



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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November 24, 2015

Mr. Chris Kenton, Executive Director
Professional Standards Board
Townsend Building
401 Federal Street – Suite 2
Dover, DE 19901

RE: 19 DE Reg. 367 [DOE Proposed Emergency Certificate Regulation]

Dear Mr. Kenton:

The State Council for Persons with Disabilities (SCPD) has reviewed the Professional Standards Board's proposal to adopt amendments to its "emergency certificate" regulation. The proposed regulation was published as 19 DE Reg. 367 in the November 1, 2015 issue of the Register of Regulations. SCPD has the following observations.

First, the Department is striking the current requirement (§4.1.4) that an application for an Emergency Certificate include a written plan outlining how the applicant intends to meet certification requirements. The DOE may wish to reconsider this deletion for the following reasons:

A. Section 3.7. still refers to the plan.

B. Substantively, it would be valuable to have a plan "verified by the individual and the employing authority" so everyone is "on the same page" with respect to steps needed to achieve regular certification. It would also be useful to the DOE to have such a plan so it could review progress (or lack of progress) when someone files a renewal application..

Second, there are inconsistencies in the duration of the Emergency Certificate. On the one hand, two sections indicate that the Emergency Certificate is valid for a single school year:

3.1.1. An Emergency Certificate is valid for one school year subject to a limited extension as indicated herein.

3.1.2. The Emergency Certificate is issued by a particular school year and expires on June 30th unless a limited extension is granted.

On the other hand, two sections contemplate a 2-year duration to the Emergency Certificate:

3.8.1. The Emergency Certificate may be valid for up to two (2) consecutive school years. An employing authority must request an extension of the Emergency Certificate prior to ~~June 30th~~ November 1st.

3.8.2. Emergency Certificates granted an extension shall expire on June 30th fo the consecutive school year.

This is confusing. Consider the following.

A. If an educator has a 1-year Emergency Certificate, could the educator apply for an additional 2 years in duration (aggregating 3 years) or is the “two consecutive school years” the cap? Since §3.6 contemplates a 3 year duration for persons enrolled in the “alternative routes” program, we suspect the DOE intends to authorize an aggregate 3-year cap.

B. It is counterintuitive to have certificates expire on June 30 and allow requests for “extensions” to be filed by November 1, more than 4 months later, nunc pro tunc. If a certificate expired more than 4 months ago, it is “odd” to characterize an application for the next school year as an “extension”. The DOE may wish to consider adopting the term “renewal”.

Third, although not earmarked for amendment, §§3.8.4.2 and 5.1.1 still refer to the “DPAS”. The DOE may wish to revise those references since “DPAS II” is now applicable. See 14 DE Admin Code 106A.1.0.

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

Sincerely,



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

cc: The Honorable Steven Godowsky, Ed.D, Secretary of Education
Ms. Tina Shockley, Department of Education
Dr. Teri Quinn Gray, State Board of Education
Ms. Mary Ann Mieczkowski, Department of Education
Ms. Kathleen Geiszler, Esq., Department of Justice
Ms. Terry Hickey, Esq., Department of Justice
Ms. Ilona Kirshon, Esq., Department of Justice
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor’s Advisory Council for Exceptional Citizens

19reg367 psb-emergency certificate 11-25-15