



FY 16 Report

Table of Contents

Overview of SCPD	1
Executive Summary of SCPD Accomplishments	4
Brain Injury	4
Housing	6
Healthcare	7
Policy and Law	9
Employment First	12
Other Initiatives	17
Appendices	
Appendix I	A-1
Appendix II	A-13

HISTORY

The State Council for Persons with Disabilities (SCPD) was originally established in 1980 as the Advisory Council for the Coordination of Services to the Handicapped under Title 16, Chapter 94 of the Delaware Code to promote better coordination of State services related to persons with disabilities. The name was changed in 1990 to the State Council for Persons with Disabilities. In July 1992, Governor Michael N. Castle dismantled the Department of Community Affairs (the original administrative home of SCPD) and transferred the Council and the Office of Handicapped Services to the Department of Administrative Services, Division of Administration. On July 10, 1995, legislation was passed that changed the name of the Office of Handicapped Services to the Office of Disability Affairs. On July 3, 1997, legislation was passed that updated the activities and expanded the membership of SCPD. In 2005, Governor Ruth Ann Minner dissolved the Department of Administrative Services and the Council was moved to the Department of State. In July 2006, SCPD was housed in the Department of Safety and Homeland Security (DSHS) where its duties and responsibilities are currently under Title 29, Section 8210 of the Delaware Code.

MISSION

The mission of SCPD is to unite, in one Council, disability advocates and State agency policymakers to ensure that individuals with disabilities are empowered to become fully integrated within the community.

RESPONSIBILITIES

The State Council for Persons with Disabilities is currently charged in Title 29, Section 8210 of the Delaware Code with the following duties and responsibilities:

- Promote coordination among State programs, services and plans established for or related to persons with disabilities;
- Review, on a continuing basis, all State policies, plans, programs and activities concerning persons with disabilities which are conducted or assisted, in whole or part, by State departments, agencies, or funds in order to determine whether such policies, programs, plans, and activities effectively meet the needs of persons with disabilities;
- Make recommendations to the Governor, the General Assembly and all State departments and agencies respecting ways to improve the administration of services for persons with disabilities, and for facilitating the implementation of new or expanded programs;
- Provide the Governor, the General Assembly, all interested agencies and the general public with review and comment on all State legislative proposals affecting persons with disabilities;

- Serve as a central State clearinghouse for information and data regarding the current numbers of persons with disabilities and their needs; the location, provision, and availability of services and programs for persons with disabilities; and any other relevant information and data about persons with disabilities which the Council deems appropriate;
- Prepare and submit to the Governor and the General Assembly an annual report of the activities of the Council and a status on services and programs for persons with disabilities;
- Provide policymakers and the general public with analyses and recommendations on federal and local governmental legislation, regulations and policies affecting State programs and persons with disabilities; and
- Propose and promote legislation, regulations and policies to improve the well-being of persons with disabilities.

DEFINITION

In compliance with the Americans with Disabilities Act (ADA) definition, "Persons with Disabilities" means any individual who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. An individual must be affected in at least one of these ways.

The terms "physical or mental impairment", "major life activities" and "substantially limits", as used above, shall mean those conditions defined and promulgated by the ADA.

BUDGET

The SCPD budget traditionally consisted of two FTEs (full-time equivalents) – the Director (Senior Social Services Administrator) and an Administrative Support Specialist II. In FY 10, the FTE for the Administrative Support Specialist II was eliminated with a retirement and replaced with an already existing casual/seasonal position within the DSHS Office of the Secretary. That position was reduced to part-time in FY 12 and SCPD hired another part-time administrative person in FY 16. The SCPD budget, aside from salaries, is as follows:

- Contractual Services - \$14,600
- Supplies - \$1300
- Travel - \$1000

This funding supports SCPD and its committees, in addition to the position of ADA Coordinator, all of which are housed under the Department of Safety & Homeland Security.

MEMBERSHIP

This Council consists of the following members as specified in Title 29 Section 8210 of the Delaware Code:

- The Secretary of the Department of Health & Social Services, or the Secretary's designee;
- The Secretary of the Department of Labor, or the Secretary's designee;
- The Secretary of the Department of Education, or the Secretary's designee;
- The Secretary of the Department of Services for Children, Youth and Their Families, or the Secretary's designee;
- The Governor's Advisory Council for Exceptional Citizens;
- The Developmental Disabilities Council;
- The Governor's Committee on Employment of Persons with Disabilities;
- The Advisory Council to the Division of Developmental Disabilities Services;
- The Advisory Council to the Division of Substance Abuse and Mental Health;
- The Architectural Accessibility Board;
- The Delaware Transit Corporation;
- The Council on Services for Aging and Adults with Physical Disabilities;
- The Council on Public Health;
- The Council on Deaf and Hard of Hearing Equality;
- The Criminal Justice Council;
- The State Rehabilitation Council;
- Other councils, committees, agencies and organizations as approved by both the State Council for Persons with Disabilities and the affected council, committee, agency or organization; and
- Individuals appointed by Council to ensure that at least 50% of the total membership are individuals with disabilities or family members with disabilities. At least 33% of the total membership shall be composed of individuals with disabilities.

CONTACT INFORMATION

State Council for Persons with Disabilities
410 Federal Street – Suite 1
Dover, DE 19901
Phone: (302) 739-3620
Website: <http://scpd.delaware.gov>

EXECUTIVE SUMMARY

The State Council for Persons with Disabilities (SCPD) is pleased to report on its initiatives and accomplishments for the period ending June 30, 2016. The following represents highlights from its activities.

BRAIN INJURY COMMITTEE

Concussion Protection Legislation

In 2013 and 2014, SCPD collaborated with Nemours/Alfred I. duPont Hospital for Children and the Brain Injury Association of Delaware (BIAD) to hold two Delaware Youth Concussion Summits. The objective was to review and assess the current status of diagnosis, treatment and reporting protocol regarding youth concussion and develop an Action Plan. A consensus plan was developed regarding uniform documentation protocols, training programs for healthcare providers on the evaluation and management of concussions, and promoting legislation to require concussion protocols at recreational league athletic events. In FY 16, SCPD drafted, proposed and promoted legislation in collaboration with Nemours/Alfred I. duPont Hospital for Children which resulted in H.B. 404 being introduced by Rep. Debra Heffernan. The summary of the legislation is as follows:

In 2011, the State adopted concussion protections for youth involved in sports and athletic activities regulated by the Delaware Interscholastic Athletic Association (DIAA) codified at Title 14 Del. C. §303(d). However, the DIAA's jurisdiction only applies to member schools and excludes youth athletic events sponsored by leagues, clubs, and other organizations. This bill is intended to fill this gap by establishing similar concussion protection standards for youth involved in non-DIAA regulated athletic activities.

The bill passed the House and Senate with an amendment that officials also have concussion training in addition to coaches. The legislation was signed by the Governor on September 6, 2016.

Assessment Tool

SCPDs Brain Injury Committee (BIC) started reviewing assessment tools from across the country in 2013 which could better identify cognitive and behavioral deficits for persons with brain injuries. The intended result is to better identify people with TBIs during the Medicaid assessment process which would ultimately lead to people getting the services in the community that they truly need.

SCPD has been collaborating with DMMA on this issue and the Division adopted a pilot in November 2015. The goal of the pilot is to better identify clients who have a diagnosis of TBI and, once identified, utilize the MPAI-4 assessment tool recommended by BIC. The target group was 100 percent of community referrals not enrolled in Diamond State Health Plan Plus seeking community services. An assessment took place by an RN and target questions were asked of the client or caregiver. If determined that the client has had a TBI, then the MPAI-4 tool (recommended by SCPD) will be utilized. During the assessment, the PAS Nurse will also determine the level of care for eligibility. One ADL deficit is the criteria for eligibility (e.g., eating, bathing, transferring difficulties). If eligibility is not met, a home visit will take place. Information about the Brain Injury Association will be given to the client.

A family member or significant other will be asked to be present during the utilization of the MPAI-4 tool. The information will be placed in the client's chart to be sent to the MCO. The data will also be placed on a statistical data sheet. Site visits will take place on any potential denial.

The pilot was administered from November 1, 2015 – March 31, 2016. The pilot resulted in a significant percentage increase in applicants for Medicaid being identified with TBI. Given the “success” of the pilot, DMMA will promote the use of “trigger” questions for identification and the MPAI-4 assessment tool which should result in better services being provided in the community for people with TBI.

