauss, Governor's Advisory Committee for Exceptional Citizens

Dear Speaker Schwartzkopf:

During the past five years, a grassroots organization, Choices Delaware, has advocated for changes in the public policy of Delaware on education of children with hearing loss. A few days ago, you received the report of a task force created by HR20, which passed the House last June. This letter summarizes our concerns with the recommendations of this group. We look forward to opportunities to meet with you and other interested officials in order to explicate these points.

1. What problem was the Task Force trying to solve? What was its goal?

We believe the unstated goal of this group was to grant the "Statewide Programs" organization that has been a component of the Christina School District the status of a school district that covers the entire state. "Statewide Programs" has historically channeled families affected by childhood hearing loss into Delaware School for the Deaf (DSD), an educational program based on American Sign Language (ASL). If "Statewide Programs" becomes a school district in its own right, it will have access to information that it doesn't now legally have. The result will be more families routed into an education setting and language that parents might not make if they had informed choice.

In March, 2010 the director of "Statewide Programs," Dr. Della Thomas, made a presentation to Lieutenant Governor Denn at a meeting attended by Representative



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*Making Language Choices Available to Delaware Families of Children with Hearing Loss*

Quinton Johnson, Julie Johnson, me, and others in a conference room at Ms. Johnson's school. In this meeting Dr. Thomas asked Mr. Denn for what the Task Force has now recommended. What the Task Force has recommended is what proponents of ASL as the language of instruction for all children with hearing loss have wanted for years.

2. In what way was the Task Force membership manipulated to ensure that its goal would be met? Who was on the Task Force? What kinds of people were omitted?

Membership on the Task Force was heavily weighted to favor individuals who support ASL as opposed to auditory-oral (Listening and Spoken Language--LSL) approaches. Choices Delaware has nothing against ASL. However, the Task Force omitted from its membership people from Choices, members of the Hearing Loss Association of Delaware, itinerant teachers of the deaf and audiologists based in local school districts, Child Watch coordinators, and members of the State Board of Education. The Chair of the Task Force, Dr. Kathleen Riley, was represented as a member of the Early Hearing Detection and Intervention group. Unstated was her role as a staff member of DSD and a proponent of ASL. Although meetings were open, the voting membership was carefully controlled from the outset.

3. What assertions of the Task Force report have no factual basis?

The Task Force report makes many assertions that have no factual basis. It implies that itinerant teachers of the deaf, school audiologists, and district special education administrators are lacking in knowledge and certifications without documenting such claims. It states that the LSL preschool in Christina was a result of the 2011 GACEC subcommittee, when in fact it was mandated by the Lieutenant Governor in February 2012 after that subcommittee (also dominated by DSD/ASL proponents) failed to recommend one. It states that kids with hearing loss "... require specialized instruction and therefore most are expected to have some academic gaps" without showing how kids at DSD are almost universally *below* standards, whereas kids with hearing loss in mainstream environments often perform well—kids like those that members of the Joint Finance Committee heard about on February 19. Children with hearing loss do best when they are educated in the native language of their families. For 95% of families affected by childhood hearing loss, the native language is a spoken one, not ASL, the language of instruction at DSD and the one advocated by "Statewide Programs."

4. How did the Task Force betray its own process?

The Task Force stated that it would develop a list of alternatives, a list of weighted decision criteria, and measure each alternative against each weighted criterion. After weighting the criteria of the decision matrix, the group apparently skipped (or at least did not report) how the four alternatives scored against these criteria. Instead, says the



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*Making Language Choices Available to Delaware Families of Children with Hearing Loss*

report, by “unanimous vote” the Task Force made a summary judgment that making “Statewide Programs” a statewide school district was the winning alternative. Indeed, the decision criteria were stated as “responsibilities of *the statewide entity*” when in fact an alternative that our group offered was one that would have improved support for children with hearing loss in non-segregated schools without confiscating control of special education from the local school districts.

Some members of our group stated that their input at focus group meetings was not reflected in the Task Force report. I gave my input in person *and* in writing, (see attached). Some of the most critical points I made are not reflected in the raw data of the focus groups.

