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June 24, 2013

Ms. Susan K. Haberstroh
Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 16 DE Reg. 1235 [Proposed Teacher Appraisal Process Revision Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to revise its teacher appraisal standards effective with the 2013-14 school year. The proposed regulation was published as 16 DE Reg. 1235 in the June 1, 2013 issue of the Register of Regulations. SCPD has the following observations.

A. "Weakening" of Appraisal Process

As background, the Legislature and Governor have recently stressed the need to "raise the bar" for the teaching profession in Delaware. See attached May 18, 2013 News Journal article describing enactment of legislation establishing more rigorous standards for prospective public school teachers. Statistically, Delaware student achievement is lagging, resulting in recognition that the status quo approach to promoting the caliber of Delaware's teaching profession must be dramatically changed. See, e.g., the attached 2012 presentation by WSFS Bank Board Chair to Delaware State Chamber of Commerce.

SCPD and GACEC have previously criticized the DOE's teacher appraisal process as "overly generous" or "misleading". See, e.g., the attached October 21, 2011 SCPD letter which shared the following concerns:

Third, DOE has established five appraisal components in §5.0: 1) planning and preparation; 2) classroom environments; 3) instruction; 4) professional responsibilities; and 5) student improvement. The last component, student improvement, is new. Teachers are rated in these five contexts resulting in an overall classification of highly effective, effective, needs improvement, and ineffective. See §6.0. The classification system could be characterized as "overly generous" or "misleading" in some contexts. For example, a teacher scoring a satisfactory rating in only three of the five components inclusive of student improvement

(60%) is characterized as “effective”. Reasonable persons might view such a characterization as a distortion of the plain meaning of “effective”. Likewise, a teacher scoring a satisfactory rating in only one of the five components inclusive of student improvement (20%) is euphemistically characterized as “needs improvement”. DOE may wish to revisit the qualifications for “effective” and “needs improvement” to more closely align to the plain meaning of the terms.

The “overly generous” characterization of an “effective” teacher was recently underscored in the DOE dispute with the Christina School District over teacher bonuses paid with “Race to the Top” funds. Consistent with the attached April 12 and May 17, 2013 News Journal articles, Christina wished to provide the bonuses to all teachers with an “effective rating”, a standard so low that more than 99% of its teachers were expected to qualify.

Unfortunately, the DOE’s proposed regulation further dilutes the already “overly generous” teacher appraisal standards. The following are examples.

1. The current regulation (§5.1) contains four (4) appraisal contexts apart from student achievement: 1) planning and preparation; 2) classroom environment; 3) instruction; and 4) professional responsibilities. There are a total of eighteen (18) subparts under these four (4) appraisal contexts. Under the proposed regulation, districts and charter schools are authorized to “waive” one subpart under each of the four (4) appraisal contexts. No permission is needed, i.e., the district or charter school simply notifies DOE of its decision in August. This results in the option to disregard 22% (4/18) of appraisal components, including the following ostensibly important measures:

5.1.3.3. Communicating Clearly and Accurately: Verbal and written communication is clear and appropriate to students’ ages, backgrounds, and levels of understanding. (Optional)

5.1.1.1. Selecting Instructional Goals: Teacher selects instructional goals that are aligned with the DE content standards and the district or charter school’s curricula. Goals are appropriate for the learners and reflect high expectations for all students, consistent with State Assessment levels of performance where applicable. (Optional)

5.1.1.3. Demonstrating Knowledge of Content and Pedagogy: Teacher shows his or her knowledge of content and how to teach it to a variety of learners. The teacher’s plans include natural connections among content areas that deepen student learning. The content that he or she teaches is aligned to the district or charter school’s curricula. (Optional)

Since each district and charter school can waive different components, valid comparisons of data among districts and charter schools are not possible. Each district and charter school will be using different criteria.

2. The DOE proposes to no longer require improvement plans for teachers with an “unsatisfactory” rating during an observed lesson. Such improvement plans will be optional:

8.1.1. An Improvement Plan shall also may be developed if a teacher's overall performance during an observed lesson is unsatisfactory. This unsatisfactory performance shall may be noted by the ~~evaluator on the Formative Feedback form~~ Evaluator on the required forms by noting "PERFORMANCE IS UNSATISFACTORY" and initialing the statement.

B. Unannounced Observations

One proposed change in the standards merits endorsement. The revised standards contemplate more "unannounced" versus "announced" observations of teachers. See §§3.1, 3.2, and 3.4. This should result in enhancing the validity and reliability of assessments.

C. Miscellaneous

The word "evaluator" in §8.4, second sentence, should be capitalized.