Brain Injury Fund

Since July 2013, the General Assembly has allocated funding (\$50,000/year) to the State Council for Persons with Disabilities (SCPD) to administer a Brain Injury Fund. Eligibility for funding assistance is limited to Delaware residents with a qualifying, documented brain injury who would benefit from covered services which would otherwise not be readily available to the resident through the Department of Health & Social Service (DHSS). Documentation of a brain injury may include an adequate medical history, neurological examination, neuropsychological evaluation or neuroimaging. Covered services may include home modifications, environmental modifications, driver rehabilitation, service dog acquisition and support, assistive technology, attendant services, and such other services approved by SCPD. SCPD continues to administer the fund to provide needed services to people with TBI who may not be able to receive these services from other agencies or organizations.

Post Acute Medical

SCPD endorsed Post Acute Medical's application to construct a 34-bed inpatient rehabilitation facility (IRF) in Dover, DE which will serve persons with disabilities, including persons with traumatic brain injuries (TBIs) and stroke. Council did note a concern about initiating the inpatient unit without a comprehensive and dedicated outpatient therapy program being offered. Comprehensive outpatient therapy, specifically regarding cognitive deficits in the TBI population, is a vital part of any inpatient discharge plan and represents the real continuum of care. Council's concern was that such capacity does not exist within the current service providers in that area, and indeed, there is a shortage statewide in this context. However, Council believed a successful application would result in a facility which would allow people with TBIs and their families to have more flexibility and choice about their health care and access to supports and services; reduce the need to send people out of state for care; and increase capacity for such critically needed services in Delaware.

Presentations

SCPD BIC received informative presentations on the following:

- Immersive Environment to Promote Recovery After TBI - Devina Kuman and Dr. Cole Galloway, University of Delaware
- Established Status Epilepticus Treatment Trial – Dr. Bennett, Nemours/AI duPont Hospital for Children

HOUSING COMMITTEE

SCPD collaborated with the Homeless Planning Council, Delaware Housing Coalition and the Delaware State Housing Authority (DSHA) to develop “Community and Choice: Housing Needs for People with Disabilities in Delaware” which was released in 2012. There were many recommendations in the areas of accessibility, affordability, community and systems. The Committee collaborated with DSHA and DHSS to monitor implementation on many of the recommendations.

In the area of accessibility, the report recommended reducing fair housing barriers to affordable and accessible housing. The report commented that Source of Income (SOI) discrimination is a common fair housing issue for people with disabilities. Adding SOI as a protected class in Delaware’s fair housing law would benefit this population. SCPD promoted such legislation which resulted in the introduction of H.B. 196 on June 19, 2013 that prohibits housing discrimination based on source of income by adding it as a protected class under the Delaware Fair Housing Act and the Landlord Tenant Code. The bill was never released from the House Housing & Community Affairs Committee. The main opposition was that housing vouchers were included as a source of income and many viewed that as landlords having to accept prospective tenants with vouchers. In addition, many thought the voucher process was laborious. SCPD believes that landlords do not have to categorically accept prospective tenants with vouchers – they may still take into account sufficiency of income, credit worthiness of a tenant or buyer and other factors to determine tenancy. Also, it is not a laborious process and indeed similar to other processes in which landlords must assume.

SCPD continued to promote an amended version of a bill which resulted in introduction of S.B. 179 in January 2016 and excluded vouchers as a source of income. S.B. 179 with H.A.1 passed the House and Senate on July 1, 2016 but included another amendment which eliminated coverage of annuities, alimony, and child support. It was signed by the Governor on August 3, 2016. While SCPD is disappointed with the latest amendment, Council still believes it is a positive step for Delaware to have a law which addresses SOI discrimination and protects the many people with disabilities in Delaware who receive SSI and SSDI.

During FY 16, the SCPD Housing Committee received the following presentations to possibly determine areas of need and broaden its membership:

- Fair Housing Cases Involving Disabilities –Division of Human Relations/Human Relations Commission
- Homeless Planning Council
- The Arc of Delaware
- DSAAPD Care Transitions Program

HEALTHCARE COMMITTEE

Health Equity

In 2013, the Healthcare Committee, which is staffed by SCPD under the Governor's Commission on Building Access to Community-Based Services, agreed to begin collaboration with the Center for Disabilities Studies (CDS) to continue its efforts in developing a strategic plan regarding health equity for people with disabilities. This was essentially building upon the efforts of the Healthy Delawareans with Disabilities grant also coordinated by CDS and had the support of the DHSS Cabinet Secretary. In January 2015, CDS and DHSS released *The Plan to Achieve Health Equity for Delawareans with Disabilities*. The main goals are:

- Strengthen the state's capacity to promote health equity for people with disabilities.
- Achieve full compliance with civil rights laws and regulations designed to protect people with disabilities.
- Create a culture that is conducive to achieving health equity for people with disabilities.

Implementation of the Plan is being conducted by workgroups which report back to the SCPD/Governors Commission Healthcare Committee. These committees are: Access & At Risk, Data Monitoring & Surveillance, Inclusive Health Promotion, and Emergency Preparedness.

Regarding the 1st goal, one objective was to establish an inclusion policy within DHSS that requires all contractors and grantees to address how their proposed programs or services will reach people with disabilities across all racial and ethnic minorities and across the lifespan. The Committee promoted and endorsed such a policy which was implemented by DHSS in FY 16. Policy Memorandum # 70 states the following:

It is the policy of the Delaware Department of Health and Social Services to recognize that inclusion of diverse populations is not only within our agency, but the larger systems that constitute our environment, programs and clients. As an agency we embrace the concept of an inclusive workplace which is accepting of diverse populations in our own workforce and actively practices acceptance of diverse populations within our community through our programs and services we provide to our clients.

This policy applies to all Divisions, facilities and other entities of DHSS. It also applies to all Federal grants, sub-grants, State Plans, contracts as they relate to direct services to our consumers and all DHSS programs and services.

Dental Care

SCPD once again strongly endorsed and advocated for legislation and funding in FY 16 (S.B. 142) which would expand Delaware's Public Assistance Code to provide preventative and urgent dental care to all eligible Medicaid recipients. Payments for preventative or urgent dental care treatments would be subject to a \$10.00 recipient copay and the total amount of dental care assistance provided to an eligible recipient would not exceed \$1,000.00 per year, except that an additional \$1,500.00 may be authorized on an emergency basis for urgent dental care treatments through a review process established by the State Dental Director. Currently, adults who depend on state health insurance do not have dental care coverage through Medicaid. In its November 19, 2015 FY17 budget presentation, the Department of Health and Social Services (DHSS) recommended the inclusion of six-month funding [approximately 2.4 million (12/21/15 DMMA email) to implement the adult

dental benefit initiative.

While many of us have some anxiety, financial difficulty, or other challenge associated with our access to dental care, individuals with disabilities often face multiple difficulties. Recent studies have shown that one's knowledge of dental care is a major predictor of dental health. Patients with cognitive disabilities are often dependent on others for assistance, whether for transportation, home care activities, decision-making about treatment, and/or payment. Physical disabilities can limit a patient's ability to practice effective dental hygiene and access adequate care in a dental office. While Delaware offers a good Medicaid program to meet the needs of children who qualify, virtually no financial assistance is available for adults with unmet dental needs.

In summary, the lack of state funding for adults with disabilities is a major impediment to dental care, and poor dental health is known to be a factor in a wide range of non-dental medical conditions.

S.B. 142 passed the Senate, but not the House and funding was not approved for the program.

The Committee also received the following presentations:

- DD Council's Oral Health Awareness Campaign – A campaign that all people with disabilities should have the same access to a healthy smile.
- “Coordinating Specialized Transportation Services in Delaware” - Marcia Scott, Policy Scientist at the Institute for Public Administration/U-D presented on this research project, which includes research on multi-mobile transportation options, opportunities and barriers.
- Division of Public Health Data Collection and Program Survey - Tabatha Offut-Powell, State Epidemiologist and Section Chief Epidemiology, Health Data, and Informatics

Unfortunately, the grant to continue to fund CDS and its work in promoting health equity for people with disabilities was approved but not funded. SCPD and the Commission will discuss the future of this initiative and any of areas of focus in FY 17.

POLICY AND LAW

In FY 16, SCPD reviewed and/or provided comment on 106 proposed and final regulations; 42 State bills; 1 Federal bill and other policies which impact persons with disabilities (see Appendix I). Highlights regarding some initiatives are as follows.

Voting

SCPD prompted and promoted the following legislation regarding people with disabilities and voting. In implementation of federal law, §4943 of the Election Code was amended in 2012 to allow voters who require assistance to vote by reason of blindness, disability, or inability to read or write to be given assistance by a person of the voter's choice. However, other sections of the Code were not updated to reflect the change which could result in confusion or criminal prosecution. S.B. 255 conformed inconsistent provisions in the Election Code. The legislation was signed by the Governor on August 1, 2016.

