

State Fiscal Note for Bill
Number: 2022-H-7536

Date of State Budget Office Approval: Wednesday, April 20, 2022

Date Requested: Monday, March 28, 2022

Date Due: Thursday, April 7, 2022

<i>Impact on Expenditures</i>		<i>Impact on Revenues</i>	
FY 2022	0	FY 2022	
FY 2023	\$171,913	FY 2023	
FY 2024	\$164,099	FY 2024	

Explanation by State Budget Office:

This bill amends Title 42 of the General Laws entitled “State Affairs and Government” to add Chapter 162, titled “Office of the Special Education Ombud.” The bill would create the office of a special education ombudsperson to work in conjunction with the Department of Elementary and Secondary Education (RIDE). The Special Education Ombudsperson would be selected by a committee and named by the Governor to serve as a point of contact for teachers, local education agencies (LEAs), advocates, parents, guardians, and custodians of students with disabilities between the ages of three (3) through eighteen (18) or for those guardians and custodians of students with disabilities who are over the age of eighteen (18) though the age of twenty-two (22) and enrolled in school. The bill would establish the Special Education Ombud as independent of the Rhode Island Department of Education, which is the department responsible for monitoring school district compliance with the federal Individuals with Disabilities Education Act (IDEA). The ombud would hold office for a term of five (5) years and until their successor has been appointed and qualified.

The bill specifies that the Ombudsperson be selected by a nominating committee consisting of seven (7) members, comprised of an attorney practicing in special education advocacy law, an administrator of a municipal school district, a special education teacher appointed by the American Federation of Teachers (AFT), one special education teacher appointed by the National Education Association, a parent, guardian or caretaker of a student with special needs appointed by Rhode Island Advocacy for Children, an executive director of the Rhode Island developmental disabilities council, and the child advocate, or a designee.

The Special Education Ombud would identify, investigate, and resolve concerns pertaining to special education services that are filed with the office by guardians. They would also aid students and guardians in protecting the educational rights of students, which may include assisting students and custodians in individualized education plan meetings or other proceedings pursuant to chapter 24 title 16 and the federal Individuals with Disabilities Education Act (IDEA), inform students and guardians about special education resources in their community, and make sure they have timely access to the services provided through the office. The Ombud would also collaborate with the Department of Education (RIDE) and the school district’s director of special education to ensure that all dispute resolution processes are available to students and guardians. The bill directs the office to ensure that office staff and contractors are trained in federal, state and fiscal laws and policies with

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respect to special education in the state, analyze the development and implementation of said policies that pertain to the adequacy of services in the state, and other matters as the office deems appropriate. The Governor shall also ensure that adequate legal council is available to the ombudsman to provide advice and consultation needed to protect the educational rights of students and to assist the office and contractors in the performance of the official duties of the state ombud and representatives.

Public schools providing special education services shall post notices regarding the office that contain a description of the services offered by the ombudsman and relevant contact information. This information will also be distributed by schools at the beginning of every school year in addition to an overview of the individualized education plan (IEP) process. The department (RIDE), in conjunction with the ombud will also develop a meeting evaluation form to distribute to guardians after each meeting with school representatives regarding a student with disabilities. Guardians will be encouraged to complete and return the form to the school and a copy to the office of the ombudsman so that their feedback may be incorporated into analysis and recommendations.

The office would be required to submit, prior to December 1, an annual report to the Governor and general assembly, which would report on actions taken by the office that year, special education concerns identified by or on behalf of students and guardians, recommendations for improving the quality of special education services provided to and protecting the educational rights of students and policy to improve processes of resolutions of concerns and improve the quality of services provided to students.

This act would take effect upon passage, which is assumed to be July 1, 2022.

*Comments on
Sources of Funds:*

Though the bill does not include an appropriation for the Special Education Ombudsman, the budget office assumes this position (or office) would be funded through general revenue. It is also possible, though whether and to what extent is unclear at this time, that portions of federal funding distributed through IDEA grants could be used to fund the salary and/or overhead costs associated with the establishment of this office. The salary of the Parent Ombudsman for Special Education in Virginia is funded through IDEA grants, as is the full cost of the Office of the Special Education Ombudsman in New Jersey.

*Summary of Facts
and Assumptions:*

New Jersey and Virginia currently operate special education ombudsman programs that have similar duties and responsibilities as those outlined in this bill. According to a New Jersey Department of Education estimate cited in the Annual Report, approximately 240,000 children ages 3-21 were registered with disabilities. By comparison, Rhode Island Kids Count estimates that 3,156 children ages 3-5 and 21,868 children ages 6-21 received special education services. The duties of the New Jersey Ombudsman for Special Education include serving as a source of information regarding state and federal laws governing special education, providing information and support to parents of students with disabilities to help them navigate the process for obtaining special-education evaluations and services, and identifying patterns of complaints that emerge regarding special-education rights and services and recommend strategies for improvement to the Department of Education.



The Virginia office of the Parent Ombudsman for special education may reach out to school districts on parents or guardian's behalf or direct them to resources but may not provide legal advice or services. Similar to the New Jersey and proposed Rhode Island programs, the Ombudsman is intended to serve as a resource for parents, students, and district, who ultimately advocates for the best interests of the student. A separate division within the Virginia department of Education may provide dispute resolution services, which the ombudsman may recommend as a resource, though the ombudsman office itself does not provide dispute resolution services. Of approximately 1.25 million students, 174,638 are diagnosed with disabilities in Virginia. In the last quarterly report, the office of the parent ombudsman reported 253 calls by individual contacts, noting that each call may result in 2-3 follow-ups needed to mediate the caller's concern.