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

Sincerely,



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

cc: The Honorable Jack A. Markell
The Honorable Matthew Denn
The Honorable Mark Murphy
Dr. Teri Quinn Gray
Ms. Mary Ann Mieczkowski
Ms. Paula Fontello, Esq.
Ms. Terry Hickey, Esq.
Ms. Ilona Kirshon, Esq.
House Education Committee
Senate Education Committee
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens

16reg1235 doe teacher appraisal process revision 6-24-13



For education, encouraging only the best

EDITOR'S NOTE: This is an edited version of a speech Marvin Schoenhals gave to the Delaware State Chamber of Commerce on Monday night.

What are the similarities between the changes we made at WSFS over a 15 year period and what we need to do in education? Actually, I think it is pretty simple, WSFS changed its culture. Now we need to help public education do the same thing.

A vibrant state economy depends on a vibrant banking community. But that dependence is dwarfed by the influence our education system has on the long-term growth of our state, our quality of life, and the dignity of our communities.

If our education system is not serving all of our children, all of the time, who will be our colleagues of tomorrow? Who will be our employees? Who will be the next business leaders? Who will support the economy on which we all depend? They cannot all come from private schools. Most have to come from our public schools.

For most in this room, the education system worked fine and has continued to do so for your children and grandchildren. That is not the case for many in our society. As a

result of that discrepancy, we are often complacent about the hard work required to make our schools effective for all children.

Many say if the kids would just work harder and their parents make them do their homework things would be fine. Others say that because many of these kids live in poverty and in broken down family and community systems, it is impossible to provide an adequate education for them. In other words, they cannot learn.

Let me confess that until about 10 years ago, I was one of those people that thought that providing a quality education to everyone was impossible. I believed that the odds some people faced were just too overwhelming to be overcome by our education system.

I also believed that if we consolidated school districts and could get rid of the teachers' union, we could reform our schools.

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Turns out I was wrong on every one of those beliefs.

There are schools right here in our state that are overcoming the incredible challenges of educating children who come from lower socioeconomic backgrounds. These schools that are beating the odds are traditional public and charter schools in urban and rural areas up and down the state.

For example, schools in Indian River have received national recognition over several years for strong performance in high-poverty schools. As Education Secretary Lillian Lowery noted, Indian River is noteworthy because their achievement is consistent.

We have islands of excellence and we must appreciate them, but with rare exceptions those islands are separated by murky oceans where the educational outcomes are at best uncertain.

Let me give you a few facts on the murky oceans:

» Two thirds of the children showing up for kindergarten in Delaware cannot perform at the appropriate level for a 5-year-old. These students rarely catch up; they become the 3rd-graders who are behind; who drop out when they get to high school.

» Under-performing schools are not constrained to just areas of urban poverty. The screen shows 12 schools that produce over 60 percent of the dropouts in the

state. Note their dispersion across the entire state. This is not a New Castle or Wilmington problem; it exists in all three counties.

» Nationally, only 43 percent of students meet what SAT defines as college ready. In Delaware only 29 percent meet that bar.

» Every single school day, eight children in Delaware drop out of school.

» America used to be first in college attainment, now we're 10th. Over the last 30 years US students have slid from first to 17th on international achievement tests in reading; and to an unbelievable level of 31st in math. Delaware's children perform at the US average, so this chart describes how our kids perform against international competition.

So why has America stagnated while many other countries have made significant improvement?

We have notable broad successes, like

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winning Race to the Top; expanding state funding for and winning the federal grant for improvement in early childhood education; and a history that enabled these successes to take place. We have islands of excellence.

These efforts will make some difference, but they will not do enough to change the fundamental culture of education fast enough for the next generation, let alone the current one.

So here are the actions we have to take at the public policy level that will enable the education culture to change much faster than it is.

First, we must have an effective way to evaluate how schools and districts are performing independent of political posturing.

With a report card for each school and district, the legislature would be able to hold each district accountable for the performance of their schools. This would move the districts from the current culture that focuses on complying with the rules to a culture where they are clearly judged on the performance of their schools.

Second, establish standards of performance for our students that are equal to the best international standards.

Third, we must better recognize and reward high-performing districts and schools whether they are traditional public schools or charter schools.

Fourth, with an adequate way to evaluate the performance of schools and districts as I outlined, we must develop better ways to assist those districts that are not succeeding. But if a district just cannot demonstrate meaningful progress however, there must be a provision for the state to force changes, without withholding funding.

Fifth, the legislature must create a system of financing schools that is much more flexible than the current system.