SCPD also prompted an amendment to H.B. 342, which, at the recommendation of the Joint Sunset Committee ("Committee"), establishes the Department of Elections Voting Equipment Selection Task Force ("Task Force"). The current voting equipment used in Delaware will need to be replaced by 2018 or 2020. The State Elections Commissioner has started reviewing the numerous options available on the market and requested that the Committee form a task force with legislative representation so that the Commissioner may present 3 to 5 options for purchase or lease. The Task Force's recommendation is advisory only. An amendment was passed which adds a representative from the SCPD to the Task Force. The legislation was signed on June 28, 2016.

Accessible Parking

SCPD has worked for the last couple of years developing draft legislation to enhance compliance of accessible parking spaces for persons with disabilities in Delaware. The result was H.B. 200 introduced on June 17, 2015. Currently, the state of accessible parking for people with qualified disabilities is a disgrace in Delaware. One only has to simply observe parking lots around the state to know that a majority of accessible spaces are out of compliance with applicable laws.

There is no uniformity regarding the size of spaces, size of access aisles, and signs for such spaces. Counties and municipalities have adopted different standards for compliance and building codes do not effectively address situations when an existing parking lot is repainted, resurfaced, repaved or restriped. This allows individuals and businesses to perpetuate the problem of poorly designed and installed parking spaces. Installation and maintenance of properly designed accessible spaces and parking lots impacts thousands of people across the state daily and should be subject to oversight. The Americans with Disabilities Act (ADA) does not truly provide an efficient or effective mechanism for enforcement of the construction and maintenance of accessible parking spaces. The administrative process is burdensome and slow, and the United States Department of Justice only accepts a fraction of the complaints it receives. The federal court system is not equipped to handle these complaints in a timely, inexpensive and effective manner.

If accessible spaces do not comply with the law, police officers cannot ticket individuals who are illegally parked in those spaces. For example, current law requires that accessible spaces have a sign which identifies the accessible space. However, many spaces do not have a sign and law enforcement cannot issue a ticket since the space does not comply with the law. If they do issue a

ticket and the space is not compliant, the ticket could be dismissed. Since many accessible spaces are non-compliant with the standards, police cannot adequately enforce Delaware's laws in this context. The result is that many people illegally park in accessible parking spaces and people with disabilities are being denied equal access to workplaces, businesses and public buildings and facilities.

SCPD collaborated with many impacted agencies and organizations at various stages of discussion regarding this legislation to address their issues and concerns. Some of those agencies included the following: State Chamber of Commerce, Central Delaware Chamber of Commerce, Delaware Association of Councils, Kent County, City of Dover, City of Harrington, Government Affairs and Economics Development Consulting; City of Newark, and the University of Delaware. As a result of this collaboration, H.S. 1 for H.B. 200 was introduced on March 22, 2016.

In addition to the House Substitute bill, H.A. 1 to H.S. 1 for H.B. 200 was introduced on June 9, 2016 which removes the requirement for accessible parking spaces to comply with the Guidelines for Pedestrian Facilities in Public Rights of Way, when such Guidelines are adopted and codified in the United States Code of Federal Regulations, because these would be covered under the ADA Accessibility Guidelines when adopted. It also removes provisions which could affect installation and maintenance costs that exceed the current statutory and regulatory requirements of the Americans with Disabilities Act, Titles II and III. Finally, the amendment clarifies that maintenance of accessible parking spaces refers to spaces located in parking lots and facilities.

The substitute bill with the amendment is the result of the aforementioned collaboration which addresses concerns in multiple contexts (e.g. removes provisions which could affect installation and maintenance costs that exceed the current statutory and regulatory requirements of the ADA, "softens" enforcement requirements for counties and municipalities, and clarifies roles for promoting compliance which addresses staffing concerns of jurisdictions) while still developing an effective bill which will improve, over time, the quality of accessible parking for persons with disabilities in Delaware and even the lack of access to such spaces due to illegal parking.

This bill is a first step in attempting to resolve the aforementioned issues and concerns over time by, in a nutshell, doing the following:

- Requiring public agencies to issue a permit for installation, restriping, repainting, resurfacing or altering an accessible parking space. Once the work is completed, public agencies must verify compliance by conducting an on-site inspection or independently confirming compliance by photographic evidence. The law does not require public agencies to affirmatively go out and inspect existing parking lots, only to verify compliance after new work is completed.
- Incorporating the regulations under the ADA as the standard to use when installing or altering an accessible parking space and assessing compliance. This will, over time, ensure uniformity across the state.

Unfortunately, SCPD still heard opposition from the Chamber of Commerce, government entities and other organizations. In addition, SCPD believes there was some confusion with the final version of the bill given the many changes that were made during the process. While it was scheduled to be heard on the House Floor, the bill was not heard and a vote was not taken. SCPD will pursue promotion of legislation in FY 17 that strengthens the enforcement process for the installation and alteration of accessible parking spaces for persons with disabilities in order to increase compliance and uniformity of such spaces statewide.

Supported Decision Making

SCPD was a major contributor to a working group lead and coordinated by the Developmental Disabilities Council to address the need for “supported decision making” legislation in Delaware. The working group drafted and promoted such legislation that resulted in the introduction of S.B. 230 on April 14, 2016.

The legislation creates the option of a supported decision-making agreement for adults who do not need a guardian but who need assistance in gathering information, making decisions, and communicating those decisions. The Act allows these adults to select and appoint one or more trusted friends or relatives or others to act as a supporter. The supporter can provide assistance and guidance on issues affecting the principal, such as coordinating health care and services; making health and service-related decisions; and dealing with housing issues, daily living activities, and routine financial matters. The supporter is not empowered to make decisions for the principal or to substitute the supporter’s judgment for the principal’s. This Act includes safeguards such as limiting who can act as a supporter and requiring a written document with disinterested witnesses. This Act gives the supporter legal status to participate in the decision-making process by gathering information and assisting the principal in making and communicating decisions. A decision or a request communicated by the supporter must be honored on the same basis as a decision or request of the principal. The legislation was signed by the Governor on September 15, 2016.

Interpreter Credentialing

SCPD established a working group to address the problem of unqualified sign language interpreters providing services in the State of Delaware. There has long been discussion that there are simply not enough qualified interpreters in the state and mandating requirements for interpreters would only exacerbate the problem. However, SCPD believes that it is time to advocate for best practices and highest standards in the provision of interpreting services for diverse users of languages that are signed or spoken. The working group is currently working on a discussion draft of legislation regarding registration of interpreters for the Deaf and Hard of Hearing and Deaf-Blind. The intent is that any final draft will also include an effective date which will provide sufficient time for providers of these services to meet the new requirements.

Community First Choice Option

In FY 15, SCPD prompted the Division of Medicaid and Medical Assistance (DMMA) to begin the process of implementing the Community First Choice Option (CFCO). This resulted in establishment of a collaborative committee which is currently working on this initiative. CFCO is a Medicaid program that was created by the Affordable Care Act (ACA) to make it easier for states to offer home and community-based services to Medicaid beneficiaries. The ACA added the CFCO program to the Social Security Act, under Section 1915(k). States that choose to run CFCO programs will get increased federal matching funds to provide care attendants and supports to Medicaid beneficiaries who would otherwise need to be institutionalized. The CFCO program requires states to allow Medicaid beneficiaries to direct their own care as much as possible. Under CFCO, the Medicaid beneficiary should have the authority to interview care attendants, choose the best one, and fire that person if necessary. Implementation is planned in 2018.

EMPLOYMENT FIRST OVERSIGHT COMMISSION

Delaware's Employment First Act (H.B. 319) was signed by Governor Markell on July 16, 2012 and promotes the right that all persons with disabilities have the opportunity for competitive integrated employment and establishes the Employment First Oversight Commission (hereafter referred to as "Commission") under SCPD.

The Act recites that it is the policy of this State that competitive employment in an integrated setting shall be considered its first and priority option for people who are of working age, including people with disabilities. All state agencies that provide services and support to persons with disabilities shall follow this policy and ensure that it is effectively implemented in their programs and services. Competitive integrated employment means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which a person with a disability is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by persons without disabilities.

The bill also requires State agencies to coordinate efforts to ensure that state programs, policies, procedures and funding support competitive employment opportunities. In addition, the bill requires state agencies to, whenever feasible, share data and information across systems in order to track progress toward full implementation of this Act. Finally, State agencies are encouraged to adopt measurable goals and objectives to promote assessment of progress in implementing this Act.