5. In what ways would adoption of the Task Force recommendations jeopardize Delaware’s compliance with federal law?

The Individuals with Disabilities Education Act gives responsibility for educating children with special needs to local school districts and requires that children be educated in the least restrictive environment. DSD is operating at half of its student capacity, and Christina School District has stated that the annual cost of supporting a child at DSD is \$102,000. Granting “Statewide Programs” control over deaf education will help fill empty seats at DSD. But it will violate the principal of local control and not help families that want their children in a school environment that more closely resembles the real world their children will enter as adults.

I urge the General Assembly to keep these points in mind as it contemplates legislation or other possible action on the Task Force findings.

## Concerns

- 1. Violation of the Spirit and Letter of Federal Law.** The Individuals with Disabilities Education Act requires that children with special needs receive a free and appropriate public education in the least restrictive environment. Local school districts are responsible for meeting the needs of students being served under IEPs and 504 plans. There is nothing fundamentally different about meeting the needs of children with hearing loss than there is about meeting the needs of children who use wheelchairs, children with attention deficit hyperactivity disorder, or children who have diabetes. There is no statewide services organization for these children and we do not segregate such children from other children. We shouldn't be segregating children with hearing loss or imagining that their needs require a statewide administrative entity.
- 2. Failure of the Task Force to Seriously Consider all the Alternatives.** Individuals who were not members of the Task Force offered an alternative approach to improving services in less densely populated parts of the State: cooperative arrangements between physically adjacent school districts, mandated by law. There is no evidence that the Task Force considered this alternative. Indeed, the Task Force prescribed for itself a formal decision matrix to evaluate alternatives, but in the end decided to recommend a statewide entity by acclamation. The Task Force made claims that it failed to prove related to the ability of local districts to satisfy the needs of its students with hearing loss. There are surely ways in which local school districts could improve their services for children with hearing loss. But the notion that creating a statewide bureaucracy is the best solution requires a logical leap of faith.
- 3. Perpetuation of Inappropriate Placements.** The "Statewide Services" organization that Delaware School for the Deaf wants to make into a "separate" organization has historically served as a conduit between Child Watch and DSD, as documented in several case studies published on the web site of Choices Delaware, a local group advocating for informed choice—cases based on actual parent interviews. DSD is operating at about 50% of capacity with a high level of administrative overhead. And so even if one could make a case for a "separate" statewide services organization, the heavy investment that Delaware has made in DSD will likely result in a continuation of the funneling phenomenon of the past 30 years, regardless of where oversight of a statewide function exists. DSD, like most schools for the Deaf, are incubators of Deaf culture. The language of instruction is American Sign Language. Administrators, teachers, staff, and alumni are all proponents of ASL. Before there were hearing aids, cochlear implants, and auditory-oral therapies for infants and toddlers, schools for the Deaf were appropriate educational settings for most kids with hearing loss. That is no longer the case. Not every child with hearing loss can benefit from hearing aids or cochlear implants. And so there is a continuing need for DSD. However, in a world in which 95% of all children with hearing loss have parents with typical hearing, placement in DSD should be the exception, not the rule.

From: Nick Fina

Date: June 16, 2014

To: State Council for Persons with Disabilities

Re: Supporting Children with Hearing Loss in Delaware Schools

I request that the State Council for Persons with Disabilities send a letter to House Speaker Schwartzkopf expressing concern about the recommendations of a Task Force on deaf education that recently completed its work and sent the Speaker this report:

<http://choices-delaware.org/wp-content/uploads/2014/06/HR-20-Report.pdf>.

### **Background Information**

House Resolution 20, co-sponsored by Representatives Quinton Johnson and Edward Osienski in June 2013 created a Task Force that had the following mission:

- (a) Study and make recommendations regarding the current condition of educational services available to persons who are deaf, hard of hearing and deaf-blind up to the age of twenty-one throughout the State of Delaware; and
- (b) Study and make recommendations regarding DSD-Statewide being administratively located within a local education agency.