The current bill for the Special Education Ombudsman does not establish clear directives as to how operations of this office would be carried out, or what level of staffing may be necessary to comply with its requirements. For this reason, the budget office considered financing provided for similar offices across states. While the budget office did not find documentation for specific funding levels for the programs in New Jersey or Virginia, both comparison states employ one person in their respective special education ombud offices to address resource provision for individuals with special needs. The Virginia Office of the Parent Ombudsman employs two additional staff members who assist with the Ombudsman's overflow in addition to their own duties. The New Jersey Office of the Special Education Ombudsman is housed within the Department of Education Office of Special Education. While the office of the ombudsman in New Jersey is staffed only by the ombudsman herself, the Office of Special Education is comprised of 50 staff members that may be able to assist with overflow. The Ombudsman may also direct parents and guardians to other offices within the Department of Education or colleagues at the county level who would be better suited to address specific concerns. Due to the similar nature of responsibilities for the Special Education Ombudsman in the proposed RI legislation and the currently established VA and NJ programs, the budget office assumes a similar level of staffing (1 FTE with possible part-time employees in addition) would be sufficient to comply with the requirements of this bill. The ombudsman would be able to refer parents and guardians to existing programs within RIDE to address dispute resolution and legal counsel for concerns related to students with disabilities, while she herself would be responsible for serving as the primary point of access for information.

The budget office also compared the responsibilities of the Special Education Ombudsman as defined in this bill and the Office of the Child Advocate in Rhode Island. The office is a legal office that advocates for children in the DCYF system and/or Family Court system whose rights are not being met. Powers and responsibilities of the Office include initiating litigation, convening investigative commissions, monitor placement facilities and shelters and engage in other advocacy work. In FY 2022, the base salary of the Child Advocate was \$107,716, and the total including benefits for this position was \$156,285. The Office of the Child Advocate has an allotment of 10 FTEs, of which 8 are currently filled. Their total general revenue allotment in FY 2022 was \$1.04 million.

Based on the various responsibilities of the office outlined above, as well as the staffing allocated to the comparison offices in New Jersey and Virginia, the budget office assumes that 1.0 FTE and funding in general revenue would be sufficient to comply with the requirements of this bill. It is possible that federal funding may be derived from sources such as the Individuals with Disabilities Education Act (IDEA). This analysis assumes that the personnel cost for this position would be in a similar range to that of the Child Advocate and estimates approximately \$156,285 needed in general revenue financing.

In addition, the Ombudsman office will likely incur overhead costs to cover technology and administrative expenses. To account for these overhead costs, this estimate uses Washington state's Office of Developmental Disabilities Ombuds ("DD Ombuds") as a guide. In Washington's DD Ombuds' Annual Reports from 2018 to 2020, the state reports that their yearly administrative costs were \$32,150, or five percent of their \$643,000 state appropriation. Using this ratio, this estimate assumes five percent of overhead costs, or \$7,814 per year. For FY 2023, this estimate assumes the recurring five percent plus an additional five percent to capture one-time start-up and overhead costs like new computer equipment, which totals to \$15,628. For FY 2024, this estimate assumes the office will only need 5 percent to cover ongoing overhead costs for a total of \$7,814. The Office of the Child Advocate may also be used as a point of comparison for deriving an estimate of operating costs. Total agency expenses funded through general revenue in the Operating Supplies category in FY 2022 amount to \$90,877, or \$9,088 per FTE. The budget office assumes that the Office of the Special Education Ombudsman will not require the same level of facilities management, information technology or staff training services, which for the OCA total \$64,725 in FY 2022. It is also assumed that Mileage Allowance, which cost \$8,000 for the OCA in FY 2022, will not be needed. The remainder of operating expenses, including computer supplies, postage and postal services, printing, telecom and office supplies, sum to \$18,152 in FY 2022. This amount is given as a possible high end to the range of operating costs that the Office of the Special Education Ombudsman may require.

It is also possible that the office may expand beyond a single FTE, though this analysis assumes the special education ombudsman would be a single person who will serve as a point of contact for parents and guardians of students with disabilities. RIDE has indicated the potential need for admin staff or part-time workers but did not definitively assert the need for additional FTEs. The average of the first two pay scales for a Chief Implementation Aide position as of calendar year 2021 was \$63,234, or a total of \$111,322 including benefits. The budget office assumes that this position would only be employed part-time and estimates that funding this position for nine months of the year would cost approximately \$74,214 in general revenue. This additional estimate is not included in the Summary of Fiscal Impact section.

*Summary of Fiscal
Impact:*

This analysis assumes passage on July 1, 2022, and therefore no fiscal impact in FY 2022. For FY 2023, the cost of 1.0 FTE and ten percent start-up costs total \$171,913 financed through general revenue. In FY 2024, the personnel cost, and ongoing five percent overhead costs total to a general-revenue impact of \$164,099, also financed through general revenue.



**State Fiscal Note for Bill
Number: 2022-H-7536**

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