HB 319 also establishes the Employment First Oversight Commission (EFOC) under the purview of SCPD. Membership includes 4 people with disabilities appointed by the Legislature; Delaware Association of Rehabilitation Facilities (DelARF – now the Ability Network of Delaware); Division of Industrial Affairs; Division of Vocational Rehabilitation (DVR); Department of Education (DOE); Department of Health and Social Services (DHSS); Division of Developmental Disabilities Services (DDDS) and the Developmental Disabilities Council (DDC). Duties of the Commission include reviewing measurable goals and objectives submitted by each relevant state agency to ensure implementation of this Act; tracking the measurable progress of state agencies in implementing this Act; and preparing an annual report detailing progress and identifying barriers to achieving outcomes along with effective strategies and policies that can help realize the employment first initiative. State agencies are required to fully cooperate with the Commission in providing data and information to assist the Commission in carrying out its duties.

FY 16 Accomplishments

Activity and Status of Closing State Sheltered Workshops

In 2016 the State of Delaware received its third consecutive year of support and funding under U.S. Department of Labor's Office of Disability Employment Policy's (USDOL-ODEP) Employment First State Leadership Mentoring Program (EFSLMP). This national program includes a network of more than twenty states working collaboratively to leverage national experts that train on best practices in supporting competitive integrated employment for persons with the most significant disabilities. In 2015, under the EFSLMP project, Delaware had requested and received an organizational assessment of two sheltered workshops operated within the State of Delaware: Division of Substance Abuse and Mental Health's Psychiatric Center Industries, and Division for the Visually Impaired's Delaware Industries for the Blind. A national subject matter expert was brought

in during this time and provided an assessment of both workshops with the following recommendations:

- A. Strategically phase out the work, and place the employees of Delaware's Psychiatric Center Industries into competitive integrated employment opportunities with the support of Vocational Rehabilitation services.
- B. Strategically phase out the business operations, including contracts and staffing, of Delaware Industries for the Blind into a corporation in the community.

This work was further operationalized in 2016 under the EFSLMP with measures being established around the phase out of both facilities. The Delaware Psychiatric Center successfully phased out its sheltered work programs in 2016 with the majority of employees transitioning to competitive integrated employment and enrolling with Vocational Rehabilitation services. Delaware Industries for the Blind developed a business plan as part of the 2016 EFSLMP recommendations and continues to work on transition to a competitive business model housed outside of State government. The Commission is currently collecting data on the number of individuals that have received services under the categories of sheltered work, day habilitation, and supported employment, to begin developing strategies for employee transitions in 2016-2017 when working with the broader disability community.

Current DSAMH data on the transition of employees from sheltered work to competitive, integrated employment and DVR services shows that 33 people were employed with Delaware Psychiatric Center Industries in FY 2015. In FY 2016, 100 percent of those were referred for DVR services with 17 out of 33 obtaining competitive integrated employment.

The Ill Effects of Unemployment

Beginning in 2015, under the EFSLMP initiative, the State of Delaware began to have conversations about the intersection of poverty, employment, health, and education systems for persons with disabilities. In 2016, under the EFSLMP project, the EFOC engaged in a small pilot project with Nemours and Public Health to include questions related to the impact of poverty and unemployment within public health surveys. These surveys were conducted and concluded early in 2016.

In addition, EFOC has advanced a conversation regarding the efficiencies and gains in effectiveness that could be achieved by better aligning the Workforce Development Board's combined planning committee under the Workforce Innovation and Opportunities Act (WIOA), with the Delaware Center for Health Innovation's (DCHI) Healthy Neighborhoods Program, and the Delaware Department of Education's (DDOE) Pathways to Prosperity Initiative. A more targeted approach that connects resources and focused programming across state systems could achieve improved gains for Delawareans with disabilities. With poverty issues remaining the number one social determinant of health, it is essential to continually align the mission and objectives of disparate organizations serving vulnerable populations. This will continue to be a priority of the EFOC in 2017.



Full Implementation of Pathways and Promise

In 2016 the State of Delaware requested additional support through EFSLMP in the implementation of two new expanded Medicaid waivers. Both the 1915(i) waiver, known as Pathways to Employment (a cross disability agency waiver between the Division of Visually Impaired, Division of Developmental Disabilities, Division of Services for Aging and Physical Disabilities focused on 14-25 year olds), and an 1115 waiver, known as PROMISE (a waiver focused on individuals with severe and persistent mental health disabilities under the Division of Substance Abuse and Mental Health) included an expanded array of employment supports. With the support of EFSLMP the State was able to successfully map the processes and funding opportunities for the Pathways program and expanded enrollment in 2016 from less than a hundred clients to over three hundred clients. National subject matter expert Virginia Selleck was brought in to work with DSAMH, the provider community, and Vocational Rehabilitation on the implementation of the PROMISE program. Ms. Selleck was able to successfully identify points for collaboration and clarification in the funding of employment services between the new waiver, Vocational Rehabilitation, and within the existing processes in DSAMH. At this time Ms. Selleck continues to consult with DSAMH and support the provider community in training on the array of funding and the efficiencies that can be developed across these systems of care in Delaware.

State Use Law

In FY 15, EFOC began monitoring the progress regarding draft amendments to the State Use Law Commission and Contracting Set Aside Program for employers that support persons with disabilities. In FY 16, SCPD provided extensive comments on the draft version of this bill which resulted in H.B. 393. This Act is the result of recommendations made by the Joint Sunset Committee, and makes several changes to the State Use Law and the related Commission:

- Updates the law to use People First Language, including changing the name of the Commission for the Purchase of Products and Services of the Blind and Other Severely Handicapped Individuals to the Commission for Statewide Contracts to Support Employment for Individuals with Disabilities.
- Removes the requirement that qualifying businesses that apply for a set aside contract possess a subminimum wage certificate in order to obtain a contract. Valid business entities may now include both for-profit and nonprofit agencies.
- Updates the names and descriptions of the organizations involved in state use contracts to reflect modern day realities.
- Based on the input from the Commission and the public, changes the make-up of Commission membership, to create a Commission that better serves the intent of the law.
- Requires the Commission to promote an expanded and constant market for products and services, rather than require the Commission to provide such a market.
- Removes the Delaware Association of Rehabilitation Facilities and adds the Ability Network of Delaware or Commission representative of a community rehabilitation program to the list of entities who may propose to the Commission set-aside contracts with agencies of this State.
- Provides that a Commission subcommittee review proposed revisions to set-aside prices, prior to the Commission voting whether to approve the price revision.
- Shifts all Commission subcommittees from advising outside entities to advising the Committee.

- Requires the Commission to promulgate regulations and sets the minimum subject areas that must be addressed by regulation.
- Governs the relationship between the Commission and Government Support Services (central contracting and procurement), including the requirement that Government Support Services publish a list of products and services provided by community rehabilitation programs or central nonprofit agencies.

The bill was signed by the Governor on July 20, 2016.

DelARF (Now the Ability Network of Delaware) Contract with DTC

In February 2016, the Commission contacted the Delaware Transit Corporation (DTC) after information regarding the Winter Ride Check program was introduced as official business at the February 9, 2016 Commission meeting. The Delaware Association of Rehabilitation Facilities (DelARF) reported that the Winter Ride Check program had been cancelled by DART. The Commission was concerned that the cancellation of the Winter Ride Check program resulted in the loss of 35 jobs, of which nearly 30 were to be filled by those having qualifying disabilities. In addition, the process by which DART cancelled the program (e.g. extremely short notice without adequate explanation or communication) certainly appeared to be poor business practice.

The Commission believed that the fundamental purpose of the Winter Ride Check program is aligned with the spirit and intent of the Employment First Act and Governor Markell's National Governor's Association (NGA) initiative - *A Better Bottom Line: Employing People with Disabilities*. The Commission encouraged a path forward to retain the successful program in order to further enhance the number of meaningful and integrated work opportunities available to persons with disabilities.

DelARF reported that there was agreement reached with DTC to ensure that the subcontractor recoup some of the costs that were incurred in ramping up for the Winter Ride Check program. More importantly, it was reported that there still remains a smaller sampling of passenger mile checks that need to be conducted that will create meaningful work opportunities for some of the persons with disabilities that were already on-board with the subcontractor.

Subminimum Wage Legislation

The Commission monitored the progress of Maryland's Minimum Wage and Community Integration Act which was signed in April 2016 and phases out, beginning October 1, 2016, the authority for the Commissioner of Labor and Industry to authorize a work activities center or other sheltered workshop to pay a subminimum wage to an employee with a disability. It also restricts the authority of a work activities center or other sheltered workshop to pay a subminimum wage and/or a prevailing wage to an employee with a disability. Beginning October 1, 2020, the Developmental Disabilities Administration (DDA) may not fund providers that pay individuals less than the minimum wage under a specified federal certificate. The legislation also requires a worker with disabilities who is paid a subminimum wage and a supervisor to outline a plan to assist the worker in obtaining a job with non-disabled coworkers. Ending the confinement of workers with disabilities to segregated workplaces is one reason why the legislation is so important. In addition, it ensures that employers can no longer pay their workers with disabilities a subminimum wage. The Commission discussed options on possible Delaware legislation, and is currently planning for introduction of legislation which addresses this most important issue during the 149th General Assembly.