### **Summary of Task Force Recommendations**

1. Separate "Statewide Services" from Delaware School for the Deaf. Create "an entity such as a co-op or special school district" to coordinate and provide statewide services for DHHDB [deaf and hard of hearing and deaf blind] students as well as professional development opportunities."
2. Create another Task Force to figure out how an entity that provides "statewide services" should be organized and make it operational by 7-1-15.
3. Simultaneously create another Task Force to figure out how this entity can serve students with visual impairments and/or students with low-incidence disabilities.
4. Update DOE disability definitions for deaf, hard of hearing, and deaf-blind "to reflect current medical, technological, and educational practices."
5. Re-evaluate DOE screening criteria for hearing loss.
6. The Task Force identified 13 duties and responsibilities of the statewide entity that it wants to form.



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March 25, 2010

Dr. Lillian M. Lowery  
Secretary of Education  
John G. Townsend Building  
401 Federal Street, Suite 2  
Dover, DE 19901

Dear Secretary Lowery:

I write on behalf of the State Council for Persons with Disabilities (SCPD) after receiving an informative presentation from representatives of a grassroots organization called *Making Language Choices Available to Delaware Families of Children with Hearing Loss* (also known as *Choices*). The presentation included, in part, concerns regarding Delaware's procedures and public policy for educating children with hearing loss. Based on the presentation and given SCPDs interest in promoting educational options for students with disabilities (including those who are deaf and hard of hearing), Council has the following observations, questions and recommendations.

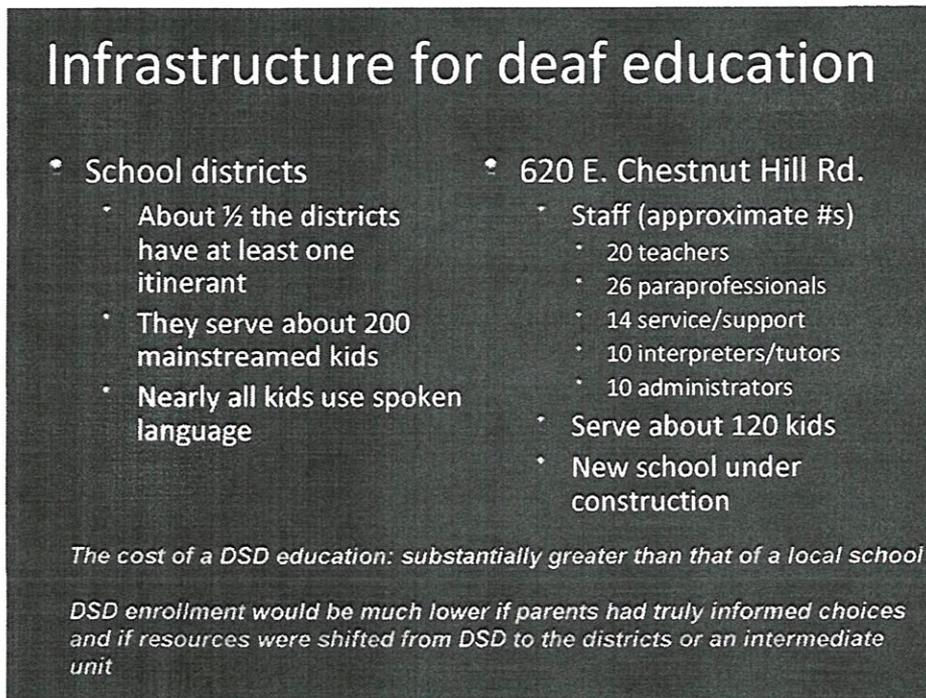
1. Delaware's newborn hearing screening program and the availability of cochlear implantation for children as young as 12 months of age makes it possible in the 21st century for most children who are born deaf to attain typical oral and aural language provided such children receive intensive auditory-oral therapy as soon as possible after they are implanted. Moreover, because more than 90% of children who are born deaf have parents with typical hearing, the development of non-delayed oral/aural language skills is the preferred outcome for most families affected by deafness at birth. The State should provide people who are trained in auditory, verbal, educational techniques to work with the children and give the families the knowledge they need to develop listening and spoken language skills, starting at birth.

What are the Department of Education's (DOEs) plans for offering such an early intervention program in Delaware, given that one does not currently exist?

