



DISABILITIES LAW PROGRAM

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MEMORANDUM

To: SCPD Policy & Law Committee

From: Brian J. Hartman

Re: Recent Legislative & Regulatory Initiatives

Date: March 6, 2017

Consistent with the request of the SCPD and GACEC, I am providing analyses of nine (9) legislative and regulatory initiatives in anticipation of the March 9 meeting. Given time constraints, the analyses should be considered preliminary and non-exhaustive.

1. DMMA Prop. Medicaid Eligibility of Former Foster Youth Reg. [20 DE Reg. 694 (3/1/17)]

Consistent with federal law, DMMA currently provides Medicaid coverage to former foster care youth who have aged out of Delaware's foster care system until age 26. This regulation would expand the eligible population to young adults who aged out of the foster care system of another state. The financial impact of this initiative would be modest:

In state fiscal year 2016 there were approximately 150 former foster youth that aged out of Delaware's foster care system that were eligible for Medicaid under the ACA. Extending this rule to former foster youth from other states would most likely result in very few new clients and therefore won't have a significant fiscal impact.

At 696.

There would be no income or resource cap for this population. Id.

A disproportionate number of foster care youth have disabilities and transition to adulthood is often difficult. The availability of Medicaid to this constituency would be a significant support and is analogous to the option of youth who remain on their parent's private health insurance through age 26.

The SCPD may wish to consider endorsement with a courtesy copy to the Office of the Child Advocate and Steve Yeatman at DSCY&F.

2. DLTCRP Proposed CNA Regulation [20 DE Reg. 693 (3/1/17)]

The Division of Long Term Care Residents Protection (DLTCRP) proposes a full revision of the existing regulation covering certified nursing assistants.

In general, the standards appear to be relatively clear and comprehensive. I have the following observations on some discrete sections.

First, there are a few typographical errors:

A. In §2.3.10, there appears to be an extraneous comma after the term “CNA”.

B. In Appendix A, Psychosocial Needs Module, Competencies Section, 6th bullet, there is a reference to “self?care”.

C. In Appendix A, Physical Needs Module, Competencies Section, 15th bullet from the end, there is a reference to “self?help”.

Second, the qualifications of trainers may benefit from enhancement. An RN with only 2 years of overall experience and 1 year of clinical experience (§3.2.1) and supplemental personnel (e.g. occupational, physical or speech therapist) with only 1 year of experience (§3.6.1) are authorized to serve as CNA training program instructors. These are relatively weak credentials to teach a wide array of skills to CNA trainees. While a nurse with 1 year of clinical experience in an NSF may have been exposed to many types of needs, a nurse with more years of experience would generally have greater exposure to a variety of patients and treatment modalities.

Third, §3.10 lists minimum equipment to be available for training. It would benefit from some additions.

A. Appendix A, Psychosocial Skills Module, Competencies Section, includes the following skill: “Recognize and utilize augmentative communication devices and methods of nonverbal communication.” Likewise, Appendix A, Physical Needs Module, Competencies Section, includes the following skill: “Demonstrate use of assistive devices”. It would therefore make sense to include a typical AAC device in the list of minimum equipment in §3.10.

B. Appendix A, Physical Needs Module, Competencies Section, includes the following recital “Assist the resident/patient with ambulation aids, including, but not limited to cane, quad-cane, walker, crutches, wheelchair and transfer aids, such as a mechanical lift.” These forms of AT are included in §3.10 with the exception of the mechanical lift. DMMA may wish to consider adding a mechanical lift to the list of minimum equipment.

C. Appendix A, Physical Needs Module, Competencies Section, includes the following recitals: “Assist the resident/patient with oral hygiene, including prosthetic devices” and “Administer oral hygiene for the unconscious resident/patient”. In contrast, §3.10 omits all oral hygiene devices, including water flossers, electric toothbrushes, and ultrasonic denture cleaners.

D. Appendix A, Physical Needs Module, Competencies Section, includes the following recital: “Accurately measure and record with a variety of commonly used devices: blood pressure, height and weight, and temperature, pulse, respiration. Section 3.10 would benefit from the addition of a pulse oximeter.

The SCPD may wish to share the above observations with the Division.

3. DOE Scholarship Incentive Program [20 DE Reg. 685 (3/1/17)]

The Department of Education proposes to adopt regulations implementing the State Scholarship Incentive Program established by the attached Title 14 Del.C. §§3411-3413.

The enabling law authorizes scholarships only to full-time students in degree programs. A student can qualify for a scholarship only if attending: 1) an undergraduate educational institution in Delaware; or 2) an undergraduate educational institution in another state with a reciprocity agreement; or 3) an undergraduate or graduate educational institution in another state offering courses not available in state-supported institutions in Delaware when the course work is deemed in the best interest of the State. Scholarships are awarded based on both financial merit and academic merit. The amount of the scholarships is small. Consistent with the attached excerpt from the DOE website, they range from \$700- \$2,200 annually. The regulations contemplate allocating up to 80% of funding to undergraduates and up to 20% of funding for graduate students (§5.1.1).

I have the following observations.

First, the numbering in §4.0 should be reviewed. There should be no §4.1 since there is no §4.2. See attached §3.3 from the Delaware Administrative Code Drafting and Style Manual.

Second, the regulations ostensibly omit the statutory authorization to approve scholarships to attend institutions outside Delaware “that have established scholarship reciprocity agreements with the State and the Office of Undergraduate study”. Compare Title 14 Del.C. §3413(3)b with regulatory §4.1. Perhaps there are no reciprocity agreements. If there are reciprocity agreements, the DOE should consider adding a conforming provision to the regulations. The statutory authorization is an independent basis for a scholarship distinct from enrolling in course work not offered in Delaware.

Third, it's unclear how a scholarship for a graduate student enrolled in pass/fail course work would be calculated. Section 5.2.2.3 authorizes scholarship eligibility for such students. However, based on the table on the website, query whether such a student would only be eligible for a needs-based \$700 award with no opportunity to qualify for a merit supplement. The DOE may wish to clarify if a graduate student qualifying for a scholarship under §5.2.2.3 is only eligible for a needs-based award.

Fourth, the table suggests that awards are weighted in favor of academics as juxtaposed to need. Students qualify for the same \$700 need-based stipend whether they are in abject poverty or whether they barely meet the threshold for need. In contrast, students can qualify for the academic stipend based on more discriminating standards ranging from \$0 to \$1,500. Reasonable persons could differ on whether this approach should be reversed, i.e., anyone with a 2.5 GPA would receive the same stipend while the needs-based stipend would vary based on extent of need. The enabling statute does not prioritize academic merit versus financial need and vice versa. See Title 14 Del.C. §3413(4). I infer the rationale for the current table is ease of administration, i.e., it's easier to document a GPA than financial need.

The SCPD may wish to share the above observations with the DOE and SBE.

4. H.B. No. 50 (School Nurse Funding)

This legislation was introduced on January 24, 2017. As of March 1, it awaited action by the House Education Committee. It is earmarked with a fiscal note but the note was not available on the legislative website. The legislation is similar to H.B. No. 12 (introduced in 2015) and H.B. No. 263 (introduced in 2014). Neither of the predecessor bills received a vote by the full House. The fiscal note for H.B. No. 12 reflected a State share of approximately \$1.5 million. The SCPD and GACEC endorsed both predecessor bills.

As background, the attached Title 14 Del.C. §1310 currently authorizes school nurse funding for districts based on 1 nurse per 40 state units of pupils. Districts are also required to have "at least 1 school nurse per facility". If the "1-40" funding formula is insufficient to provide for 1 nurse per facility, the districts are directed to use either Division III equalization funds (§1707), academic excellence funds (§1716), or discretionary local operating expense funds to make up the shortfall.

The implication of the synopsis to H.B. No. 50 is that some public schools lack a nurse despite the statutory requirement. Problems associated with the lack of school nurse in each facility are outlined in the attached News Journal article, "A nurse in every Delaware school" (February 2, 2017). The bill authorizes public schools to apply for supplemental State funds subject to annual appropriations. The bill also authorizes a district which receives the supplemental State funds to increase its local tax to pay for the local share of employment costs without referendum. See lines 25-26 and Title 14 Del.C. §1902(b).

The Councils may wish to consider endorsement. The availability of school nurses has several salutary effects. First, it promotes inclusion of students with disabilities who may require some nursing services to be successful in integrated settings. Second, it facilitates screening of students for health problems. Third, it facilitates quick response in the event of a student injury or emergency (e.g. seizure). However, the sponsors may wish to consider an amendment. The attached §1310(b) only applies the requirement of a nurse in each facility to school districts, not charter schools. Therefore, it is somewhat anomalous for H.B. No. 50 to refer to the requirement that only applies to districts and then authorize supplemental funding for both districts and charter schools. It would be preferable to require both district and charter schools to have a school nurse in each facility.

5. S.B. No. 193 (Disadvantaged Students Pilot)

This legislation was introduced on January 24, 2017. As of March 1, it awaited action by the Senate Education Committee.

As background, the Legislature has been considering multiple options to improve the educational performance of students from low-income families in recent years. See, e.g., the attached News Journal articles, “Lawmakers target school spending” (February 1, 2017); and “WEIC to Carney: We need weighted school funding (March 2, 2017). Indeed, in 2015, legislation (H.B. No. 117) was introduced to create a separate funding unit for low-income students. It had a \$12.8 million fiscal note and did not receive a vote by the full House.

S.B. No. 193 adopts a more restrained approach. A pilot program would be authorized with \$1 million in funding in three consecutive years (\$3 million aggregate). The pilot would be administered by the Department of Education. Public schools could apply for funds up to \$200,000 apiece over 3 consecutive years (line 41). Thus, if the Department awarded the maximum amount to applicant schools, a total of 5 schools could participate. The Department is instructed to apportion grants equitably among the counties (lines 46-47). Schools approved for funding in year 1 could expect to be level funded during years 2 and 3 (lines 48-49).

Participating schools would randomly select students who meet certain standards, i.e, low-income students not achieving at grade level and not in special education (lines 25-32). Low income students with disabilities with §504 plans would ostensibly qualify as pilot candidates. The funds would be used to achieve the following: 1) a class size of 10 students to 1 teacher (lines 36-37 and 51); 2) participating teachers with at least 5 years of teaching experience with satisfactory performance evaluations (lines 33-34); and 3) 1:1 reading instruction (lines 38-39).

The legislation “encourages” the University of Delaware, Delaware State University, and Delaware Technical and Community College to collect and analyze data to assess the viability of the program.

It is difficult to predict the results of the initiative. The underlying hypothesis is that the education of pilot participants will be significantly improved based on the following: 1) lowering class size from 16.1 (the current K-3 unit count) to 10; 2) providing an experienced teacher versus a mix of inexperienced and experienced teachers; and 3) providing 1:1 specialized reading instruction the equivalent of 1 day/month. Skeptics may posit that these levels of support will be insufficient to significantly affect performance. The pilot does not include individualized or small group tutoring. Grouping low achieving students together could also have both positive and negative results. On the one hand, it facilitates teaching if students are roughly at the same instructional level. On the other hand, students might arguably benefit from the presence of some higher achieving students as models or peer tutors.

Given budgetary constraints, the pilot may offer a useful assessment of the viability of the identified supports in lieu of “rolling out” a more sweeping initiative. However, the sponsors could consider “piloting” different options. For example, it would be useful to assess the effects of tutoring as a supplement to the above supports. The Councils may wish to consider endorsement subject to recommending consideration of some variations in forms of support.

6. H.B. No. 24 (School Attendance)

This legislation was introduced on January 5, 2017. As of March 1, it awaited action by the House Education Committee.

As background, current school attendance law contemplates parental notice and a home visit by school staff following the tenth day of a student’s unexcused absence (lines 10-11). After the fifteenth day of a student’s unexcused absence, a parent must appear at school for a mandatory conference (lines 12-14). This bill is an attempt to promote earlier intervention, i.e., after the fifth day of a student’s unexcused absence, a conference would be scheduled at school or the student’s home to conduct an informal needs assessment and determine what available resources would improve the student’s attendance.

Early intervention to address a pattern of unexcused absences makes sense.

First, public schools typically have policies which disallow credit or authorize retention for students who do not attend a certain number or percentage of school days. Schools vary in their thresholds. Consistent with the attachments, the Brandywine School District only requires 85% attendance (allowing 27 absences in 180 day school year) while Indian River School District authorizes no credit and retention for as little as 17 absences. If parental notice is not issued until 10 or 15 days of unexcused absences have occurred, it may be too late to “salvage” the school year. Once a student is advised that he may not receive credit even if he attends the balance of classes, he will not be motivated to renew attendance. Concomitantly, once a student is retained, the potential for eventually dropping out of school is statistically heightened.