Employment First Educational Video – This was a continuation of the Vision Quest priority in 2015 to develop a video which demonstrates the value of people with disabilities being employed in competitive integrated working environments. It is intended to reach a wide audience including persons with disabilities, family members, providers and policymakers. This was in collaboration with the Department of Health & Social Services and the video was released with introduction by the Governor at an event in November 2015. A link to the video is: https://youtu.be/oqDVxufL_E0

On June 10, 2016, Governor Jack Markell's Weekly Message focused on "Making the Most of the Talents of All People". In part, his message was that our state is at its best when we make the most of the talents of all of our people. Every member of our community deserves a chance to be productive, to be told they and their work matter, and to contribute to the greater good by putting their time and talent to use. The Governor reported that Delaware has made real progress in supporting people with different types of abilities through programs like Project Search. This career development program for people is sponsored by Christiana Care, with strong support from the State's Department of Labor, Red Clay School District, and non-profit service providers who provide career coaching and job search assistance - Bayhealth also participates. A link to the video is: <https://m.youtube.com/watch?v=Nc6dFyosFi4>

Selective Placement and Agency Aide

The Office of Management and Budget (OMB) provided a presentation to the Commission on its Selective Placement and Agency Aide programs. Selective Placement is a program designed to give individuals having a physical or mental disability that impacts his/her ability to participate in the competitive selection process a way to apply for state merit positions without competitive recruitment. The Selective Placement program appears to be underutilized and the Commission will collaborate as needed to determine how to strengthen the program. The Agency Aide program's original intent was for employees to gain experience so they could have the skills needed for another job. However, the majority of people working in these positions have held the jobs for many years and never moved out of the original positions. Even though those positions are not merit positions, the people still receive competitive pay with benefits.

OTHER SCPD INITIATIVES

SCPD held its Annual Luncheon on October 19, 2016 with a presentation by Ms. Rita Landgraf, Secretary of the Department of Health & Social Services (DHSS), and the Department's Division Directors. The presentation focused on the DHSS budget and impact on services for persons with disabilities. SCPD presented the "Custie" Award to Mr. Tim Brooks. The award is presented to individuals who have made a significant impact on the lives of individuals with disabilities and their families.

The 18th Annual LIFE Conference was held on January 20, 2016. At the SCPD Luncheon, the Legislative Award was presented to Senator Harris B. McDowell III. The State Service Award was presented to the Delaware Department of Transportation for its support of Delaware's Citizens with Disabilities and celebration of the 25th anniversary of the Americans with Disabilities Act. Ms. Jamie Wolfe was presented with the Lifetime Achievement Award.

SCPD was a member of the ADA 25th Anniversary Planning Committee which worked with various state agencies, the City of Dover and advocacy organizations to plan an all-day event to celebrate this historic day. The 25th Anniversary of the ADA was celebrated July 18, 2015 in Dover, DE with a great day of family fun, parade, vendors, exhibitors, live music, giveaways, entertainment and tours of the U.S. Business Leadership Network's America's Disability Rights Museum on Wheels. A keynote address was made by former Democratic U.S. Rep. Tony Coelho of California, the primary sponsor of the ADA. In addition, speeches were given by DHSS Cabinet Secretary Rita Landgraf, Dover Mayor Robin Christianson and many disability advocates.

SCPD was represented on the following groups in FY 2016: Center for Disabilities Studies Community Advisory Committee; LIFE Conference Planning Committee; Governor's Commission on Building Access to Community-Based Services for Individuals with Disabilities; Healthy Delawareans with Disabilities; Protection & Advocacy for Individual with Mental Illness; Protection & Advocacy for Individual Rights; Region III ADA Coalition; Nursing Home Residents Quality Assurance Commission; Freedom Center for Independent Living; Persons with Access, Function and Medical Needs; Money Follows the Person Committee; Community First Choice Option Committee; Delaware Foundation Reaching Citizens with Cognitive Disabilities; Supported Decision Making Ad Hoc Committee; and the Advisory Council on Walkability and Pedestrian Awareness (Pedestrian Council).

**Review of Regulations
FY 16**

REGULATION NO. 19 DE	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
6	DFS Camp Employee & Volunteer Background Check Emergency	Provided 2 observations.	7/29/15	No further action taken.
20	DMMA Telemedicine Originating Site	Endorsed the proposed regulation subject to 2 amendments.	7/29/15	Reviewed final regulation 191 on 9/1/15, with 2 amendments adopted. No further action taken.
91	DPH Emergency Medical Marijuana	Provided 14 observations. Thanked DPH for adopting amendments.	8/26/15 11/24/15	Reviewed final regulation 409 on 11/1/15, with 8 amendments effected. No further action taken.
100	DOE High School Graduation & Diploma	Provided 3 observations.	8/26/15	Reviewed final regulation 303 on 10/1/15, with 3 amendments effected. No further action taken.
102	DOE School Counseling Program	Endorsed the proposed regulation subject to inquiry that DOE may wish to consider whether the standards should also apply to charter schools.	8/26/15	Reviewed final regulation 305 on 10/1/15. No further action taken.
105	DIAA Sportsmanship	Provided 2 amendments to the proposed regulation.	8/26/15	Reviewed final regulation 493 on 12/1/15, with 2 amendments effected. No further action taken.
110	DOE Junior High School & Middle School Interscholastic Athletics	Provided 12 observations. Provided 7 extensive observations and offered technical assistance.	8/26/15 12/1/15	Reviewed revised proposed regulation 461 on 12/1/15. Reviewed final regulation 743 on 2/1/16, with 1 amendment effected. No further action taken.
111	DOE High School Interscholastic Athletics	Provided 13 observations. Provided 8 extensive observations and offered technical assistance.	8/26/15 12/1/15	Reviewed revised proposed regulation 462 on 12/1/15. Reviewed final regulation 745 on 2/1/16 with 1 amendment effected. No further action taken.
112	DOE School Transportation	Provided 3 observations.	8/26/15	Reviewed final regulation 307 on 10/1/16, with 3 amendments effected. No further action taken.
116	DPH Medical Marijuana	Provided 9 observations to the proposed regulation. Thanked DPH for adopting many of the amendments.	8/26/15 11/24/15	Reviewed final regulation 409 on 11/1/15, with 6 amendments effected. DPH acknowledged endorsement. No further action taken.

REGULATION NO. 19 DE	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
125	DPR Board of Nursing	Provided 4 observations.	8/26/15	No further action taken.
162	DOE Accountability	Provided 8 observations.	9/29/15	No further action taken.
163	DOE License & Certification of DOE, Adults & Prison Education Employees	Provided 4 observations.	9/29/15	Reviewed final regulation 487 on 12/1/15, with 3 amendments effected. No further action taken.
164	DMMA Hippotherapy	Endorsed the proposed regulation and provided 2 observations and 1 recommendation.	9/29/15	Reviewed final regulation 513 on 12/1/15, with 1 amendment effected and DMMA acknowledged endorsement. No further action taken.
234	DOE School Health Record Keeping	Provided 5 observations.	10/28/15	Reviewed final regulation 490 on 12/1/15, with 4 amendments effected. No further action taken.
241	DOE School Psychologist	Endorsed the proposed regulations and provided 2 observations.	10/28/15	Reviewed final regulation 624 on 1/1/16. No further action taken.
243	DOE Certification Programs for Leaders in Education	Provided concern that SBE has expertise to warrant involvement in the review of renewal applications but not initial application and that PSB has expertise to warrant involvement in the review of initial applications, but not renewal applications to the proposed regulation.	10/28/15	Reviewed final regulation 626 on 1/1/16, with no amendments effected. No further action taken.
245	DMMA Private Duty Nursing Services	Provided 9 extensive observations and recommendations. Thanked DMMA for incorporating many of the amendments.	10/28/15 12/21/15	Reviewed final regulation 507 on 12/1/15, with 5 amendments effected. DMMA responded to all observations and concerns.
253	DMMA Medicaid Home Health Services	Provided 1 technical amendment.	10/28/15	Reviewed final regulation 627 on 1/1/16, with 1 amendment effected. No further action taken.
258	DMMA Deletion of Personal Care Services from Medicaid Plan	Provided 3 observations to the proposed regulation.	10/28/15	Reviewed final regulation 632 on 1/1/16, with no change effected. DMMA responded to each amendment. No further action taken.
284	DMMA Speech/Language Pathologist, Audiologists and Hearing Aid Dispensers Telepractice	Provided 3 observations to the proposed regulation.	10/28/15	No further action taken.
355	DOE Educational Records Transfer & Maintenance	Endorsed the proposed regulation.	11/24/15	Reviewed final regulation 618 on 1/1/16. No further action taken.