Finally, teaching is a true profession, much like doctors, lawyers and engineers. These are professions where people are expected to achieve specific outcomes: cure the patient, win the trial, build the bridge or educate the child, but the practitioner must achieve success in ever changing circumstances and conditions. Yet the teacher's union, DSEA, insists on personnel practices that are more appropriate for a factory floor than in a profession like teaching. It is a philosophy where seniority drives assignments, transfers and layoffs; and where salaries

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are based upon years of service and educational level, not on achievements in the classroom. I ask DSEA to continue be a forward thinking union by working with the legislature to change this law.

One size or system of pay does not fit all. Let the districts and the local union determine what would work best for them. With a system that is more reflective of the profession that teaching is, we can then work to get teacher pay to a level worthy of the task teachers perform educating the next generation.

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October 21, 2011

Ms. Susan K. Haberstroh
Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 15 DE Reg. 409 [DOE Proposed Teacher Appraisal Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to amend its regulation covering appraisal of teachers published as 15 DE Reg. 409 in the October 1, 2011 issue of the Register of Regulations. SCPD has the following observations.

First, the term "Highly Effective" in §6.2.1 should be in bold print to match the references to "Effective", "Needs Improvement", and "Ineffective". Alternatively, the bold print should be eliminated for the terms "Effective", "Needs Improvement", and "Ineffective" for consistency.

Second, the regulation is inconsistent in characterizing a "passing" score/rating in the student improvement component. Section 6.2.1 identifies an "Exceeds" rating as the official acceptable benchmark in contrast to inconsistent references to a "Satisfactory" rating in §§3.2 and 6.2.2.1 and "Unsatisfactory" rating in §§6.2.3.2, 6.2.4.2, 7.2.1, 7.2.2, 7.2.3, and 8.2.1. Section 2.0 includes a definition of "Satisfactory Component Rating" but no definition of an "Exceeds" rating. SCPD suspects the isolated reference to an "Exceeds" rating is an oversight and the word "Satisfactory" should be substituted.

Third, DOE establishes 5 appraisal components in §5.0: 1) planning and preparation; 2) classroom environment; 3) instruction; 4) professional responsibilities; and 5) student improvement. The last component, student improvement, is new. Teachers are rated in these 5 contexts resulting in an overall classification of highly effective, effective, needs improvement, and ineffective. See §6.0. The classification system could be characterized as "overly generous" or "misleading" in some contexts. For example, a teacher scoring a satisfactory rating in only 3 of 5 components inclusive of student

improvement (60%) is characterized as “effective”. Reasonable persons might view such a characterization as a distortion of the plain meaning of “effective”. Likewise, a teacher scoring a satisfactory rating in only 1 of 5 components inclusive of student improvement (20%) is euphemistically characterized as “needs improvement”. DOE may wish to revisit the qualifications for “effective” and “needs improvement” to more closely align to the plain meaning of the terms.

Fourth, the current DOE regulation contains a chart defining the criteria for a finding of a “pattern of ineffective teaching” (§7.1). This pre-existing chart is “diluted” by a new §7.2 which directs a “disregard” of an unsatisfactory student improvement rating for the 2011-12 school year. The DOE ostensibly balanced competing considerations, i.e. fairness to teachers since “student improvement” was not included in the current regulation versus fairness to students who deserve effective teachers. The attached October 10, 2011 News Journal article provides further background in this context. It indicates that the DOE and teachers union arrived at an agreement to disregard negative student performance scores for the 2011-12 school year. Similarly, §8.2 categorically bars development of a teacher improvement plan for a teacher with an overall “needs improvement” rating if solely based on an unsatisfactory “student improvement” score. However, positive student performance results can be counted to enhance prospects for teachers qualifying for rewards such as retention bonuses. Rather than totally ignoring an unsatisfactory student performance rating, the DOE could at least encourage public schools to affirmatively offer additional training or mentoring to such teachers.

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

Sincerely,



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

cc: The Honorable Lillian Lowery
Dr. Teri Quinn Gray
Ms. Mary Ann Mieczkowski
Ms. Paula Fontello, Esq.
Ms. Terry Hickey, Esq.
Mr. John Hindman, Esq.
Mr. Charlie Michels
Mr. Brian Hartman, Esq.
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15reg409 doe-teach appraisals 10-11

EDUCATION

Toughened teacher prep standards win final OK

By Nichole Dobo and Jonathan Starkey
The News Journal

Delaware lawmakers gave final approval Thursday to a measure that aims to strengthen teacher preparation standards at the state's colleges and universities, a proposal that was central to Gov. Jack Markell's legislative agenda.