Second, early intervention facilitates linking the student to resources before the student falls too far behind academically. Students can be referred to Wellness Centers for mental or physical health concerns. If a student is feeling overwhelmed by academics, tutoring or transfer to another class could be considered. If bullying is prompting the lack of attendance, the school can intervene.

The SCPD may wish to consider endorsement.

7. H.B. No. 49 (School Construction Safety)

This legislation was introduced on January 24, 2017. As of March 1, it awaited action by the House Education Committee.

Background on the legislation is compiled in the attached Delaware News Journal article, "Delaware bill mandates school safety measures" (January 27, 2017). The bill would require newly constructed or renovated school buildings to contain certain design features, including bulletproof glass, doors that could be locked from both sides with a key, and an intruder alert system compatible with the fire alarm system capable of activation from the office. In addition, the bill requires the OMB Facilities Management Section to ensure Department of Safety & Homeland Security review of such sites to address compliance with both the above standards and "Crime Prevention through Environmental Design (CPTED)" contemporary practices.

The legislation is earmarked for a fiscal note but it is not available on the legislative website.

The bill is similar to H.B. No. 347 introduced in June, 2014. That bill passed the House but did not receive a vote by the full Senate. It is also similar to H.B. No. 27 introduced in January, 2015 and stricken in July, 2015. That bill had an initial year fiscal note of approximately \$779,000 in State costs. See attachment.

The SCPD and GACEC endorsed the predecessor bills subject to incorporation of a very important amendment which was added to H.B. No. 347 prior to House passage. The same attached amendment should be added to H.B. No. 49. The rationale is reflected in the attached June 19, 2014 SCPD commentary:

SCPD originally had one principal concern with the legislation. Adoption of safety features can create barriers and result in violations of the ADA. In the past, Council believes at least one public school installed safety features which were later uninstalled due to non-conformity with accessibility standards. SCPD therefore recommended an amendment to add the following sentence at the end of line 12: "Such review shall be coordinated with the Architectural Accessibility Board established by Chapter 73 of this title to ensure compatibility of safety and architectural accessibility features." The AAB is already charged with reviewing school construction and renovations to ensure ADA compliance. However, this may not always occur. In addition, if the "safety" review occurred after the AAB review, changes could supersede and contravene the AAB-approved accessibility features. After consultation with the AAB, the SCPD shared the proposed amendment with the prime sponsor and H.A. No. 1 addresses this issue.

The SCPD may wish to affirmatively reach out to the prime sponsor to request the introduction of a conforming amendment and condition any endorsement on introduction of the amendment. The SCPD may also wish to reach out to the Department of Safety and Homeland Security and AAB to reinforce the request.

8. H.B. No. 11 (Removal of Bar on TANF Eligibility Based on Drug Conviction)

This legislation was introduced on December 15, 2016. As of March 1, 2016, it awaited action by the House Health & Human Development Committee.

As the synopsis indicates, federal laws passed during the War on Drugs frequently barred access to public assistance programs for persons with drug felonies while allowing states to “opt out” of such bans. Most states have adopted limited or full “opt outs”. In 2011, Delaware removed the ban on drug felon eligibility for the Food Supplement Program (formerly “Food Stamps”) through enactment of S.B. No. 12. The SCPD endorsed that legislation. See attached January 25, 2011 SCPD memorandum. At that time the Council noted the common co-occurrence of substance abuse with mental health and other disorders. The Council also observed that limits on access to safety-net programs undermine successful reintegration of persons released from prison into the community. Last year, a Delaware News Journal editorial made the same point in supporting a prior version (H.B. 365) of H.B. No. 11. See attached May 18, 2016 article, “TANF Bill Sensible Step in Prison Reform”. The article reported that 24 states had adopted at least limited “opt outs” of the federal bans on TANF and Food Supplement Program eligibility. The editorial also linked access to such safety-net programs to lower recidivism rates.

The TANF program has been long-recognized as an important resource for persons with disabilities. See National Council on Disability Position Paper, “TANF and Disability- Importance of Supports for Families with Disabilities in Welfare Reform” (March 14, 2003), published at <https://www.ncd.gov/publications/2003/Mar52003>. See also MDRC report, “Assessing and Serving TANF Recipients with Disabilities” (December, 2013), published at <http://www.mdrc.org/publication/assessing-and-serving-tanf-recipients-disabilities> [noting that 40% of adult TANF clients may have a mental or physical disability]. The legislation would therefore have a disproportionate beneficial effect on persons with disabilities. The Councils may wish to consider sharing a positive analysis of this initiative with policymakers.

9. S.B. No. 12 (Motorcycle Lighting Equipment)

This legislation was introduced on January 12, 2017. It passed the Senate on January 26, 2017.

As background, states vary on whether “underglow” lighting on vehicles is permitted. See, e.g., attached Findlaw article, “Neon Underglow”. In recent years some states have enacted legislation which specifically allows use of enhanced lighting on motorcycles. For perspective, materials related to West Virginia and Texas bills enacted in 2014 and 2015 respectively are attached.

The analysis of the Texas bill included the following justification:

Each year, hundreds of motorcyclists are killed on Texas highways. According to the Insurance Institute for Highway Safety, about one-quarter of the motorcycle fatalities that occurred across the United States in 2013 occurred between the hours of 9 p.m. and 6 a.m. when it is dark and motorists must rely on vehicular lighting to see other vehicles. Furthermore, a study by the Texas A&M Transportation Institute found that, in crashes involving a motorcycle and another vehicle, the other driver reported never seeing the motorcycle about one-half of the time.

To combat this safety issue, some motorcyclists currently attach light emitting diodes (LEDs) on the underbody of their motorcycle. These LEDs provide another opportunity for motorists to spot a motorcycle at night. However, current law restricts the lighting that may be emitted from a vehicle, and thus it is unclear if these LEDs are permissible.

The Delaware bill (S.B. No. 12) essentially adopts the same authorizing description of allowable lighting as the Texas legislation.

The SCPD is statutorily designated as the primary brain injury council for the State [29 Del.C. §8210(b)(10)]. It has historically promoted safety-related legislation for motorcycles to minimize the incidence of traumatic brain injuries. Since the legislation should improve the visibility of motorcyclists to other drivers, the Council may wish to consider endorsement as a disability prevention initiative. Parenthetically, courtesy copies of communication could be shared with the Departments of Transportation, and Safety & Homeland Security.

Attachments

E:legis/2017/317bils
F:pub/bjhb/legis/2017/317bils

TITLE 14

Education

Free Public Schools

CHAPTER 34. FINANCIAL ASSISTANCE FOR HIGHER EDUCATION

Subchapter II. Scholarship Incentive Program

§ 3411 Purpose.

It is the intent and purpose of the General Assembly through this subchapter to:

- (1) Provide financial aid to Delaware residents with demonstrated financial need so that within the limits of the fiscal capabilities of the State they shall not be denied an opportunity for a college education because of financial need;
- (2) Provide a financial incentive for higher academic achievement for students who qualify to receive such scholarships; and
- (3) Encourage qualified Delaware students to pursue courses of graduate and professional education when such courses are unavailable in state-supported institutions and when such pursuit is deemed in the best interest of the State.

14 Del. C. 1953, § 3401; 54 Del. Laws, c. 208, § 1; 61 Del. Laws, c. 472, § 1; 62 Del. Laws, c. 258, § 2; 70 Del. Laws, c. 161, § 1; 73 Del. Laws, c. 188, § 1.;

§ 3412 Administration.

(a) The Office shall receive and administer federal funds under the Leveraging Educational Assistance Partnership (LEAP) and Special Leveraging Educational Assistance Partnership (SLEAP) [20 U.S.C. § 1070c], state funds appropriated from the General Fund, and private sources for the purposes set forth in this subchapter.

(b) The Office may apply for and receive such funds as may be available to the State from any agency of the federal government or private sources as grants for student financial assistance programs at the postsecondary level.

14 Del. C. 1953, § 3402; 54 Del. Laws, c. 208, § 1; 61 Del. Laws, c. 472, § 1; 62 Del. Laws, c. 258, § 2; 70 Del. Laws, c. 161, § 2; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12.;

§ 3413 Scholarships.

The Office is hereby authorized to award scholarships from the Scholarship Incentive Program (SciP) subject to the limits of its appropriations and the following limitations:

(1) Scholarships shall be awarded only to persons who will enroll as full-time students in degree programs.

(2) No student may receive more than 5 annual scholarships for either undergraduate or graduate study.

(3) Scholarships shall be used only at educational institutions:

a. In Delaware for undergraduate study;

b. In states that have established scholarship reciprocity agreements with the State and the Office for undergraduate study; or

c. For undergraduate or graduate study in degree programs that are not offered by a publicly assisted institution in Delaware.

(4) Scholarships shall be awarded on the basis of financial need and academic merit. Financial need shall be determined by a federally approved need analysis system. The financial need calculation shall consider the student's expected family contribution, the expense of attending the institution selected, and the student's eligibility for Pell grants and other federal, state or private grant assistance.

(5) Students must reapply for the scholarships annually, and must continue to meet all qualifications of the program.

14 Del. C. 1953, § 3404; 54 Del. Laws, c. 208, § 1; 61 Del. Laws, c. 472, § 1; 62 Del. Laws, c. 258, § 2; 70 Del. Laws, c. 161, § 4; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12.;



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SCHOLARSHIP INCENTIVE PROGRAM (SCIP)

Application and Deadline for the 2017-2018 Academic Year

The application process for SCIP requires three steps:

1. Complete the Free Application for Federal Student Aid (FAFSA) by April 15, 2017.
2. Provide your academic records to the Delaware Higher Education Office by June 30, 2017 to dheo@doe.k12.de.us. Please see below for steps on how to submit your academic records.

If you are a current high school student attending a Delaware public or Charter school the Delaware Higher Education Office will import your academic records from Delaware Department of Education files.

If you are a high school student who is home schooled or attending a private school in Delaware please forward an unofficial copy of your final transcript showing an un-weighted cumulative GPA to the Delaware Higher Education Office by June 30, 2017.

If you are a current college/university student please forward a copy of your unofficial transcript to DHEO after spring 2017 grades have posted. Alternatively you could forward the [Academic Record Request](#) form to the Registrars office at your school and request that they complete it once spring grades have posted and return it to DHEO by June 30, 2017. It is your responsibility to ensure that the Registrar's office sends the completed form by the deadline. Late forms will not be accepted.

If you are not currently enrolled in college or high school please send your most recent academic records to the Delaware Higher Education office.

3. Log onto your student account at www.de.gov/scholarship to provide your anticipated college enrollment information for 2017-2018 by June 30, 2017.

NOTE: All communications regarding deadlines for additional information are sent to the email address you provide in your FAFSA. Check your email frequently. To avoid delivery problems, you should add our originating e-mail address (dheo@doe.k12.de.us) to your address book or safe list.

- You can complete your 2017-2018 FAFSA online beginning October 1, 2016, and you can apply for an FSA ID at any time. Your FSA ID can be used each year to electronically apply for federal student aid and to access your Federal Student Aid records online.
- SCIP grants are **non renewable**. Your FAFSA must be received by the federal processor by April 15 each year and you must provide an unofficial transcript and enrollment information by June 30, 2017 to be reviewed for SCIP eligibility.

Eligibility requirements:

- Legal residents of Delaware
- U.S. citizens or eligible non-citizens
- Demonstrate substantial financial need, as determined using the Free Application for Federal Student Aid (FAFSA)
- Have a minimum cumulative, unweighted grade point average of 2.5 on a 4.0 scale, (grades submitted on a weighted scale will be recalculated to unweighted)
- Enroll **full-time** in an **undergraduate** degree program at a nonprofit, regionally accredited institution (<http://www.chea.org/default.asp>) in Delaware or Pennsylvania
- **Or** enroll **full-time** at a nonprofit, regionally accredited college in an undergraduate or graduate degree program that is **not** offered at the University of Delaware (<http://www.udel.edu/academics>), Delaware State University (<http://www.desu.edu/academics>) or Delaware Technical Community College (<https://www.dtcc.edu/academics/programs-study>).