REGULATION NO. 19 DE	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
362	DOE Proposed Medications & Treatments	Opposed the proposed regulation and provided 2 observations.	11/24/15	Reviewed final regulation 622 on 1/1/16 with no amendments effected. No further action taken.
367	DOE Emergency Certificate	Provided 3 observations and 2 recommendations.	11/24/15	No further action taken.
369	DMMA Medicaid Outpatient Drug reimbursement	Endorsed the proposed regulation.	11/24/15	Reviewed final regulation 748 on 2/1/16. DMMA thanked SCPD for the endorsement.
373	DMMA Proposed EPSDT Mental Health Services	Provided 4 observations.	11/24/15	Reviewed final regulation 754 on 2/1/16, with all amendments addressed and 1 amendment effected. No further action taken.
377	DMMA EPSDT Substance Use Disorder	Provided 1 observation.	11/24/15	Reviewed final regulation 759 on 2/1/16, with no amendment effected. DMMA addressed the amendment. No further action taken.
380	DMMA EPSDT Inpatient Psychiatric Hospital Services	Endorsed the proposed regulation.	11/24/15	Reviewed final regulation 763 on 2/1/16. DMMA thanked SCPD for its endorsement. No further action taken.
388	DPH DMOST	Provided 6 observations. Thanked DPH for adopting 6 amendments.	11/24/15 1/29/16	Reviewed final regulation 637 on 1/1/16, with all 6 amendments adopted by DPH. Reviewed revised final regulation 922 on 4/1/16. No further action taken.
388	DPH Home Health Aide Only Agency Licensure	Provided 1 observation.	11/24/15	Reviewed final regulation on 3/1/16. DPH responded to concern. No further action taken.
391	DPH Skilled Home Health Agency Licensure	Provided 2 observations.	11/24/15	Reviewed final regulation 852 on 3/1/16, with 1 technical amendment effected. No further action taken.
392	DPH Personal Assistance Services Agency	Provided 4 observations. Provided observations and recommendations, including that substantive comments from multiple state agencies should not be ignored.	11/24/15 3/29/16	Reviewed final regulation 852 on 3/1/16, with 1 technical amendment effected. No further action taken.
455	DOE Instructional Program Requirements	Endorsed the proposed regulation and provided 2 observations.	12/21/15	Reviewed final regulation 739 on 2/1/16, with 1 amendment effected. No further action taken.
458	DOE Alternative Placement Meetings & Expedited Hearing Due Process	Provided 38 extensive observations. Provided 30 observations.	12/21/15 6/27/16	Reviewed republished proposed regulation 1057 on 6/1/16, with 15 amendments effected.

REGULATION NO. 19 DE	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
473	DPBHS Juvenile Mental Health Screeners	Endorsed the proposed regulation subject to inclusion of 1 recommendation for enhanced clarity.	12/21/15	Reviewed final regulation 778 on 2/1/16, with 1 amendment effected. No further action taken.
712	DOE New Teacher Hiring Data Reporting	Provided 2 observations.	2/22/16	Reviewed final regulation 919 on 4/1/16, with 1 amendment effected and 1 addressed. No further action taken.
714	DOE Parent Councils	Provided 3 observations to the proposed regulation.	2/22/16	Reviewed final regulation 1015 on 5/1/16, with 1 amendment effected. No further action taken.
716	DOE Charter School Staff Training	Provided 1 observation.	2/22/16	Reviewed final regulation 1017 on 5/1/16 with clarification provided. No further action taken.
718	DOE IEP	Provided 3 observations. Acknowledged DOE incorporating 2 amendments verbatim and 1 recommendation made.	2/22/16 5/25/16	Reviewed revised proposed regulation 969 on 5/1/16, with 2 amendments effected. No further action taken.
721	DOE Meeting Minutes & Prior Notice	Provided 2 observations and 2 concerns regarding Meeting Minutes and 3 observations on Prior Notice.	2/22/16	Reviewed final regulation 1018 on 5/1/16, with 2 amendments effected. No further action taken.
782	DMMA HCBS Transition Plan	Endorsed Disability Law Programs letter dated 3/14/16 and encouraged the State to strictly follow the Olmstead guidance on integrated v. segregated settings.	3/22/16	No further action taken.
809	DOE Post Secondary Education	Provided 10 observations.	3/29/16	Reviewed final regulation 1078 on 6/1/16, with 2 amendments effected. DOE will consider suggestions regarding content of DOE endorsements. No further action taken.
810	DOE District & School Emergency Preparedness Policy	Provided 4 observations. Inquired about the status of any regulations authorized to be developed in consultation with DOE under Title 29 Del.C §8237(c)(5). Solicited the latest progress report and an update of the status of implementation of the OSSA.	3/29/16	Reviewed final regulation 1014 on 5/1/16. DOE acknowledged endorsements and repealed the regulation.
812	DOE Emergency Certificate	Provided 2 observations and recommendations.	3/29/16	No further action taken.

REGULATION NO. 19 DE	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
821	DFS Criminal History Record Checks for Child Care Person	Provided 4 observations and recommendations. Provided 3 observations and thanked DFS for incorporating 3 amendments.	3/29/16 5/25/16	Reviewed final regulation 1023 on 5/1/16, with 3 amendments effected. No further action taken.
822	DFS Child/Health Care Public School & Camp Registry Check	Provided 3 observations and recommendations. Thank you sent for adopting a final regulation incorporating edits.	3/29/16 5/25/16	Reviewed final regulation 1025 on 5/1/16, with 3 amendments effected. No further action taken.
884	DMMA Prescription Drug Supplemental Rebate Agreement	Endorsed the proposed regulation.	4/25/16	Reviewed final regulation 1088 on 6/1/16, with no amendments effected. No further action taken.
888	DMMA Medicaid LTC "Bed Hold" Payment	Endorsed the extended paid "bed-hold" period for ICF/IIDs, and also provided 3 observations and recommendations.	4/25/16	Reviewed final regulation 1092 on 6/1/16, with 1 amendment effected. No further action taken.
893	DMMA LTC Facility Personal Needs Allowance	Provided 5 observations and recommendations.	4/25/16	Reviewed final regulation 1095 on 6/1/16, with 3 amendments effected. No further action taken.
898	DMMA Medicaid Autism Disorder Services	Provided 11 extensive observations and recommendations, including highly objecting to 1 requirement and a utilization limit. Provided 3 concerns.	4/25/16 7/27/16	Reviewed revised proposed regulation on 7/1/16 with 8 amendments effected and all addressed.
967	DOE "Emotional Disability"	Endorsed the proposed regulation and provided 2 observations.	5/25/16	Further review in FY 17.
979	PSB School Nurse	Provided 1 observation that the PSB may wish to reconsider §6.2 that requires public schools to be responsible for verifying that the School Nurse continues to meet the requirements in certain subsections.	5/25/16	Further review in FY 17.
982	DMMA ABLE Account	Provided 8 observations and recommendations.	5/25/16	Further review in FY 17.
987	DMMA Spousal Impoverishment Undue Hardship	Provided 2 observations.	5/25/16	Reviewed final regulation 52 on 7/1/16, with no amendments effected and all addressed. No further action taken.
1059	DMMA Long Term Care Facilities	Endorsed the proposed regulation.	6/27/16	Further review in FY 17.