The changes, proposed in Markell's State of the State address in January, passed 37-2 in the House.

5-18-13
It passed the Senate earlier this month and now heads to Markell's desk for his signature.

"We want to attract the best candidates into the teaching profession because our state's success in the future is dependent on how well we educate our children today," Markell said in a statement after the House action.

The measure sets a minimum grade-point average for students who wish to study education at a

See TEACHERS, Page B2

DELAWARE

delawareonline.com

Teachers: New test, more time in classroom among changes

Continued from Page B1

Delaware college or university, though it does provide several ways to get around that requirement.

A rigorous test will screen those who are certified to teach in public schools, which the governor has likened to the bar exam taken by aspiring lawyers.

There will be other changes in the college experience, including boosting the level of time spent in a functioning classroom



Rep. Darryl Scott

with children. And colleges and universities will face new scrutiny with public reports on how well their graduates fare based on ratings from the state's educator evaluation system.

Rep. Darryl Scott, a Dover Democrat and sponsor of the bill, said

"we are raising the bar" for the teaching profession in Delaware.

The measure does provide some flexibility to the 3.0 GPA requirement for students who enroll in Delaware teacher colleges. The requirement can be waived for up to 10 percent of students who enroll. Students also can demonstrate academic qualifications by taking a state-approved test or by ranking in the top half of their graduating class.

The GPA requirement applies to the most recent two years of coursework, whether in high school or in college before entering a teaching program.

The new regulations would not apply to colleges outside of Delaware, and those graduates remain eligible to work in the state if they pass certification exams. However, the largest supplier of teachers in Delaware are in-state colleges and universities, federal and state reports show.

The University of Delaware, Delaware State University, Wilmington University and Wesley Col-

lege offer a bachelor's degree in education.

Amendments failed Thursday to nix the GPA requirement and data reporting elements of the bill. Rep. John Kowalko, a Newark Democrat, said the bill represented the "height of legislative intrusion where we don't belong. It prematurely eliminates students from entering into their chosen career path by legislating away their choices and options," Kowalko said.

Rep. Paul Baumbach, also a Newark Democrat, said the bill placed undue burden on the state Department of Education by requiring the agency to oversee data on grads.

In other legislative business Thursday, the House unanimously approved legislation that allows Alabama-based HealthSouth Corp. to build a rehabilitation hospital in Middletown, despite a lawsuit challenging its approval.

The legislation, which now goes to the Senate, exempts freestanding rehabilitation hospitals from

YOUR OPINION



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YESTERDAY'S POLL RESULTS, B1

having to seek certification before the Delaware Health Resources Board. Markell has backed the legislation as a way to allow HealthSouth to move forward on its 34-bed facility, which is planned for Del. 299 just west of Del. 1.

Broadmeadow Investment LLC, which operates a rehabilitation hospital in Middletown that would compete with HealthSouth's facility, has sued the board for approving the application.

Contact Jonathan Starkey at 983-6756, on Twitter @jwstarkey or at jstarkey@delawareonline.com.

Contact Nichole Dobo at 324-2281 or ndobo@delawareonline.com. On Twitter @NicholeDobo.

EDUCATION

4-12-13 (N)

Just who gets how much at Christina issue's core

By Matthew Albright
The News Journal

The \$2.3 million conflict between the Christina school board and the state over teacher bonuses boils down to a few simple issues: how should districts determine who the best teachers are, how many should be rewarded and how much of a bonus should each receive?

As part of a Race to the Top program aimed at attracting and retaining high-performing

teachers in struggling schools, Gov. Jack Markell and the state Department of Education want school districts to give \$20,000 bonuses over two years to teachers rated "highly effective," a label only a small number of teachers earn.

Of the 11 schools that participated in the bonus program last year, only 125 teachers were eligible for the bonuses, according to Department of Education

See CHRISTINA, Page A2

Christina: District concerned about bonus fairness

Continued from Page A1

figures. So far, about 28 have been selected to receive the money.

The Christina school board instead wants to

budgeted about \$260,000 for the bonus program, suggesting the district expect about 260 teachers would be rewarded. A pilot program for the evaluation system last year suggested that less than 1 percent of teachers in Christina would not reach that "effective" label.

State officials say that alternative is simply unacceptable.

"The Talent Cooperative proposed by the Department of Education was developed based on national and local research," said Catherine Rossi, Markell's spokeswoman.