Restrictions:

- Graduate degree programs at the public colleges in Delaware (the University of Delaware or Delaware State University) are **not eligible** .
- Minors, non-degree, diploma, certificate, or continuing education programs are **not eligible** .
- Independent study, individualized majors, co-operative programs and other arranged or negotiated programs of study are **not eligible**.
- A student cannot receive the Scholarship Incentive Program for more than 5 years for either undergraduate or graduate study

Award:

- Not to exceed tuition, mandatory fees, and other direct educational expenses , excluding winter and summer sessions.
- Students must demonstrate financial need, as determined by FAFSA, and be in an eligible program of study to receive an award. GPA is used to determine award amount.
- Awards will be made after July 1. Check your email frequently.
- Graduate awards: \$1,000/year

- Undergraduate awards: \$700 to \$2,200/year, depending on GPA, as follows:

GPA Range	Need Base	Merit Supplement	Total Award
3.75 - 4.0	\$700.00	\$1,500.00	\$2,200.00
3.50 - 3.74	\$700.00	\$1,200.00	\$1,900.00
3.25 - 3.49	\$700.00	\$900.00	\$1,600.00
3.00 - 3.24	\$700.00	\$600.00	\$1,300.00
2.75 - 2.99	\$700.00	\$300.00	\$1,000.00
2.50 - 2.74	\$700.00	\$0.00	\$700.00
Less than 2.50	\$0.00	\$0.00	\$0.00

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3.3 Numbering

Regulatory text should be designated with numerals only.

Start out with 1.0 as the first section and number down tabbing in one level for additional subsections. See Figure 3.2 for an example. In order to divide a section, there must be at least two subsections (for example, 2.1 and 2.2), unless the section consists of an introductory portion followed by a list. If the section is not divisible, use just the section number (for example, 2.0, not 2.0 and 2.1). Similarly, there must be at least two subdivisions to divide a subsection. This rule applies to all divisions within a regulation. See Section 7.3 for additional information on tabulations and the use of bullets.

Figure 3.2
Numbering a Regulation

Example:

8.0 Use of Designations

8.1 Designation "Certified Public Accountant" and the Abbreviation "CPA" in the Practice of Certified or Public Accountancy:

8.1.1 Only the following individuals and entities may use the designation "certified public accountant", the abbreviation "CPA", and other designations which suggest that the user is a certified public accountant, in the practice of certified or public accountancy:

8.1.1.1 An individual who is registered with the Board and holds a certificate of certified public accountant and a current permit to practice.

8.1.1.2 A sole proprietorship, partnership, corporation, or any other entity authorized under Delaware law or a similar statute of another state which is registered with the Board and holds a current firm permit to practice.

8.2 Designation "Certified Public Accountant" and the abbreviation "CPA" by certificate holders who do not maintain a permit to practice:

8.2.1 An individual who holds a certificate of certified public accountant but does not maintain a permit to practice may use the designation "certified public accountant" or the abbreviation "CPA" on business cards and stationery if:

8.2.1.1 The certificate of certified public accountant has not been suspended or revoked and is in good standing.

8.2.1.2 The individual does not engage in the practice of certified or public accountancy and does not offer to perform certified or public accountancy services.

3.4 Body of Text

1. All documents shall be typed in conventional uppercase and lowercase format.
2. Documents shall be typed in **Arial** font face and **10 point** font size. Do not use automatic numbering or the automatic bullets function of the software when creating lists.
3. An agency shall request and obtain existing regulation text from the Registrar's office in order to ensure proposed changes are made to the current version of the regulatory text before submission.

§ 1310 Salary schedules for school nurses.

(a) All nurses who hold appropriate certificates shall be paid in accordance with § 1305 of this title effective July 1, 1979.

(b) A reorganized school district may employ personnel to be paid for 10 months per year from state funds pursuant to this section in a number equal to 1 for each 40 state units of pupils, except that in schools for the physically handicapped within the district the allocation shall be in accordance with the rules and regulations adopted by the Department with the approval of the State Board of Education; provided further, that each reorganized school district shall ensure that it has at least 1 school nurse per facility. To the extent that the funding formula outlined above does not provide for 1 school nurse per facility, each reorganized school district shall meet this requirement out of funding provided under § 1707 or § 1716 of the title, or out of discretionary local current operating expense funds. Districts shall qualify for partial funding at the rate of 30% of the fractional part of 40 state units of pupils.

46 Del. Laws, c. 48, § 3; 47 Del. Laws, c. 195, § 1; 48 Del. Laws, Sp. Sess., c. 489, § 3; 14 Del. C. 1953, § 1310; 50 Del. Laws, c. 261, § 4; 50 Del. Laws, c. 602, § 1; 52 Del. Laws, c. 344, § 8; 54 Del. Laws, c. 43, § 6; 55 Del. Laws, c. 409, § 4; 56 Del. Laws, c. 143, § 3; 56 Del. Laws, c. 292, § 13; 56 Del. Laws, c. 470, § 3; 57 Del. Laws, c. 333, § 8; 58 Del. Laws, c. 189, § 3; 58 Del. Laws, c. 305, §§ 3, 8, 9; 58 Del. Laws, c. 553; 59 Del. Laws, c. 34; 60 Del. Laws, c. 31, § 1; 61 Del. Laws, c. 407, § 3; 61 Del. Laws, c. 409, § 106; 62 Del. Laws, c. 36, § 1; 62 Del. Laws, c. 68, §§ 42(e), 105; 62 Del. Laws, c. 86, § 39; 70 Del. Laws, c. 118, § 317; 70 Del. Laws, c. 210, § 90; 70 Del. Laws, c. 290, §§ 38, 39; 71 Del. Laws, c. 180, § 68; 75 Del. Laws, c. 350, § 382.;

A nurse in every Delaware school

Jessica Bies, The News Journal Published 12:39 p.m. ET Feb. 2, 2017 | Updated 12:53 p.m. ET Feb. 2, 2017



(Photo: Jason Minto/The News Journal)

It was Becky Gravatt's first week as a school nurse, and as she stood watching one of her students get taken away in an ambulance, all she could think was "What have I gotten myself into?"

An even bigger question, perhaps?

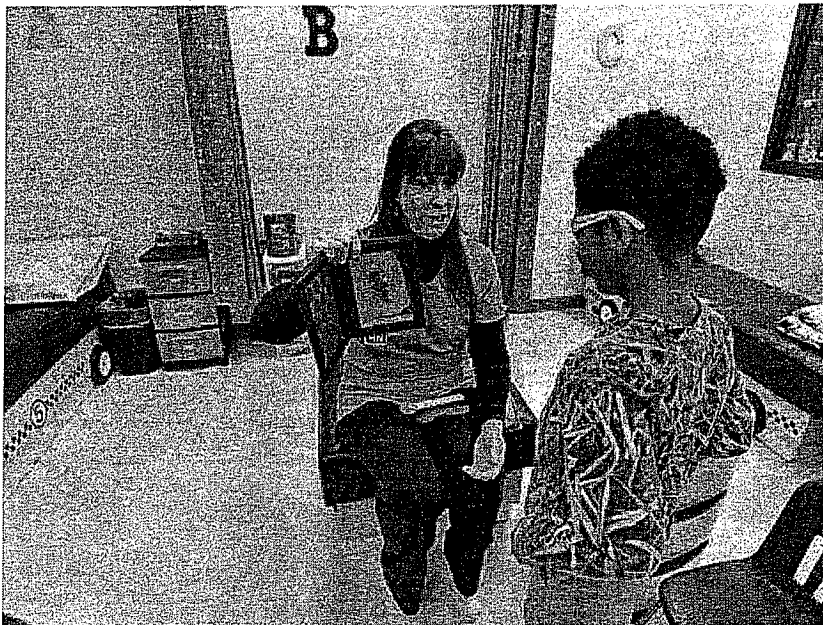
What would have happened if Gravatt hadn't "gotten herself into" it?

A school without a dedicated nurse is something Gravatt doesn't even want to think about, she said Monday.

"It could absolutely be dangerous, and I can hardly think of a school that doesn't have children in it, that can't have a nurse in it," she said. "... If our state became a state like that, it would be absolutely awful."

Funding for school nurses proposed

Buy Photo



Becky Gravatt, school nurse at McIlvaine Early Childhood Center in Magnolia, performs a visual screening on kindergartener NiYaire Scott. (Photo: Jason Minto/The News Journal)

Fortunately for Gravatt and other Delaware school nurses, a local legislator is working to make sure that doesn't happen.

Rep. Earl Jaques, D-Glasgow, recently introduced a bill he says would help ensure every school in Delaware has a school nurse by providing them additional state funding for the position. He said he also wants to make sure buildings don't have to share a nurse.

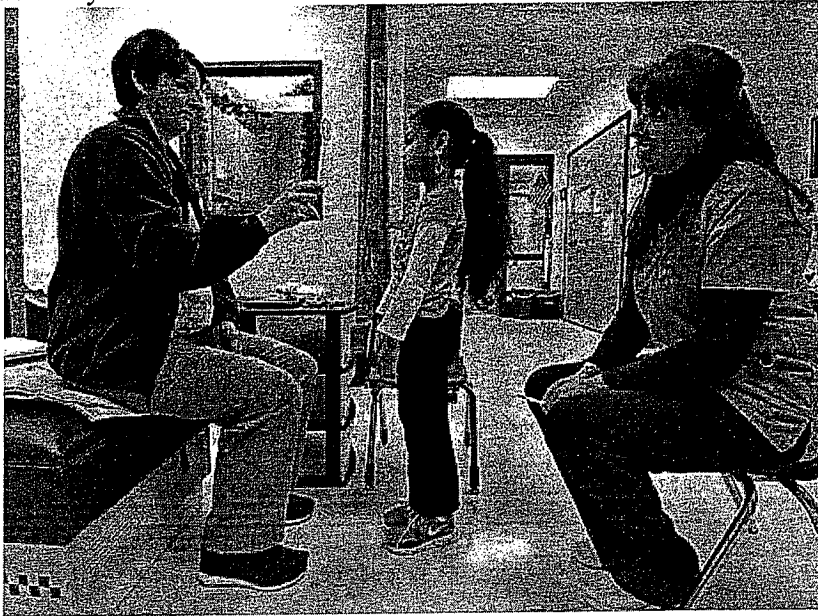
The bill would also allow districts to levy a "match tax" to help pay for the local share of a school nurse — currently, school districts have to cover the gap between the amount of funding they get from the state and the actual nurse's salary using their discretionary funds.

STORY: [Details emerge from Smyrna prison siege \(/story/news/crime/2017/02/02/delaware-prison-hostage-employee-killed/97388146/\)](#)

STORY: [Vaughn prison teacher describes ordeal \(/story/news/2017/02/01/prison-teacher-describes-ordeal/97380048/\)](#)

"Several years ago a law was passed in Delaware requiring all (reorganized) public schools to have a school nurse on site," said Beth Matthey, lead school nurse at Brandywine School District and president of the National Association of School Nurses.

"... As I understand the law, this would require that charter schools follow the same requirements as public schools and provide a certified school nurse in the schools." she added. "Currently, 70 percent of the funding for school nurses comes from the state and 30 percent comes from local funds."
<http://www.delawareonline.com/story/news/education/2017/02/02/nurse-every-delaware-school/97239896/> 2/8/2017



Caesar Rodney School District nurse Nicole Harper, left, and Becky Gravatt, school nurse at McIlvaine Early Childhood Center in Magnolia, give kindergartner Makayli Arqeta a visual screening exam. (Photo: Jason Minto/The News Journal)

Much of the work school nurses do is planning for and preventing a potential health crisis, Matthey said. It's much more than caring for sick or injured children. School nurses promote health, model healthy behaviors and provide education to students on wellness.

"They may also be involved in 'garden to table' activities that promote healthy eating, sponsor health fairs to help educate the community on resources within the community, or sponsor activities to promote a healthy lifestyle," she said.

STORY: [February declared Teen Dating Violence Awareness month \(/story/news/education/2017/02/01/wil-teen-dating-violence/97282136/\)](/story/news/education/2017/02/01/wil-teen-dating-violence/97282136/)

STORY: [Hundreds of eighth-graders get free 'Hidden Figures' ticket \(/story/news/education/2017/01/31/hundreds-8th-graders-get-free-hidden-figures-tickets/97287750/\)](/story/news/education/2017/01/31/hundreds-8th-graders-get-free-hidden-figures-tickets/97287750/)

Their very presence can help transform a school into a healthy community, Matthey believes.

"I believe all students should have a school nurse, all day every day," she said. "... If you think of the wide range of issues children bring to school, it is clear that a knowledgeable licensed professional school nurse must be available to care for the needs of our students. There are more students with chronic conditions such as asthma, life-threatening allergies or epilepsy. Nationally, school nurses report that they spend 32 percent of their time handling mental health issues of students. School nurses prevent emergencies daily by recognizing and seeking early intervention and treatment for potential health emergencies. "

No downtime for school nurses

Gravatt, lead nurse at Caesar Rodney School District, doesn't have a lot of free time.