SCPD Review of State/Federal Legislation
FY 2016

State

LEGISLATION	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
H.B. 158	Creates penalties for failure to report a reasonable cause to believe that an adult person who is impaired or incapacitated is in need of protective services. Penalties are intended to match those currently in place for the failure to report the suspected abuse of a child.	Drafted letter providing 4 observations, but not sent because the bill was stricken.	1/27/16	Legislation was stricken on 1/19/16.
H.B. 161 w/HA 1 & 2	Provides opportunities to parents of special needs students to select the most appropriate and productive educational pathway for their children by using funds otherwise allocated to their residential school district. H.A. 1 removes from the definition of "Eligible student", a provision that would expand that definition beyond the intent of the legislation.	Provided 25 observations.	1/29/16	Assigned to House Education Committee on 6/3/15. HA 1 introduced and placed with the bill on 6/11/15. HA 2 introduced & placed with Bill on 6/2/16.
H.B. 175	Creates a unified sports pilot program in track and field in all high schools operated by a regular or vocational technical school district or by a charter school during the 2015-2016 school year.	Provided 3 observations. Special Olympics also provided presentation at SCPD meeting.	1/29/16	Reported Out of House Education Committee on 6/17/15.
H.B. 186	Adds charter schools to the list of entities for audits through the Auditor of Accounts.	Endorsed the proposed legislation and provided 3 observations.	1/29/16	Reported out of Senate Education Committee on 1/14/16. Passed by House on 6/30/15.
H.S. 1 for H.B. 200	Adds provisions to Title 21 defining accessible parking spaces, incorporating federal standards for accessible parking spaces found in the Americans with Disabilities Act and adds additional requirements that enhance these standards.	Strongly endorsed the proposed legislation and provided 9 observations. Bill was drafted by SCPD in collaboration with DLP.	6/6/16	Substituted by HS 1 on 3/22/16. Reported Out of House Public Safety & Homeland Security Committee on 3/24/16. Amendment HA 1 - Introduced and Placed With Bill on 6/9/16.
H.B. 211	Limits the use of shackles and other physical restraints on children appearing in juvenile delinquency proceedings except in situations where the court determines that the use of restraints is necessary and there are no less restrictive alternatives that will prevent flight or physical harm to the child or other courtroom participants.	Endorsed the proposed legislation and provided 3 observations.	4/26/16	Signed by the Governor on 9/6/16.
H.B. 214 w/HA 1	Includes an assault on a nurse performing a work-related duty as a second degree assault. Currently, for an assault to rise to the level of assault in the second degree against a nurse, the nurse must be rendering emergency care.	Provided 3 observations, including that the bill authorizes a penalty disproportionate to the offense and may "criminalize" a large number of vulnerable patients unnecessarily.	4/26/16	Signed by the Governor on 6/28/16.

LEGISLATION	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
H.B. 229 w/HA 1, 2 & 3	Adds a new priority consideration for students who have a medical condition or disability that carries an ongoing risk of a sudden medical emergency. If the parent, relative, guardian or caregiver can demonstrate that they would be able to respond quicker to an emergency at the selected school, the student will receive a priority consideration.	Provided 1 observations and 1 recommendation.	2/29/16	Introduced and Assigned to House Education Committee on 1/7/16. Amendment HA 1 - Introduced and Placed With Bill on 5/18/16. Amendment HA 2 - Introduced and Placed With Bill on 5/19/16. Amendment HA 3 - Introduced and Placed With Bill on 6/8/16.
H.B. 234 w/HA 1	Requires all public secondary schools, including vocational-technical schools, but not including charter schools, to have a school-based health center.	Endorsed the proposed legislation and provided 3 observations.	2/29/16	Signed by the Governor on 7/20/16.
H.B. 240	Establishes the Statewide Afterschool Initiative Learning Program. It provides grants to public schools that qualify as Title I schools to develop afterschool engagement of students that will provide extended learning, homework assistance, enrichment, and nutrition.	Provided 4 observations.	2/29/16	Reported Out of House Education Committee on 1/13/16. Assigned to House Appropriations Committee on 1/14/16. HA 1 - Introduced & Placed with Bill on 6/2/16. Reported Out of House Appropriations Committee on 6/16/16.
H.B. 243	Prohibits the state from using the rate of participation against a school or district as the decision to opt out of state assessments is made by parents.	Provided 5 observations, including waiting for further guidance from the U.S. Department of Education before considering the bill.	2/29/16	Introduced and Assigned to House Education Committee in House on 1/19/16.
H.B. 250	Seeks to clarify and strengthen current law by adding a requirement that the instance of bullying must also be substantiated. Ensures the integrity of the law by limiting its exploitation by persons who wish to change schools for unrelated reasons, but preserving the exception for children truly in need of special consideration due to school bullying.	Provided 2 observations and 2 recommendations.	2/29/16	Signed by the Governor on 8/10/16.
H.B. 261	Authorizes "disenrollment" of expelled and "students subject to placement in an alternative school without expulsion" and impose financial responsibility on the non-responding school.	Provided 3 observations.	2/29/16	Introduced and Assigned to House Education Committee on 1/28/16.
H.B. 268	Seeks to codify certain sections of the federal law known as the Child Abuse Prevention and Treatment Act ("CAPTA") that requires States to have policies and procedures in place to address the needs of infants born with and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a requirement that healthcare providers involved in the delivery or care of such infants notify the child protective services system.	Provided 4 observations and stated that the proposed legislation has drastic unintended consequences as currently written. Provided 3 recommendations.	4/26/16	Introduced and Assigned to House Judiciary Committee on 4/3/16. Stricken on 4/14/16.

LEGISLATION	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
H.B. 302 w/HA 2 & 3	Increases the penalties for the improper use of electronic communication devices while driving. The civil penalty for a first offense is increased from \$50 to \$100 and for subsequent offenses is increased to \$200 up to \$300. Additionally, points will be assessed for second or subsequent offenses.	Endorsed the proposed legislation and provided 2 observations.	5/25/16	Signed by the Governor on 8/31/16.
H.B. 311	Authorizes Family Court to order the Department of Health and Social Services of Services ("DHSS") to determine whether a child who is 17 years of age or older and in the custody of the Department of Services for Children, Youth and their Families ("DSCYF") qualifies for adult mental or behavioral health services.	Provided 6 observations.	5/25/16	Passed by House on 6/9/16. Assigned to Senate Children, Youth & Families Committee on 6/9/16. Reported Out of Committee on 6/28/16.
H.B. 317 w/HA 1	Prohibits discrimination in employment based upon an individual's caregiving responsibilities. Ensures Delaware workers with responsibilities for child care, elder care, or both, receive equal employment opportunities and are protected from discrimination in the workplace.	Endorsed the concept of the bill and provided 3 observations.	5/25/16	Signed by the Governors on 6/30/16.
H.B. 319 w/HA 1	Seeks to codify certain sections of the federal law known as the Child Abuse Prevention and Treatment Act ("CAPTA") that requires States to have policies and procedures in place to address the needs of infants born with and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder, including a requirement that healthcare providers involved in the delivery or care of such infants notify the child protective services system.	Provided 7 observations.	5/25/16	Amendment HA 1 - Introduced and Placed With Bill on 4/14/16. Reported Out of House Judiciary Committee on 4/20/16. Assigned to House Appropriations Committee on 6/16/16. Reported Out of Committee on 6/28/16.
H.B. 342 w/SA 1	Establishes the Department of Elections Voting Equipment Selection Task Force. The current voting equipment used in Delaware will need to be replaced by 2018 or 2020.	Prompted SA 1 to add an SCPD representative to the Task Force.	6/16	Signed by the Governor on 6/28/16.
H.B. 358 w/HA 1	Amends the "Achieving a Better Life Act" ("ABLE") passed during the last legislative session in order to conform that law to the evolving federal legislation upon which it was based.	Reviewed at Policy and Law.		Signed by the Governor on 6/28/16.
H.B. 365 w/HA 1, HA 1 to HA1	Removes the prohibition against receipt of Temporary Assistance for Needy Families (TANF) also referred to by the name Aid for Families with Dependent Children (AFDC) funds by persons convicted of a drug felony.	Endorsed the proposed legislation and provided 2 observations.	6/8/16	Passed by House on 6/14/16 with HA 1 to HA 1. Assigned to Senate Health & Social Services Committee on 6/15/16. Reported Out of Committee on 6/22/16.
H.B. 382	Guarantees that all children facing criminal charges and allegations of delinquency have the right to an attorney, codifying the Office of Defense Services' current practice of representing every juvenile that requests representation.	Endorsed the proposed legislation and provided 2 observations.	6/8/16	Signed by the Governor on 6/28/16.