"Christina has not developed any alternative program to retain the best teachers, and instead simply wants to use these

funds to give across-the-board smaller raises," Secretary of Education Mark Murphy said Christina's bonuses were too broad to meet the goals laid out in the Race to the Top plan.

"What we're talking about doing is attracting to the schools that need them most and keeping them there," said Murphy.

"The need for this is big. In fact, Christina has the biggest problem in the state in this area. And yet no alternative they've proposed does anything to fix it."

Christina leaders say they are concerned that doling out only a few big bonuses could leave de-

serving teachers in the

for the state's bonuses because their students don't take tests, which are part of the teacher-evaluation process. He said the district's approach would be a "rising tide raises all boats mentality."

"Our teachers are more interested in a supportive and collaborative work environment and being recognized for the job they're doing," Young said. "There are many teachers in our district who are doing amazing work at low-performing schools, but might not have that 'highly effective rating.'"

Christina Superintendent Freeman Williams sent a letter to district employees on Wednesday criticizing remarks state officials have made saying district leadership has been doing a disservice to their students by refusing to accept the state's system.

"We have not 'forfeited' the Race to the Top money, it has been withheld from us by our own state Department of Education because we could not come to agreement on implementing one initiative out of more than 100 separate initiatives included in our Race to the Top plan," Williams wrote. "We stand with the membership of [The Christina Education Association] on this issue, and we will continue to do so."

That argument resonates with the district's teachers union, which has supported the board's decision to fight the state's system.

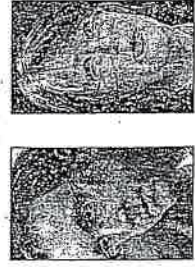
"The Christina Education Association, the school board and the district are on the same page on this," said Frederika Jenner, president of the Delaware State Education Association.

In the union's February newsletter, Jenner supported a bonus plan similar to Christina's.

"We recommended that the program be designed to make school-wide awards that promote collegiality and cooperation in a noncompetitive environment," Jenner said.

Young said some teachers wouldn't be eligible

Matthew Albright can be reached at 324-2428, or at malbright@delawareonline.com.



Secretary of Education Mark Murphy



DSEA President Frederika Jenner

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give \$1,000 bonuses to most of its teachers. To earn the district's smaller bonus, a teacher would need to earn only an "effective" rating.

The Christina board

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EDUCATION

Christina pulls out of fight with state

Hearing over \$2.3M federal aid squashed

By Matthew Albright
The News Journal

Christina School District has withdrawn its request for a hearing in its feud with the state over \$2.3 million in federal Race to the Top money, which means the district will likely lose those funds.

The money has been tied up for months in a battle between the district and the state Department of Education over a plan to attract top-flight teachers to low-performing schools.

The state wanted Christina to give \$20,000 over two years to only the most elite teachers, while administrators proposed giving much smaller bonuses to more teachers or boosting technology in struggling schools.

Christina officials had signed up for an impartial hearing. But the district announced Thursday afternoon that it was withdrawing its request, arguing it didn't make sense to spend money on legal costs.

"We do not feel it would be fiscally responsible to commit additional public tax dollars or staff resources to pursue this process any further and respectfully withdraw our request," wrote Superintendent Freeman Williams in a letter to Secretary of Education Mark Murphy.

A DOE spokeswoman said the agency received the letter, but would not comment because it had not been reviewed.

The department outlined the rules for a potential hearing last week.

Christina would have presented its case on Wednesday to Dover-based attorney John C. Andrade and would have to prove that the state violated the law in revoking the money.

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udget

See RETREAT, Page B2

Retreat: Writing was on the wall, board member says

Continued from Page B1

Andrade would then make a recommendation to Murphy, the final arbitrator on whether the money would be reinstated.

Christina board member John Young said that made it unlikely the hearing would change the situation.

"The rulings of this hearing would have only been advisory anyway," Young said. "And [Murphy] has done a pretty good job of telegraphing his intention to withhold the funds."

Several school board members have criticized the state for yanking all \$2.3 million left in the district's Race to the Top plan when only part of it is in dispute. The state has countered that the teacher incentives are a major component that could hurt the rest of the plan if excluded.

District staff said that money was set to expire at the end of the year any-

Several school board members have criticized the state for yanking all \$2.3 million left in the district's Race to the Top plan when only part of it is in dispute.

way, so they were simply making their transition plan take effect a year earlier. They also contend the \$2.3 million isn't a catastrophic loss in a budget of more than \$200 million.

But state education leaders have said Christina's low-performing schools struggle to keep good teachers, and argue the money would have been beneficial.

Matthew Albright can be reached at 324-2428 or at malbright@delawareonline.com.