"I'm sorry, just a second," she said Monday, setting down the phone for the third or fourth time that morning.

"Are you OK honey? Are you going to puke?" she asked a kindergartner at McIlvaine Early Childhood Center.

Just minutes before, Gravatt had administered medicine to another student.

"Here you go, open your mouth. That's right. Go back to class now."

On a typical day, between 80 to 100 kids may stream through her office, Gravatt said. Some have serious illnesses or medical conditions such as diabetes, asthma or cancer. Others just have tummy aches.

Gravatt, one of 16 nurses employed by the district, listens to each child's complaint carefully.

A nurse in every Delaware school



Becky Gravatt, school nurse at McIlvaine Early Childhood Center in Magnolia, gives kindergartner Makayli Arqeta a high five after reading a visual chart during a visual screening. (Photo: Jason Minto/The News Journal)

She knows the consequences or not doing could be incredibly severe. She's heard stories from other states that don't require each school to have a nurse on duty at all times and do not fund the positions even to the extent that Delaware does.

In 2014, a 7-year-old Philadelphia student died in a school with no on-duty nurse, and he was not the first one, it was soon revealed.

The absence of school nurses had become commonplace in a state where multiple districts had been subjected to withering budget cuts, and as a result had to reduce staff hours and positions.

"There is no net for the staff or the children," Ann Smigiel, a part-time nurse at the school, told the Philadelphia "CityPaper" after the incident. "There's no requirement to have any kind of medical team. It's my job as the nurse to make sure there's an emergency plan, and basically, it is 911... The equipment isn't there, nothing is there for them."

Smigiel was only on duty at the school on Thursday and every other Friday. The boy fell ill on a Wednesday.

Even when a school nurse is on duty, there's always a risk of something bad happening Gravatt said.

"Things that look so trivial can be so much more sometimes."

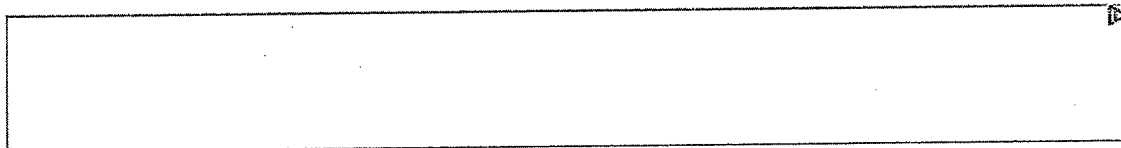
Someone has to be there to catch things and take life-saving measures when needed.

"Granted, every week isn't like that," Gravatt said. "But it could happen.

"I would be really dangerous having unlicensed professionals taking care of these students."

Contact Jessica Bies at (302) 324-2881 or jbies@delawareonline.com. Follow her on Twitter @jessicajbies.

Read or Share this story: <http://delonline.us/2k4L7Ok>





PHOTOS BY JASON MINTO/THE NEWS JOURNAL

Rep. Melanie George Smith, D-Bear, is the chair of the Joint Finance Committee. Sen. Harris McDowell, D-Wilmington North, wants a committee to investigate how the state can save money by passing along public services to county governments.

2-1-17
AJ

Lawmakers target school spending

Goal: Make sure funds being distributed properly



DELAWARE LEGISLATIVE
MATTHEW ALBRIGHT

Public education bureaucracy, including the number of school districts, appears to be one legislator's prime target for budget cuts this year.

"Given the situation we are in, we need to make sure that every possible dollar is going directly into the classroom," said Rep. Melanie George Smith,

chair of the Joint Finance Committee, which writes the state's budget.

At more than a billion dollars, public education is the biggest part of state spending, and it is also one of the fastest-growing parts of the state budget. That means it is near the top of the list for a General Assembly that needs to fill a \$350 million budget hole.

On her third day on the job, Secretary of Education Susan Bunting and her staff was bombarded with questions Wednesday from JFC. They scrutinized dozens of state programs and jobs at the state level, asking how they were directly affecting children and whether that money could be better spent.

JFC won't actually make budget decisions until later in the legislative session, but the hearings give a sense of the sort of ideas they are considering.

One major issue legislators raised was whether Delaware could save money by shrinking the number of school districts. There are currently 16 regular school districts and three county-wide vo-tech districts and many critics have argued that means too much money is going to district administration.

Bunting and her team said previous studies have suggested consolidation would not actually result in major savings. They also said there can be an advantage to small districts.

"The question you have to ask is, what is the ideal size for a district, so that a district knows its kids and doesn't just become another big bureaucracy," said Appoquinimink School District Superintendent Matt Burrows, who is currently head of the superintendents' association.

But several lawmakers were clearly unconvinced.

"When we have a difference in the size of our districts that we have, either the bigger ones are too big or the smaller ones are too small," said committee co-chair Sen. Harris McDowell, D-Wilmington North.

Echoed Rep. Mike Ramone, R-Pike Creek: "I think there is an opportunity for us to create an environment where there is more money going into the classroom."

The school leaders also pointed out that consolidating districts would cause tax issues, since each district has its own property tax rate. If they were consolidated, either taxes would go up on some residents or rates would be lowered and districts would get less money.

The committee asked department officials to provide a study on how property taxes would be affected if

At more than a billion dollars, public education is the biggest part of state spending, and it is also one of the fastest-growing parts of the state budget.

the state went to three county-wide school districts. "That's going to inform us whether that is politically feasible or not," George Smith said.

Even if the state doesn't redistrict, several legislators called for districts to share more services. Sen. Dave Sokola, D-Newark, and the Senate Education Committee chair, suggested running school buses across districts, which could mean fewer routes and lower costs.

Another item the committee scrutinized was the state's \$91 million equalization formula — a labyrinthine system designed to equalize funding between districts with high property values and districts with low property values. They pointed out that neither the formula itself nor property tax reassessments have been updated in years, both of which mean equalization is not working as intended.

George Smith and McDowell also raised the possibility of using some equalization money to pay for proposals like weighted student funding for students in poverty. Groups like the Wilmington Education Improvement Commission have found widespread support for that move, but the state has not had money to pay for it.

David Blowman, associate secretary of finance and operations, said districts use almost all their equalization money to pay teachers salaries, so reducing the funding could cause serious heartburn.

The legislators peppered the officials with questions about roles the department plays that could be redundant or unnecessary.

The questions came in fast: does the department need this many staffers working on curriculum when districts have their own staff for that purpose? Are there jobs in other agencies doing the same thing the department is? Why do we need these programs when there are great non-profits providing the same service? Why are you hiring so many contractors instead of doing work in-house?

Bunting said she and the department realize some big changes could be in their future.

"I know with the budget crunch, we have to look at all situations," she said. "We are committed to working with you on ensuring the maximum possible resources are reaching our classrooms."

WELC to Carney: We need weighted school funding

Chairman cites gap in financial assistance for youths with special needs

JESSICA BIES THE NEWS JOURNAL

One day after Gov. John Carney said a weighted funding model proposed by the Wilmington Education Improvement Commission would "handcuff the state" financially, the commission released a statement encouraging him to reconsider allocating money for at-risk students.

Carney on Tuesday told the commission that with a projected \$350 million budget deficit, putting aside money for low-income students and English language learners was neither economical nor politically feasible. He spoke instead of "opportunity grants" for schools and restructuring Title I funding to better help students with special educational needs, promising he and his staff would come up with a plan that would help improve educational outcomes in Delaware.

Tony Allen, chairman of the commission, said in a statement Wednesday that the group disagreed with that approach. "The commission has been uniform in our view that federal Title I funding is not a substitute for state funding," he said. "The gaps in equitable funding in the state of Delaware could not be clearer. While Title I funding is meant to help support students with the greatest need in all states, 46 other states have decided that the increase in English language learners (ELL) in their state require additional state resources to support these students."

Allen goes on to say that ELL students represent the fastest growing population of students in the state. In 36 other states, including every state in the Northeast and the Mid-Atlantic except



DOUG CURRANS/SPECIAL TO THE NEWS JOURNAL
Tony Allen, chair of Wilmington Education Improvement Commission, says his group disagrees with Gov. John Carney's approach to educational funding.

Delaware, additional allocations have been made for schools with high concentrations of low-income students, Allen said.

"It's worth noting that 50 percent of Delaware public school students are eligible for free and reduced lunch, a long-held low-income standard for children and their families," Allen added.

"Last, there remains a funding gap for kids deemed to have special needs from kindergarten through third grade, which means while they may in fact receive such supports in preschool, there is no support for their effective functioning

until they reach the fourth grade."

On Tuesday, Carney told the commission that he was late to its meeting because he was in a budget hearing involving special education funding. He said the state was having a hard time finding money for a bill that would extend basic special education to some of the state's youngest students.

The commission was strong in its feelings that its bill pass, with complete funding. Yvonne Johnson, a parent and education advocate from Red Clay Consolidated School District, said the Delaware PTA would fight hard to see it suc-

"The commission has been uniform in our view that federal Title I funding is not a substitute for state funding. The gaps in equitable funding in the state of Delaware could not be clearer."

TONY ALLEN, WILMINGTON EDUCATION IMPROVEMENT COMMISSION CHAIRMAN

ceed, and that she would not stop hounding Carney and state legislators over it.

"Delaware PTA will be advocating our butts off for that bill, and if you know me, you know that I'm not somebody who will back off," she told Carney.

Allen said something to the same effect, writing in his statement that, "if it were true that we need not make any changes to the current system because of the performance of disadvantaged students up and down the state, then the commission would relent, disband and go on its way. As we all know, the reverse is true."

He said the commission looks forward to Carney introducing his own plan for education, which the governor said would likely differ from what the group has proposed. As of now, there is no timeline for when that plan may be released.

"We are anxiously awaiting its arrival and hope that it reflects his stated intention to make education generally and in the city of Wilmington in particular one of his top priorities," Allen said.

Contact Jessica Bies at (302) 324-2881 or jbies@delawareonline.com.

Brandywine School District Policy on Promotion and Retention

The Brandywine School District Code of Student Conduct contains the complete mandatory attendance requirements of the State of Delaware and the Brandywine Board of Education.

Under Delaware law, students between the ages of 5 (as of August 31st) and 16 are required to attend some form of schooling. In addition, students between the ages of 16 and 18 years of age must attend some form of schooling unless they have written permission from their parents to the contrary. Under Title 14 of the Delaware Code, Chapter 27, a student in the public school system who has three (3) unexcused absences in a school year is considered truant under the law subjecting parents/legal guardians and students to possible legal action. Parents of Brandywine School District students are encouraged to contact your child's school with particular questions regarding your child's attendance record.

Brandywine School District Policy on Promotion and Retention

Elementary students' academic and social skills progress is reported to parents three times per year using a standards-based report card that details strengths and skills to improve in regard to achieving end of year State Standards. In addition to this standards mark, students in the 4th and 5th Grades also receive letter grades that indicate quality of work for the marking period. Secondary students receive report cards on a quarterly basis using a standard ten-point letter grade system. Parents are encouraged to contact their child's teacher with specific questions regarding classroom assignment and assessment grading.

[Click Here](#) for Board of Education Policies and Regulations on Promotion and Retention.

In Summary:

To be promoted to the next grade level, a student must:

- Receive a passing mark (equivalent to a D or better) in grade level Reading, Language Arts, and Mathematics, and/or any course required by the Board or Delaware Department of Education for the particular grade level.
- Receive instruction for at least 85% of the time established by the District Calendar in any given school year.



For students receiving special education under Title 14 of the Delaware Code, Chapter 31 and IDEIA, the students' Individual Education Program (IEP) team, along with the building principal will make the decision to retain or promote the student based on the requirements of the Board Policy.

Administrative Assignments to the next grade level will be made for Limited English Proficiency students and for students who have already been retained for two years for academic reasons.

BRANDYWINE SCHOOL DISTRICT BOARD OF EDUCATION

07.3.1 STATEMENT ON PROMOTION, RETENTION, AND GRADUATION REQUIREMENTS FOR GRADUATING CLASSES OF 2012, 2013 & 2014

(Modified 01/23/12; Review Due None)

- A. **PURPOSE:** To adopt a policy consistent with state law and regulations consistent with the state academic standards for the promotion or retention of District students.
- B. **ISSUE:** Promotion is the vertical movement of a student through the educational system governed by state law and regulations. State regulations require all public school districts to adopt a policy for promotion of all students. The Board adopts this policy in order to be consistent with state law and regulations.
- C. **POLICY:** Promotion, retention, and graduation decisions will follow state law and local requirements set by the Board set forth below.