LEGISLATION	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
H.B. 393	This Act is the result of recommendations made by the Joint Sunset Committee, and makes several changes to the State Use Law.	Provided comments on draft bill which were incorporated in the Bill.	3/27/16	Signed by the Governor on 7/20/16.
H.B. 400 w/HA 1	Expands upon S.B. 90 by classifying pain, anxiety, or depression, if related to a terminal illness, as a qualifying condition in the Delaware Medical Marijuana Act for patients under the age 18, who will still be restricted to using CBD and oil products. Classifies terminal illness in adults as a qualifying condition.	Provided 2 observations and provided background information.	6/8/16	Signed by the Governor on 8/31/16.
H.B. 402	Authorizes the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers to establish requirements for hearing aid dispensers and audiologists to provide notification and written information to potential customers at the time of the initial exam for fitting a hearing aid of the operation and benefits of telecoil technology.	Reviewed status at several Policy and Law meetings.		Signed by the Governor on 7/19/16.
H.B. 404 w/HA 1	In 2011, the State adopted concussion protections for youth involved in sports and athletic activities regulated by the Delaware Interscholastic Athletic Association (DIAA) codified at Title 14 Del. C. §303(d). However, the DIAA's jurisdiction only applies to member schools and excludes youth athletic events sponsored by leagues, clubs, and other organizations. The intent is to fill this gap by establishing similar concussion protection standards for youth involved in non-DIAA regulated athletic activities.	SCPD initiative in collaboration with AI/DuPont-Nemours.		Signed by the Governor on 9/6/16.
H.B. 428	Allows for dental hygienists to travel to certain facilities and provide dental hygiene services. Under existing law, a dental hygienist may only act under the general supervision of a dentist in the dental office, state institutions, or schools. Prior to offering these services, the facility owner/operator and the patient/legal guardian must approve of the dental services to be provided, and adequate safeguards must be provided, including the referral to a licensed dentist for consultation. Updates the definition of the practice of dental hygiene services.			Introduced and Assigned to House Sunset Policy Analysis & Government Accountability Committee on 6/15/16.

LEGISLATION	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
H.B. 433	This bill would mandate an increase in the rates paid according to the Instrument for Client and Agency Planning assessment so that by the year 2020 the state achieves funding providers at 100% of the market rate. The state is currently funding providers at 75% of the market rate. The ICAP is an assessment instrument that is used to determine the number of support hours based on each individual's unique needs, challenges and strengths. These rate increases are necessary in order to keep people with intellectual and developmental disabilities safe and integrated to the maximum extent possible in their local communities.			Out of House Health & Human Development Committee on 6/22/16.
S.B. 52 w/ SA 1 & 2	Requires the DHIN to develop and maintain a process to enable a hospital to record in the patient's electronic health record contained in the DHIN the patient's designation of a lay caregiver and the lay caregiver's contact information. Requires that a hospital provide a patient or the patient's agent an opportunity to designate a lay caregiver prior to the patient's discharge. If a lay caregiver is designated, the hospital is required to document the designation in the patient's medical record, notify the lay caregiver, and to interface with the lay caregiver related to the patient's discharge plan.			Signed by the Governor on 8/3/16.
S.S. 1 for S.B. 134	Establishes a "Homeless Individual's Bill of Rights" that provides rights to protections for individuals experiencing homelessness, including protections from discrimination while in public and while seeking access to housing, employment, and temporary shelter. Vests important investigatory and enforcement authority with the State's Division of Human Relations and the State Human Relations Commission.	Endorsed the concept of the proposed legislation.	6/6/16	Substituted on 5/1/16. Reported Out of Senate Community/County Affairs Committee on 5/18/16.
S.B. 142	Expands Delaware's Public Assistance Code to provide preventative and urgent dental care to all eligible Medicaid recipients.	Strongly endorsed the proposed legislation.	1/25/16	Passed by Senate on 6/14/16. Introduced and Assigned to House Health & Human Development Committee on 6/15/15.
S.B. 179 w/SA 3	Prohibits housing discrimination based on source of income by adding "source of income" as a protected class under the Delaware Fair Housing Act and the Landlord Tenant Code.	Strongly endorsed the proposed legislation and encouraged the Senate Committee to release the proposed legislation. Strongly endorsed the proposed legislation and included list of endorsing agencies. Encouraged the House Committee to release the proposed legislation.	1/27/16 3/16/16	Signed by the Governor on 8/3/16
S.B. 180	Provides procedures to ensure that each child with a disability who has reached age 18 has an identified educational decision-maker to exercise rights under this chapter.	Endorsed the proposed legislation and provided observations.	3/29/16	Signed by the Governor on 6/9/16.

LEGISLATION	SYNOPSIS	ACTION	DATE LETTER SENT	FINAL STATUS
S.B. 186	Creates a Disabled Veteran School Tax Refund Fund to provide property tax refunds of up to \$500 to individuals who are disabled veterans of the United States Armed Forces with a disability rating as determined by the U.S. Department of Veterans Affairs.	Endorsed the proposed legislation and provided 3 observations.	4/26/16	Assigned to Senate Finance Committee in Senate on 1/28/16.
S.B. 190	This Act is the first leg of an amendment to the Delaware Constitution to provide for equal protection regardless of race, sex, age, religion, creed, color, familial status, disability, sexual orientation, gender identity, or national origin.			Reported Out of Senate Executive Committee on 6/8/16. Laid On Table in Senate on 6/14/16.
S.B. 214	Increases the amount of time provided to a person seeking to file a charge of employment discrimination from 120 days to 300 days, making Delaware's statute of limitation consistent with the statute of limitations under federal discrimination law.	Endorsed the proposed legislation and provided observations.	4/26/16	Signed by the Governor on 7/19/16.
S.B. 221	Further promotes the purpose of 16 Del. C. Chapter 96 (as amended). The intent is to advance the number of work opportunities made available to Delawareans with disabilities beyond those offered through State Use Law by presenting employers incentives to employ this under-represented workforce.	Endorsed the proposal legislation provided 3 observations.	4/26/16	Passed by Senate on 6/8/16. Reported Out of House Revenue & Finance Committee on 6/15/16.
S.B. 230	Creates the option of a supported decision-making agreement for adults who do not need a guardian but who need assistance in gathering information, making decisions, and communicating those decisions.	Endorsed the proposed legislation. Was part of a committee which prompted, drafted and promoted the legislation.	5/17/16	Signed by the Governor on 9/15/16.
S.B. 239	Limits use of out-of-school suspension to 3 circumstances: 1) willfully causing or attempting to cause bodily injury; 2) threatening serious bodily injury or death to another person, except in self-defense; and 3) bringing a weapon or controlled substance onto school grounds.			Assigned to Senate Education Committee on 5/3/16.
S.B. 255	In implementation of federal law, § 943 of the Election Code was amended in 2012 to allow voters who require assistance to vote by reason of blindness, disability, or inability to read or write to be given assistance by a person of the voter's choice. This bill is a housekeeping measure to conform inconsistent provisions in the Election Code.	SCPD prompted the introduction of the legislation promoted its passage.		Signed by the Governor on 8/1/16.
S.B. 277	Establishes a permanent steering committee for the Pathways to Prosperity initiative, in order to ensure the long term sustainability and adaptability of the program. The committee is comprised of a broad spectrum of representation across different phases of the educational, workforce development, and professional landscape.			Reported Out of Senate Education Committee on 6/15/16.

Federal

S. 2427 (Disability Integration Act)	Prohibits states or local governments that provide institutional placements for individuals with disabilities who need long-term assistance with daily living activities or health-related tasks, and prohibits insurance providers that fund such long-term services, from denying community-based services that would enable such individuals, as an alternative to institutionalization, to live in the community and lead an independent life.	Endorsed the proposed legislation and provided observations to Senators Carper and Coons and Representative Carney.	5/31/16	Introduced on 12/18/15. Referred to the Committee on Health, Education, Labor and Pensions.
--------------------------------------	--	---	---------	---

Delaware Employment First Oversight Commission Membership and Active Participants

**Mr. Dan Madrid, Chair
DHSS Director of Quality Improvement**

**Ms. Marissa Catalon, Vice-Chair
Director of Day Services, Division of Developmental Disabilities Services**

**Ms. Deborah Bradl
Division of Visually Impaired**

**Ms. Jana DiCosmo,
Discrimination Law Enforcement Officer, Division of Industrial Affairs**

**Ms. Andrea Guest
Director, Division of Vocational Rehabilitation**

**Ms. Patricia Maichle
Director, Developmental Disabilities Council**

**Dale Matusevich
Education Associate, Transition Services, Dept. of Education**

**Ms. Cindy Sterling
Director of Employment Services, Service Source (Representing Ability Network of Delaware)**

**Dr. Nick Fina, Person with a Disability
Member of the Public Appointed by the Legislature**

**Mr. Emmanuel Jenkins, Person with a Disability
Member of the Public Appointed by the Legislature**

**Dr. Ronald Sarg, Veteran with a Disability
Member of the Public Appointed by the Legislature**

**Mr. Lloyd Schmitz, Person with a Disability
Member of the Public Appointed by the Legislature**

**Ms. Sandy Reyes
Employee Relations Administrator, Office of Management & Budget**

**Ms. Laura Strmel
Delaware Community Coordinator, Certified Employment Support Professional, St. John's Community Services**

**Ms. Ellen Coulston
Parent**

**Ms. Janet Berry
Executive Director, BlindSight Delaware**

**Ms. Melissa Martin
POW&R Assistant Director, Autism Delaware**