2. The distribution of resources for education of deaf and hard-of-hearing children is heavily skewed in favor of centralized education rather than in the local school districts where children reside. The slide on the next page displays data that illustrates this Delaware School for the Deaf (DSD)-centric orientation. About half

the school districts have neither an educational audiologist nor a teacher of the deaf. The percentage of Delaware children with hearing-based IEPs who are served in a segregated setting is about twice the corresponding percentage of New Jersey children.

What are the Department's plans for achieving a better distribution of educational resources for the deaf and hard-of-hearing?



**Infrastructure for deaf education**

- **School districts**
  - About ½ the districts have at least one itinerant
  - They serve about 200 mainstreamed kids
  - Nearly all kids use spoken language
- **620 E. Chestnut Hill Rd.**
  - Staff (approximate #s)
    - 20 teachers
    - 26 paraprofessionals
    - 14 service/support
    - 10 interpreters/tutors
    - 10 administrators
  - Serve about 120 kids
  - New school under construction

*The cost of a DSD education: substantially greater than that of a local school*

*DSD enrollment would be much lower if parents had truly informed choices and if resources were shifted from DSD to the districts or an intermediate unit*

3. The Delaware Code and Administrative Code do not appear to specifically address the roles and responsibilities of the Coordinator of Statewide Services for Deaf and Hard of Hearing Education.

What is the Department's view regarding the responsibilities for this position now and in the future?

4. Delaware uses specific school districts as the governing bodies for statewide special education programs for low-incidence disabilities. Examples include the Delaware Autism Program, the Delaware School for the Deaf (Christina), and the Leach School (Colonial). In other states, so-called intermediate units enable pooling of resources among groups of school districts. For example, Berks County Pennsylvania has about 70,000 students and 18 school districts, all of whom are served by an intermediate unit based in Reading.

SCPD recommends consideration of an intermediate unit approach to serving low-incidence disabilities as a means for using scarce resources in a more economically efficient way?

Thank you for your consideration and please contact SCPD by April 16, 2010 with your predispositions.

Sincerely,

A handwritten signature in cursive script that reads "Daniese McMullin - Powell".

Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

cc: The Honorable Rita M. Landgraf  
The Honorable Vivian L. Rapposelli  
Ms. Rosanne Griff-Cabelli  
Governor's Advisory Council for Exceptional Citizens  
Council on Deaf and Hard of Hearing Equality

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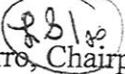
STATE OF DELAWARE  
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MEMORANDUM

DATE: October 25, 2013

TO: The Honorable Quinton Johnson  
The Honorable Edward Osienski  
Dr. Della Thomas, Ed.D.

FROM:  Loretta Sarro, Chairperson  
Council on Deaf & Hard of Hearing Equality

RE: H.R. 20

I write on behalf of the Council on Deaf & Hard of Hearing Equality (CODHHE) regarding H.R. 20 which creates a Task Force to study and make recommendations regarding the Delaware School for the Deaf and Statewide Programs for the Deaf, Hard of Hearing and Deaf-Blind. CODHHE understands that it has been some time since the Resolution passed on June 27, 2013, but Council still wanted to express its disappointment regarding the membership of the Task Force.

While the purpose of the Task Force appears to have merit, CODHHE believes organizations were excluded that could have provided valuable input. Those organizations include the following: Delaware Office of the Deaf & Hard of Hearing (DODHH); Choices; Division of Vocational Rehabilitation (DVR); Governor's Advisory Council for Exceptional Citizens and the Department of Education. In addition, CODHHE questions why there is not a representative who is currently a Teacher of the Deaf & Hard of Hearing and a representative from the Christina School District (given that the Delaware School for the Deaf and Statewide Programs are housed in that district) included on the Task Force.

CODHHE truly appreciates your efforts in enhancing the lives of people who are Deaf & Hard of Hearing and their families, but would have preferred to be included in the process or to have the opportunity to comment on the Resolution which was not possible given that it was introduced and passed on the same day.

Thank you for your consideration and please contact CODHHE if you have any questions or comments regarding our observations on the Resolution.