1. General Provisions

In order for a student to be promoted from one grade to the next the student must:

- a) Successfully complete local requirements as determined by teacher assessment of student performance on instructional outcomes and on the judgment of the teacher(s) in consultation with the principal.
- b) Receive a passing grade (D or better or as appropriate for the particular grade) in grade level Reading/ English Language Arts & Mathematics and/or any course required by the Board or the Department of Education for the particular grade level. Grade level is defined by state performance indicators in English Language Arts and Mathematics.
- * c) Receive instruction for at least 85% of the time established by the District-wide Calendar in a given school year. For any student who receives instruction for less than 85% of the time established by the District-wide Calendar in any given school year, the principal must review indicators of academic success to determine whether the student should be retained one school year. Instruction can be in a regular or alternative school or by homebound instruction provided by the District. Students can also access several options for courses under the provisions of Board Policy 07.6.
- d) Except for students receiving special education under Title 14 of

the Delaware Code, Chapter 31, and the Individuals with Disabilities Education Improvement Act (the "IDEIA"), the principal will make the decision to retain or promote the student based upon the requirements set forth above. For students receiving special education under Chapter 31 and the IDEIA, promotion and retention decisions shall be made by an IEP team.

2. Specific Requirements for Promotion

a. Elementary School

Promotion decision shall be based upon performance recorded on the standards-based report card and with input from the student's teacher(s) and parent(s) in consultation with the building principal, if necessary.

b. Middle School:

6th, 7th and 8th Graders must take the following each year:

1 /English Language Arts
1 Math
1 Science
1 Social Studies
3-6 additional courses depending on full year courses or semester courses

Students must also meet the computer literacy standard at each grade level.

c. High School

The State of Delaware requires a minimum of 22 for a student to graduate from high school. The student must receive the specific number of credits in the following subjects as listed below:

4 credits in English Language Arts
4 credits in Mathematics
3 credits in Science
3 credits in Social Studies
1 credit in Physical Education
½ credit in Health
3 credits in a Career Pathway, and
3 ½ credits in elective courses.

The Brandywine Board of Education may establish requirements over and above the minimum number of credits required by the State Department of Education

To be promoted to the 10th grade from the 9th grade, a student must receive a total of at least 6 credits as follows:

- 1 credit in English Language Arts
- 1 credit in Mathematics
- 1 credit in Science, or Social Studies, a World Language
- 3 credits in other courses/electives

To be promoted to the 11th grade from the 10th grade, a student must receive a total of at least 11 credits as follows:

- 2 credits in English Language Arts
- 2 credits Mathematics
- 2 credits in Science, Social Studies, or a World Language
- 6 credits in other courses/electives

To be promoted to the 12th grade from the 11th grade, a student must receive a total of at least 17 credits as follows:

- 3 or 4 credits in English Language Arts (student may take English 11 and English 12 in the 11th or 12th grade)
- 3 credits Mathematics
- 3 credits in Science or Social Studies, or a World Language
- 9 credits in other courses/electives

Students must take the remaining required courses for graduation in the 12th grade as necessary to complete graduation requirements stated above. In the senior year, a student must carry a course load of at least 4 credits, which shall include Mathematics to meet graduation requirements. High school students may also receive high school credit towards graduation through alternative sources as provided Board Policy 07.5 and 07.6.

3 **Special Education**

Special Education students must meet the same requirements for promotion as described for all students with the exception stated below.

4. **Failure to meet promotion requirements**

If a student fails to meet promotion requirements at any grade level, Administrative Assignments may be made, as determined by state or federal law or regulations, for:

- a) LEP students whose progress is impeded by a language barrier
- b) Students receiving special education services under Chapter 31 of the Delaware Code
- c) Students who have already been retained for 2 years for academic reasons.

5. **Appeals**

Parents have the right to appeal a principal's decision on either the placement or retention of their child(ren). Appeals should be made in writing to the Superintendent or his/her designee, with a copy of the appeal made to the principal of the student's assigned school. A copy of the Placement/Retention Appeal Form and procedure are available in each school.

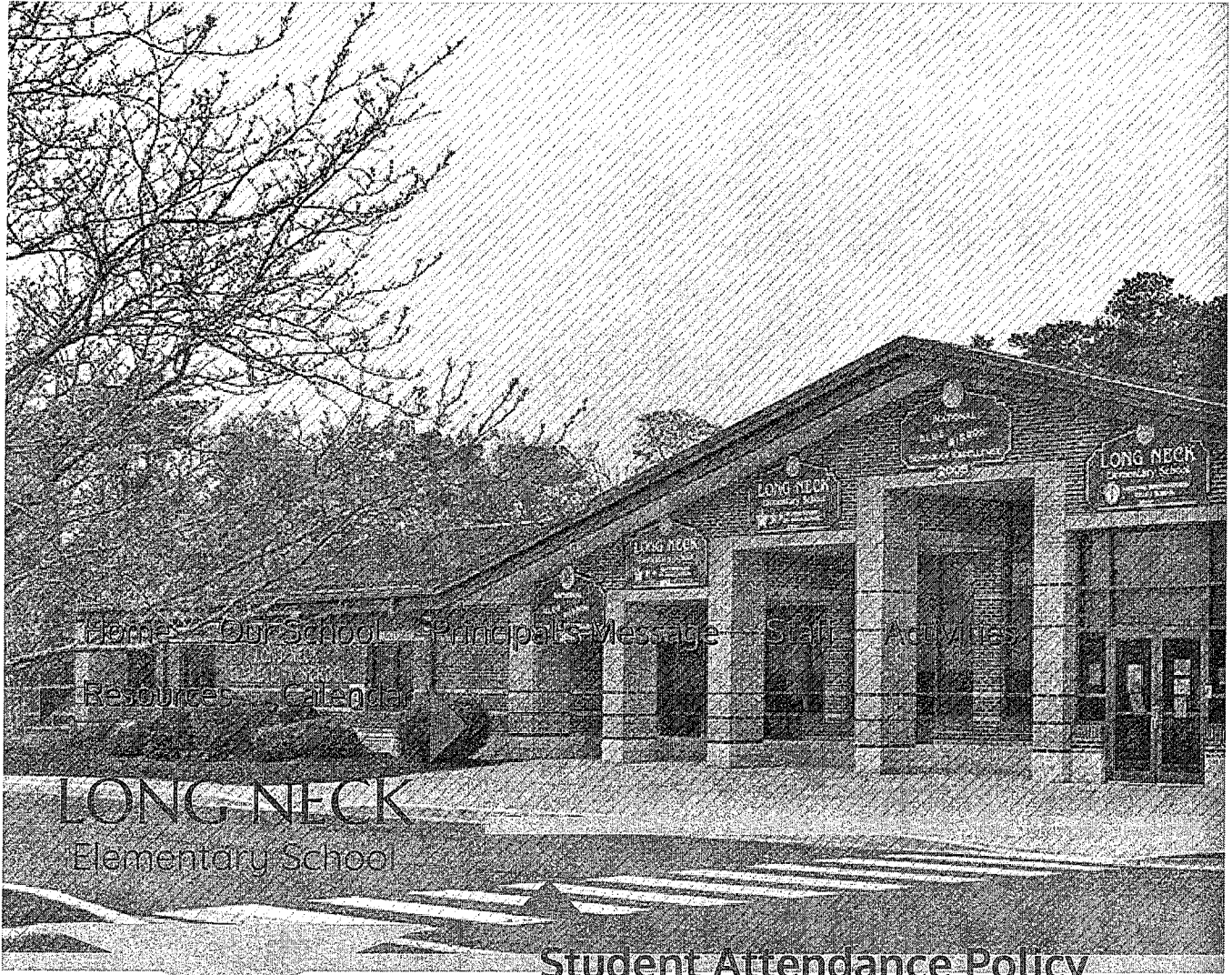
6. **Promotion or Retention Procedures**

The Superintendent, or his/her Designee, shall establish procedures consistent with this policy and state law and regulations to process promotion and or retention decisions. The Superintendent will develop guidelines to notify parents in a timely fashion when students are not meeting standards and provide parents with ways in which they can help their children or get additional assistance from the schools or in the community.

D. **REVIEW AND REPORTING:** This policy shall be reviewed on or before the date specified below.

E. **HISTORY:** Adopted 07/30/01; Replacing Policy Nos. 08.10 (adopted 06/21/99), 07.2 (Adopted 02/7/83), 07.6 (adopted 02/24/97) and Section 7010 (adopted 04/8/81); Modified 03/20/03; Modified 01/23/06; Republished 01/26/09; Renumbered 02/03/09; Modified 01/23/12; Review Due NONE.

F. **REFERENCES:** 14 *Del. Code* §§ 122 (b.4.), 152, 153, and Chapter 31; Board Policies 07.5 & 07.6.



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[Resources](#) » [Calendar](#)

LONG NECK
Elementary School

Student Attendance Policy

Long Neck Elementary School » [Our School](#) » [Policies and Procedures](#) » [Student Attendance Policy](#)

[Student Attendance Revised](#)



STUDENT ATTENDANCE

INTRODUCTION

It is the philosophy of the Indian River School District that students need to attend school if they are to learn. It is our belief that by promoting regular school attendance during the early childhood and adolescent years we will instill a responsibility in the individual to attend work regularly once he/she reaches adulthood and enters the work place in our society.

On or before September 15 each year, each principal will be responsible for conducting an assembly during which students are given information about the policy and consequences of its violation.

School-sponsored activities are exempt and will not count toward the student's absentee record. However, students who approach the maximum number of allowable absences may be prohibited from participating in school-sponsored activities. The final decision will be made by the building principal.

It is our belief that the school, the parent/guardian, and the student share the responsibility of developing the best possible attendance pattern. Parents/guardians can assist in this by doing the following to minimize absences from school:

1. Schedule medical and dental appointments after regular school hours.
2. Schedule family vacations at times that do not interfere with school.
3. Make arrangements for homebound instruction if your child is medically certified as unable to attend school.

Letters to the parent/guardian (address on file) and phone calls will be utilized throughout the school year to inform parents and students of accumulation of absences.

The Special Education Coordinator will be notified when a student with an I.E.P. is referred for Visiting Teacher action as a result of accumulated unexcused absences as addressed in this policy.


SECTION I: DEFINITION OF UNEXCUSED AND EXCUSED ABSENCES

- A. Absences from school not supported by the required documentation are defined as UNEXCUSED ABSENCES. Absences from school supported by a documented note (see Section IV) are defined as EXCUSED ABSENCES. Students in the Indian River School District may be DENIED CREDIT(S) in their courses as a consequence of being absent from school without documented notes.
- B. Parent Notes (Must be submitted within two (2) school days upon the student's return to school.)
 - a. Parent/guardian notes indicating student's illness or other parental reason will be

accepted with the following LIMITATIONS:

- i. Parents/guardians will be permitted to excuse up to sixteen (16) days of absence per school year by written parent note.
- ii. After sixteen (16) absences have been excused, a documented note must be provided in order to excuse a student's absence.
- iii. If a period of absence extends beyond three (3) consecutive days, the parent/guardian should contact the school and provide documentation upon the student's return to school.
- iv. In grades 9 – 12, parent notes can be used to excuse tardiness and early dismissals. Any note used to excuse a tardy or early dismissal will be limited to ten (10) per school year.

SECTION II: LOSS OF CREDITS FOR DAYS ABSENT

 Subject to due process procedures, students in grades 9 – 12, who accumulate in excess of (16) days of absences not accompanied by a documented note (see section IV) during a traditional full school year program, may be denied credit in their courses for that school year. Students in grades K – 8 who accumulate in excess of sixteen (16) days of absences during a traditional full school year program may be retained in their grade level for the next school year.

SECTION III: UNEXCUSED TARDIES AND EARLY DISMISSALS

Each building will monitor students who arrive late to school or leave school early without proper documentation. Students with excessive tardies and/or early dismissals will be subject to disciplinary consequences according to their school's discipline matrix.

SECTION IV: DOCUMENTED NOTES

Documented notes are defined as notes presented to the school from professional type services, i.e. Doctor, Dentist, Mental Health Agencies, Courts, Lawyers, etc. The Building Attendance Review Committee has final approval of any notes and may require a medical note for extended absences.

For the purpose of this policy the following may be classified as excused absences due to documented notes:

Documented Notes (Must be submitted within two (2) school days upon the student's return to school.) The Building Attendance Review Committee may accept documented notes at a later date (See Section VII).

1. Hospitalization, as noted by the hospital or medical professional.
2. Known chronic illnesses or contagious diseases, as noted by a medical professional.
3. In the care of any approved social agency, whether public or private, as noted by

- that agency.
4. Death in the child's own home or in the home of the grandparents, time not to exceed one (1) week. Funerals of other relatives or close friends, not to exceed one (1) day if in the locality; or three (3) days, if at some distance or outside of the state, as noted by a Funeral Home or other official means.
 5. Legal business, as noted by a legal professional or court.
 6. Students who become ill during the school day and are sent home by the school's nurse, as noted by the school nurse.
 7. Written physician's excuse. (Medical and dental appointments should be scheduled after regular school hours whenever possible.)
 8. Religious holiday, approved by the building administrator.
 9. Suspension from school.
 10. Prior approval granted by the building administrator for family trips/events. Parents and guardians should make every effort to schedule family trips/events during periods of school vacation. If this is not possible, a specific form must be filled out by the student and parent/guardian and submitted to the building principal at least five (5) school days before the trip or event. Information and the proper form can be obtained at the school office. Approval will be granted or denied on a case-by-case basis with consideration given to the student's prior attendance record, the number of requested days absent, and the justifiable cause or purpose of the family trip/event. If the request exceeds ten (10) school days in a regular school-year program, special permission from the superintendent is required.
 11. Students, who are also parents, may provide any of the documentation stated above in items 1-10 when caring for their own children.

SECTION V: SCHOOL ASSIGNMENTS DURING ABSENCES

It is the responsibility of the student and the parents/guardian to request class work, homework, assignments, and tests missed when not in attendance. Students and/or the parents/guardian must request to make up the schoolwork within two (2) days after returning to school.

SECTION VII: ATTENDANCE REVIEW COMMITTEES

Building Attendance Review Committee

1. Each school building in the Indian River School District shall establish a building Attendance Review Committee which may be comprised of the following personnel:
 - Principal and/or Assistant Principal
 - Guidance Counselor
 - Classroom Teacher
 - Nurse
 - Visiting Teacher
 - Special Education Co-coordinator

School Climate Personnel
Other staff members as may be needed.

2. The responsibility of the building Attendance Review Committee is to review the record of any student who has exceeded the provisions of the attendance policy. Any student with a history of poor attendance as substantiated by either a "Notice of Prosecution" for a violation of Delaware school attendance law or a parent meeting with the Building Attendance Review Committee may be subject to more restrictive attendance criteria as established by the Building Attendance Review Committee per IRSD regulation. The committee may request/accept documented notes during this review from prior absences.
3. If the Review Committee determines that the student has violated the Indian River School District policy, then the Committee shall follow the due process procedure as outlined in this policy.

District Attendance Review Committee

1. The Indian River School District shall establish a district Attendance Review Committee which may be comprised of the following personnel:

District-level administrator designated by the superintendent
High School Administrator
Middle School Administrator
Elementary School Administrator
Elementary Counselor
Secondary Counselor
Nurse
Other staff members as may be needed.

2. The responsibility of the district Attendance Review Committee is to review the decisions of each school's building Attendance Review Committee to determine that decisions are in accordance with the district's Student Attendance policy.
3. The district Review Committee shall hear student appeals.
4. In those cases where appeals are upheld, the Committee shall follow the due process procedures as outlined in this policy.

SECTION VIII: DUE PROCESS:

1. The building Attendance Review Committee shall meet once a student has exceeded the provisions of the attendance policy.
2. If the building Attendance Review Committee determines that a grade 9-12 student has violated the Indian River School District Student Attendance policy, and determines the student is being denied credit, the committee shall notify the parent/guardian by certificate of mailing letter that his/her child may be denied credit for the current school year.

If the building Attendance Review Committee determines that a grade K-8 student has violated the Indian River School District Student Attendance policy, the committee shall notify the parent/guardian by certificate of mailing letter that his/her child may be retained at their current grade level for the next school year.

3. The student or parent/guardian must notify the building principal, in writing, within five (5) school days from the delivery of the certificate of mailing letter, referenced in #2 above, if they wish to appeal the decision of the building Attendance Review Committee; or if they would like to be granted access to an alternative route to graduation (see Policy IKEA).
4. If an appeal is requested, the district Attendance Review Committee shall meet within five (5) school days of the hearing request for the purpose of hearing the student's appeal. The district Attendance Review Committee shall have the right to affirm, reverse, or modify the decision of the building Attendance Review Committee.
5. The district Attendance Review Committee shall inform the parent/guardian of its decision by a certificate of mailing within three (3) school days of the hearing.
6. If the district Attendance Review Committee affirms the decision of the building Attendance Review Committee so that the student is not eligible for promotion to the next grade or not eligible to earn credit for the school year, the student may appeal to the superintendent. The superintendent shall have the right to affirm, reverse, or modify the decision of the district Attendance Review Committee.
7. If all appeals are denied, the student may appeal to the Board of Education. The Board of Education shall have the right to affirm, reverse, or modify the decision of the superintendent.

School Attendance During Due Process

Students who follow the due process procedures of this policy as a result of receiving notification that they are in violation of the Indian River School District Student Attendance policy shall continue to attend school under the guidelines of this policy.

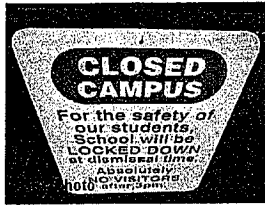
Present Policy Exists

Adopted 7/26/88

Revised 9/23/92, 3/22/94 (effective 7/1/94, 10/25/94, 7/25/95, 9/24/96, 7/1/97, 11/26/02, 6/17/03, 7/27/04, 6/20/06, 6/17/08, 6/23/09, 6/29/10, 7/24/12, 5/23/16)

Delaware bill mandates school safety measures

Jessica Bies, The News Journal Published 5:42 p.m. ET Jan. 27, 2017 | Updated 6:17 p.m. ET Jan. 27, 2017



(Photo: Jennifer Corbett/The News Journal)

Last spring, a wave of bomb threats directed at schools across the nation and in Delaware forced districts to initiate lockdown procedures and evacuate students, at the same time prompting a seemingly inevitable question in such situations — are our schools, and our children, safe?

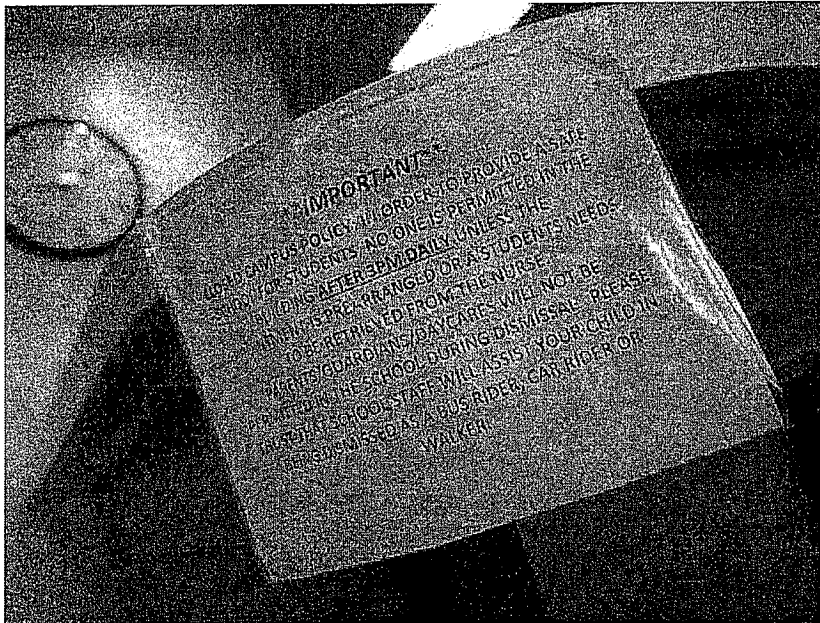
Rep. Earl Jaques, D-Glasgow, isn't so sure they are.

"I'm surprised sometimes how easy it is for me to get into schools," Jaques said Wednesday. As chairman of the House Education Committee, he has visited plenty and says some of them are accessible via side doors, if not the front door itself.

Some school doors still open to large lobbies or hallways, which grant almost immediate access to the bulk of the building.

Not only that but "not every door on every classroom locks from the inside," he said, which during a lockdown means the teacher would have to exit the room, lock it from the outside and then shut her and her students inside.

"Which takes more time," Jaques said. "And lots of times, it's down to seconds. The difference between life and death comes down to seconds." Buy Photo



A sign explaining the security details hang off the reception desk area of Shortlidge Elementary School. (Photo: Jennifer Corbett/The News Journal)

It's been more than five years since 26 people, 20 of them young children, were shot to death at Sandy Hook Elementary School in Connecticut, and in Jaques' opinion, the state still has work to do if it wants to ensure student safety.

That is why he is sponsoring two General Assembly bills aimed at giving schools the resources they need to make substantial safety upgrades to their buildings. It's something many districts have had a hard time doing because of limited funding and high construction costs.

Though the General Assembly set aside \$30,000 in 2012 to help schools develop comprehensive school safety plans, "we still have not put a lot of resources toward those plans," Jaques said, adding that funding is deeply dependent on the state's budget.

This year, however, one of Jacques' bills isn't actually budget-dependent. It simply stipulates that all new school construction or major renovation projects include the following features: an intruder alarm, bulletproof glass in entrance areas and interior doors and windows, and doors lockable with keys on both sides.

STORY: [Many agree Delaware special is needed, but there's no money for it \(/story/news/education/2017/01/25/delaware-special-ed-bill-](#)

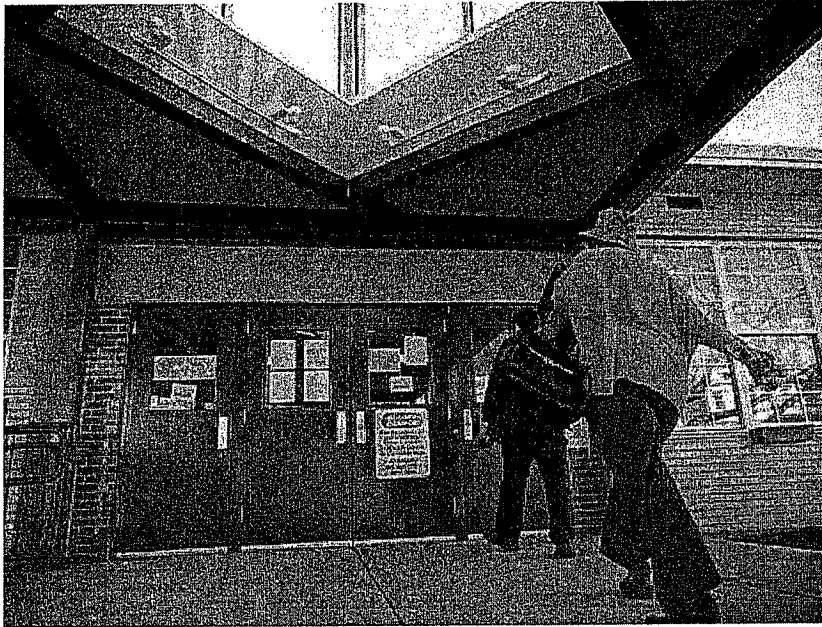
[needed-but-theres-no-money/96961068/](#)

STORY: [Dover forms commission to end homelessness in city \(/story/news/local/2017/01/26/dover-answers-challenge-find-solution-homelessness/97085346/\)](#)

The idea behind the bill is that by building such features into schools to begin with, districts will be saved from costly renovations down the line.

A second bill, still to be filed, would appropriate the funds needed to remodel schools that aren't already undergoing big construction projects. Jaques estimates the bill will ask for \$400,000 to \$500,000.

Buy Photo



Visitors to Shortlidge Elementary School approach a locked door before being permitted entrance to the school's reception area. (Photo: Jennifer Corbett/The News Journal)

Whether or not that bill will get passed is iffy, Jaques admitted. This year the General Assembly is facing a project \$350 million state budget gap — and even in terms of education funding, school safety upgrades are not the only thing on the wish list.

"It's all about money," he said. "It comes down to money."

Robert Coupe, secretary of the Delaware Department of Safety and Homeland Security, said in a statement Friday that, of course, the new bills would be a good step toward safer schools.

"The new construction mandates for specific safety/security equipment and design would enhance the security of any new schools," he said. "The mandated security requirements would support the goals and objectives of the Comprehensive School Safety Program."

Some school districts have already made the security upgrades on their own, dipping into their own reserves, holding referendums or applying for grants to implement them.

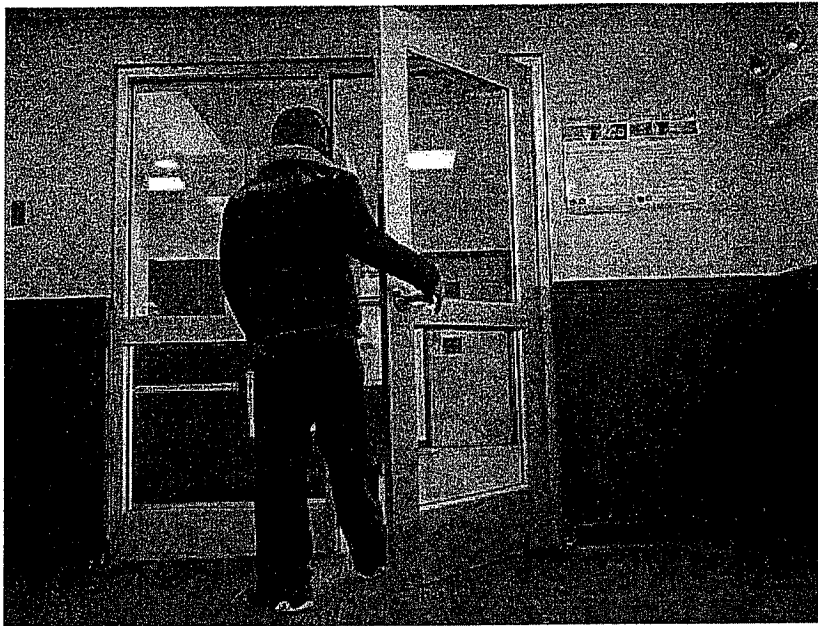
Among them is Red Clay Consolidated.

Over the summer, Red Clay installed secure entryways at 10 of its schools that require visitors to walk through the office before gaining admittance to the rest of the building, said spokeswoman Pati Nash.

The money was from the district's last capital referendum, which due to good financial management, allowed Red Clay to spend \$3 million on the renovations.

Superintendent Merv Daugherty said safety improvements were included in the referendum, and the district budgeted its money carefully so it could make sure the upgrades were made.

"We have a big responsibility, and when parents send their children to a Red Clay school they expect us not only to educate them, but to provide a safe and secure learning environment," Daugherty said.



A visitor to Shortlidge Elementary School enters a secured reception area before being permitted to enter the main part to the school. (Photo: Jennifer Corbett/The News Journal)

Other security upgrades, like increasing the number of school resource officers the district has and hiring retired police officers to serve as school constables, were also paid for with tax revenue. A recent referendum, approved in February 2015, included the costs.

"We've been very lucky at Red Clay," said Brian Moore, district supervisor of public safety.

In 2012, Red Clay received a federal grant that helped it install security cameras and intercoms, which visitors must speak into before being buzzed into the school.

Such federal grants are a rarity these days, Moore said. As is education funding in general.

"I've certainly heard from school districts that struggle to find the resources to teach any given day, let alone improve security," he said.

More and more school districts are having to go to taxpayers, which aren't always supportive, he said.

Indian River tried and failed to pass a referendum in November. Another referendum is set for March 2, and district officials say if it does not pass, they will have to make cuts to school safety programs and lay off teachers.

Moore says Indian River has adopted a program used in Red Clay and has retired police officers on its staff that serve as constables.

STORY: [Protests, GOP leaders greet Trump in Philly \(/story/news/2017/01/26/gop-retreat-philadelphia-donald-trump/97082068/\)](#)

STORY: [Want a paycheck for life? Get fired by the city \(/story/news/2017/01/26/confidential-deal-grants-paychecks-life-fired-employee/96954802/\)](#)

If the district's referendum passes in March, eight cents of the proposed 49-cent property tax will help keep that program going.

That's something former Superintendent Susan Bunting, who was recently confirmed as state secretary of education, has said the school district needs.

"The Board of Education showed tremendous foresight four years ago by placing armed safety monitors in all of our schools," Bunting recently wrote in an article posted on the district's website. "This program has been a rousing success, and we want to maintain the quality of these services in the future ... The peace of mind our safety monitors have given students, staff and parents is invaluable."

Moore said the theories behind school safety have changed over time, which is partially why so many schools are currently pushing for changes.

After the Columbine High School massacre in 1999, schools prepared themselves for inside intruders, staff or students who wanted to harm their classmates or colleagues.

Sandy Hook changed that. The shooter, Adam Lanza, forced his way into the building — he wasn't already inside. He wasn't a student there.

Since then, schools across the country have been trying to limit access to schools.

"I think it's unfortunate that when a big event like that happens that is the outcome," Moore said. "But it does create awareness."

Months and years pass, and eventually, the call for more secure schools fades, he said. The recent series of bomb threats did provoke parents to call Moore and ask how the district responded, which is good, he said.

"But our job is to remind people that it could be tomorrow," he said. "Just because there hasn't been a fire in a school for 50 years, doesn't mean we don't have to have fire drills every month."

Which is why Moore is considering more security upgrades. He said the school district plans on reconfiguring the rest of its school entrances over the next two years and enhancing electronic security.

At some point, he hopes to combine video surveillance systems so all 400 plus of the district's video cameras can be monitored from one central location and local law enforcement can be looped into the feed.

With violence increasing, not only in Wilmington but around the country, schools just cannot be as welcoming as they used to, Moore said.

"In this day and age, we just can't afford to be that way."

Contact Jessica Bies at (302) 324-2881 or jbies@delawareonline.com. Follow her on Twitter @jessicajbies.

Read or Share this story: <http://delonline.us/2kcx5FF>

148TH GENERAL ASSEMBLY

FISCAL NOTE

BILL: HOUSE BILL NO. 27
SPONSOR: Representative Jaques
DESCRIPTION: AN ACT TO AMEND TITLES 14 AND 29 OF THE DELAWARE CODE RELATING TO SCHOOL SAFETY.

ASSUMPTIONS:

1. This Act is effective upon signature of the Governor.
2. This Act will require all new school construction or major renovations to schools to include the following new safety features:
 - a. Bulletproof glass in all vestibules, lobby, office areas, and any windows or doors opening from a classroom into the interior of the building;
 - b. Classroom doors which can be locked from both sides with a key;
 - c. Installation of an intruder alert system compatible with the fire alarm system and capable of being activated from the office.
3. The new safety features would need to be built into the cost per square foot for the school construction formula, which is currently on-going.
4. The total state share of school construction/major renovations projected for the next three years is as follows:

	State	Local
Fiscal Year 2016:	\$77,947,600	\$38,057,800
Fiscal Year 2017:	\$88,582,200	\$41,491,800
Fiscal Year 2018:	\$56,385,400	\$26,396,300

<u>Cost:</u>		State	Local
Fiscal Year 2016:	Each 1% increase to formula:	\$779,476	\$380,578
Fiscal Year 2017:	Each 1% increase to formula:	\$885,822	\$414,918
Fiscal Year 2018:	Each 1% increase to formula:	\$563,854	\$263,963

Office of Controller General
January 21, 2015
MSJ:MSJ
0271480004

(Amounts are shown in whole dollars)



SPONSOR: Rep. Jaques

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE BILL NO. 347

- 1 AMEND House Bill No. 347 at line 12 by striking the phrase "as well as the requirements of §2306 of Title 14".
- 2 FURTHER AMEND House Bill No. 347 by inserting at the end of line 12 the following:
- 3 "Such review shall be coordinated with the Architectural Accessibility Board established by Chapter 73 of this title to
- 4 ensure compatibility of safety and architectural accessibility features."
- 5 FURTHER AMEND House Bill No. 347 by striking Section 2 in its entirety.

SYNOPSIS

This amendment requires the new school construction review by the Department of Safety and Homeland Security to be coordinated with the Architectural Accessibility Board. Further, the amendment removes the itemized requirements for bulletproof glass, doors with key locks on both sides, bullet resistant white boards, and panic buttons.



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

MARGARET M. O'NEILL BUILDING
410 FEDERAL STREET, SUITE 1
DOVER, DE 19901

VOICE: (302) 739-3620
TTY/TDD: (302) 739-3699
FAX: (302) 739-6704

MEMORANDUM

DATE: June 19, 2014

TO: Members of the Delaware State Senate

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: H.B. 347 (School Safety Construction & Renovations Features)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 347 with H.A. 1, which would require newly constructed or renovated school buildings to contain certain design features, including bulletproof glass, certain door locks, and an intruder alert system. It would also require the OMB Facilities Management Section to ensure Dept. Of Homeland Security's review of such sites to address compliance with "Crime Prevention through Environmental Design (CPTED) contemporary practices."

SCPD originally had one principal concern with the legislation. Adoption of safety features can create barriers and result in violations of the ADA. In the past, Council believes at least one public school installed safety features which were later uninstalled due to non-conformity with accessibility standards. SCPD therefore recommended an amendment to add the following sentence at the end of line 12: "Such review shall be coordinated with the Architectural Accessibility Board established by Chapter 73 of this title to ensure compatibility of safety and architectural accessibility features." The AAB is already charged with reviewing school construction and renovations to ensure ADA compliance. However, this may not always occur. In addition, if the "safety" review occurred after the AAB review, changes could supersede and contravene the AAB-approved accessibility features. After consultation with the AAB, the SCPD shared the proposed amendment with the prime sponsor and H.A. 1 addresses this issue.

SCPD endorses H.B. 347 with H.A. 1.

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

cc: Delaware State House of Representatives
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 347 school safety construction 6-14



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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FAX: (302) 739-6704

MEMORANDUM

DATE: January 25, 2011

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: S.B. 12 [Removal of Bar on Food Supplement Program Eligibility Based on Drug Conviction]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 12 which removes the prohibition against persons convicted of any drug felony from receiving federal food benefit assistance. As background, the current statute (Title 31 Del.C. §605) bars Food Supplement Program (a/k/a Food Stamps) eligibility for persons convicted of drug felonies subject to some exceptions. S.B. 13 would result in the following simplified §605:

Pursuant to the option granted the State by 21 U.S.C. §862a(d)(1), an individual convicted under federal or state law of a felony involving possession, distribution or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. §862a(a) against eligibility for food stamp program benefits for such convictions.

SCPD endorses the proposed legislation which would have the same effect as legislation (S.B. 255) introduced in the last General Assembly. Council has the following observations.

Given the common co-occurrence of substance abuse with mental health and other disorders, the bill would ostensibly enhance flexibility in State "safety net" programs. On a practical level, if a person lacks access to basic sustenance for self and family, the prospect for recidivism may increase. The attached December 17, 2009 article notes that enforcement of the ban seriously undermines successful reintegration of persons released from prison into the community and has a disproportionate effect on women. The House Committee report on the predecessor bill noted the favorable effect on inmate transition efforts:

Committee Findings: The committee found that this law legalizes Delaware's "opt out"

option from the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The committee also found that this bill aligns with the state's prisoner re-entry effort.

Moreover, it is anomalous to bar food benefits from a person convicted of a drug offense when no such bar exists under federal law for persons convicted of other crimes (e.g. murder; rape).

Consistent with the attached May 10, 2010 DHSS memo commenting on the predecessor bill, at least nineteen (19) states have already lifted the lifetime drug felony conviction ban altogether.

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

cc: The Honorable Jack A. Markell
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

sb 12 food stamp bar 1-25-11

OPINION

Susan D. Leath President and Publisher
David F. Ledford Executive Editor
Jason J. Levine Editorial Page Editor
Carron J. Phillips Engagement Editor



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EDITORIAL

TANF BILL SENSIBLE STEP IN PRISON REFORM

Don't let the headline fool you. A bill to "let drug felons get public assistance" isn't some kind of bleeding-heart effort to coddle criminals.

It's actually a sensible, if not small, step for Delaware to help its future.

The federal Temporary Assistance for Needy Families program is the primary government cash-assistance program for low-income families with children, designed to help adults get by as they try to get a stable job.

The monthly benefits depend upon the size of the family: a family with one child receives \$201, while a family of eight can get \$681.

A family can receive TANF benefits for no more than 36 months.

During that time, an adult in the family must either work or participate in "work-related activities," like searching for a job, for 30 hours a week.

Hardliners may decry "cons" living on the "government dime," but lest we forget that Delaware

struggles to transform inmates into productive citizens once they serve their sentences.

Our state's recidivism rate is about 50 percent after a year and 77 percent by three years.

A study by the Kaiser Family Foundation found Delaware was one of 11 states to spend more of their general funds on corrections than on higher education in 2013.

Long story short, we are pouring money down the prison hole as thousands of young lives — mostly those of black men — are flushed away, as are the hopes of their kids, who, too often, follow the same path.

Delaware is not the first state to learn this lesson and recognize the need to address it.

According to the Legal Action Center, 24 other states have modified — but not entirely eliminated — the federal ban on food stamps and TANF to those convicted of drug felonies.

Still, drug felons leave prison with, in some cases, hundreds of hurdles to overcome.

Consider this from the Alliance for a Just Society: On average, states have 123 mandatory bans and restrictions for would-be workers with felony convictions per state from employment in occupations or industries, from obtaining certain types of occupational licenses, and/or from obtaining certain types of business or property licenses. 10 states have more than 160 of these regulations, including 248 in Texas, 258 in Illinois, and 389 in Louisiana. Only nine states have fewer than 75 regulations.

Massachusetts has 70 such regulations. As of 2013, its three-year rate was 39 percent. In 2011, Louisiana, with its 389 regulations and the highest per-capita incarceration rate in the country, had a five-year recidivism rate of 48 percent.

Remember Delaware's numbers? 50 and 77 percent, respectively.

Every convicted drug felon must serve their sentence. It's what happens after that sentence that determines our future as a society.

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Neon Underglow"

Neon or "underglow" car lights can be eye-catching and even state to find out if having them are legal.

Neon car lights, also referred to as "underglow" lights, are non-standard neon or LED lights that attach to the under body of a car, truck, or motorcycle. Neon underglow lights are especially popular among aftermarket car dealers and owners seeking to enhance the look of a car, among other things. Some people believe that neon underglow lights provide a good-looking safety feature, especially among motorcycle riders who drive at night, by helping them worry less about getting hit by other vehicles. Most people who use neon underglow lights, however, cite the "cool factor", and believe that underglow lights help create a halo effect making the car appear as though it is floating.

Laws concerning the use of neon underglow lights are typically covered under the lighting requirements of state traffic laws or motor vehicle codes. Most states have specific laws concerning restrictions on the use of accent lighting and other unlawful vehicle modifications, in terms of color, form, type, and location on the vehicle. As a general principle, underglow lights are legal so long as they remain covered and unlit on public roads and do not flash or include the colors red or blue.

Because the laws on underglow lights vary greatly by state, drivers looking to add underglow lights should first check under the unlawful vehicle modification laws of their particular state to avoid potential warnings and penalties.

Neon Underglow Lighting Laws -- The Basics

Neon underglow lighting laws are called by many names. Some of the legal titles that cover the use of neon underglow lights and other lighting modifications may fall under any of the following titles:

- After-Market Lighting;
- Vehicle Equipment Regulations;
- Ground-Effect Lighting;
- Lighting Equipment, or simply "Equipment";
- Lighting Reflectors; and
- Vehicle Accessory Specifications.

Neon underglow lighting laws exist to help keep the highways safe, and drivers free from distractions that may lead to hazardous driving conditions or situations that disturb the peace. For safety or other emergency reasons, the laws generally restrict the color and type of neon accent lights a driver may add to a car. While yellow and amber neon lights are generally accepted in most places, red and blue lights are often restricted because of its common use on police cars.

Similarly, lights that flash or blink are also restricted based on their common association with ambulances and other emergency safety vehicles. Therefore, these limits are placed on car modifications to prevent other drivers on the road from getting confused or distracted.

SpecificStateLaw Examples

Some states like California, Kansas, and Arizona, allow the use of neon underglow car lights with restrictions on a particular color and location. For instance, Arizona traffic laws only allow amber or white lights (without glare) on the side portions of a car. Kansas traffic laws allow the use of neon ground lighting on vehicles, except for flashing or red lights, or where the tube is visible.

Other states, like Michigan, do not allow the use of *any* color of flashing, oscillating, or rotating lights on the body of a car being driven on public highways that is not expressly required or permitted under the Michigan traffic laws, except for emergency and other vehicles.

And even some states, like South Carolina , do not allow you to have any red, blue, or flashing lights anywhere on your vehicle, whether visible or not.

Penalties for Neon Underglow Lights Violations

A neon underglow lighting law violation is considered a civil infraction, punishable as a non-moving traffic violation. Non-moving traffic violations are heard by a district judge or magistrate in a district court close to where the infraction occurred.

Under traffic laws in most states, drivers may be given a ticket for modifying a car in violation of the state's traffic and vehicle modifications laws. In most cases, this will be in the form of a "fix-it" ticket. A driver would have the opportunity to correct or remove the violation by a showing to a police officer or motor vehicle department that the issue was fixed.

Otherwise, a driver who has received a civil infraction ticket may typically respond by any of the following ways:

- Admit responsibility and pay the fine indicated;
- Admit responsibility with an explanation and pay the fine indicated;
- Deny responsibility and ask for an informal court hearing to explain to a judge the circumstances (without attorney representation);
- Deny responsibility and ask for a formal hearing where a prosecutor will have to show the person violated a law or ordinance (with an attorney to represent you).

Failing to respond to a ticket may result in a default judgment that might lead to additional fines, costs, and fees, or even a suspended license,

Conclusion

The possibilities are endless when it comes to 'tricking' out your ride with neon underglow lights. However, if you want to avoid having to pay fines or getting a suspended license, you should check the neon underglow lighting laws of your particular state. While many states allow for some type of illumination on vehicles, there are many specific rules that may or may not apply to neon underglow lights in your case.

BILL ANALYSIS

Senate Research Center

S.B. 1918
By: Watson
Transportation
6/3/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Each year, hundreds of motorcyclists are killed on Texas roadways. According to the Insurance Institute for Highway Safety, about one-quarter of the motorcycle fatalities that occurred across the United States in 2013 occurred between the hours of 9 p.m. and 6 a.m., when it is dark and motorists must rely on vehicular lighting to see other vehicles. Furthermore, a study conducted by the Texas A&M Transportation Institute found that, in crashes involving a motorcycle and another vehicle, the other driver reported never seeing the motorcycle about one-half of the time.

To combat this safety issue, some motorcyclists currently attach light emitting diodes (LEDs) on the underbody of their motorcycle. These LEDs provide another opportunity for motorists to spot a motorcycle at night. However, current law restricts the lighting that may be emitted from a vehicle, and thus it is unclear if these LEDs are permissible.

S.B. 1918 seeks to clarify this ambiguity by adding a new section to the Transportation Code to define "LED ground effect lighting equipment" and provide for its legal use in Texas. In accordance with this provision, such lighting is only permissible if it illuminates the body or ground below a motorcycle, and if it emits a non-flashing amber or white light. These limitations are designed to ensure the LED lights are not mistaken as the flashing lights of an emergency vehicle.

S.B. 1918 amends current law relating to the use of certain lighting equipment on motorcycles.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 547, Transportation Code, by adding Section 547.306, as follows:

Sec. 547.306. LED GROUND EFFECT LIGHTING EQUIPMENT ON MOTORCYCLE. (a) Defines "LED ground effect lighting equipment" in this section to mean light emitting diode (LED) technology that is attached to the underbody of a motorcycle for the purpose of illuminating:

(1) the body of the motorcycle; or

(2) the ground below the motorcycle.

(b) Authorizes a person to operate a motorcycle equipped with LED ground effect lighting that emits a non-flashing amber or white light.

SECTION 2. Effective date: September 1, 2015.

ENROLLED

H. B. 2477

(By Delegates Overington, Barill and Perdue)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §17C-15-23 of the Code of West Virginia, 1931, as amended, relating to permitting certain auxiliary lighting on motorcycles.

Be it enacted by the Legislature of West Virginia:

That §17C-15-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 15. EQUIPMENT.

§17C-15-23. Lighting equipment on motorcycles, motor-driven cycles and mopeds.

The head lamp or head lamps upon every motorcycle, motor-driven cycle and moped may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

(1) Every head lamp or head lamps shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motorcycle, motor-driven cycle or moped is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when it is operated at a speed of twenty-five or more miles per hour.

(2) If the motorcycle, motor-driven cycle or moped is equipped with a multiple-beam type head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and not exceed the limitations set forth in section twenty (a) of this article and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in section twenty (b) of this article.

(3) If the motorcycle, motor-driven cycle or moped is equipped with a single-beam lamp or lamps, the lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

(4) (A) Subject to paragraph (B) of this subdivision, a motorcycle may be equipped with, and an operator of a motorcycle may use, the following auxiliary lighting:

- (i) Amber and white illumination;
 - (ii) Standard bulb running lights; or
 - (iii) Light-emitting diode pods and strips.
- (B) Lighting under this subdivision shall be:

- (i) Nonblinking;
- (ii) Nonflashing;
- (iii) Nonoscillating; and
- (iv) Directed toward the engine and the drive train of the motorcycle to prevent interference with the driver's operation of the vehicle.

By Jeffery L. Robinette of Robinette Legal Group, PLLC posted in Motorcycle Accidents on Tuesday, September 2, 2014.

Motorcycles, motor-driven cycles, and mopeds in West Virginia may now have lights that are underneath the body and turned on while the motorcycle, motor-driven cycle or moped is being operated at night to reduce the chance of a motorcycle wreck on our WV roads and highways.

Delegate John Overington reported that his HB 2477, to allow auxiliary safety lighting on motorcycles, has passed the House of Delegates, the Senate, and was approved by the Governor of West Virginia.

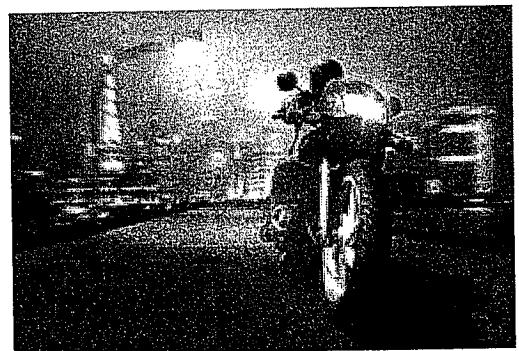
This change which will now allow for motorcycles to be equipped with the following auxiliary lighting:

- Amber and white illumination
- Standard bulb running lights or light-emitting diode pods and strips
- Lighting shall be non-blinking, non-flashing, non-oscillating and shall be directed toward the engine and the drive train of the motorcycle to prevent interference with the driver's operation of the vehicle.

Even with the passing of this legislation to allow additional lighting on motorcycles to make them more visible to other traffic, both the bikers and other vehicle operators have a responsibility to keep aware and be on the lookout for potential collision hazards.

New WV Motorcycle Auxiliary Lighting Bill History:

In 2013, Delegate Overington of Martinsburg, West Virginia introduced and pushed for the bill's approval and it passed the House of Delegates but ran out of time in the State Senate. Mr. Overington reintroduced the bill in the 2014 session of the WV legislature and it has finally gained approval.



The passage of this bill is a good example of how a couple of citizens and grassroots efforts can effect change for safer roads in West Virginia. It all started when a motorcycle shop owner from

Martinsburg, WV was stopped by police for being in violation of state law for having too many lights on his bike.

Biker and shop owner Bob Cunningham knows that visibility is a big concern, especially at night, and says that motorcyclists should be allowed to put extra lighting on their machines to increase their visibility.

After all, "I didn't see the motorcycle," is the most common excuse offered by vehicle operators after causing a collision with a biker on the road. So, it makes good safety sense to many to allow these motorcycle owners to increase their visibility with the hope of in reducing collisions and wrecks by the addition of additional lighting.

Bob Cunningham was able to gather over 1,000 signatures for a petition to support such legislation and enlisted the help of West Virginia State Delegate John Overington of Martinsburg to introduce a bill for amendment of current motorcycle lighting regulations.

Other steps that motorcyclists can take to help increase their visibility by improving the effectiveness of their existing lighting include:

- Replacing tail light with a larger light
- Purchase and install brighter LED lighting for headlamp
- Raise the beam to the maximum allowed angle
- Add reflective tape to motorcycle body, helmet, or riding gear
- Slow down and stay in center of your lane. Riding too close to the shoulder can reduce other motorists ability to see you by causing your light to blend in with the street lights.

West Virginia law requires that if your motorcycle, motor-driven cycle or moped is equipped with a single-beam lamp or lamps, the lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

Keep it fun by keeping it safe, a public service safety message from the Robinette Legal Group, PLLC in Morgantown, West Virginia.

Source:

Final version of HB 2477: http://www.legis.state.wv.us/Bill_Status/bills_text.cfm?billdoc=HB2477%20ENR.htm&yr=2014&sesstype=RS&i=2477

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2 Comments

[John Overington](#)

[September 9, 2014 at 8:54 PM](#)

Citizens can make a difference on a grassroots level as the passage of this bill demonstrates.

[Carl](#)

[July 23, 2016 at 5:57 PM](#)

This is great since as the article states, auxiliary lighting like motorcycle underglow only allow for other motorists to see you better.

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