



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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October 29, 2014

Ms. Tina Shockley, Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 18 DE Reg. 279 [DOE Proposed State Assessment Regulation]

Dear Ms. Shockley:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to revise the State Assessment System standards to implement both H.B. 334 and S.B. No. 229 enacted in the summer of 2014. The proposed regulation was published as 18 DE Reg. 279 in the October 1, 2014 issue of the Register of Regulations.

SCPD has the following observations on the proposed regulation.

First, in §1.2, the definition of "District Test Coordinator (DTC)" is counterintuitive since it includes a charter school educator. We recommend substituting "Local Agency Test Coordinator (LATC)" or "Agency Test Coordinator (ATC)".

Second, the regulations contain many references to "School Test Coordinator". See, e.g., §§10.1, 10.2, 10.5, 12.1.1.2, 12.1.1.2.1, and 12.2.2. There is no definition of the term. A definition should be added. For example, the definition of "District Test Coordinator" requires completion of certain training. There is no equivalent requirement for a "School Test Coordinator" since the term is undefined. Moreover, it is unclear if a charter school is expected to have both a "District Test Coordinator (DTC)" AND a "School Test Coordinator". Since a charter school typically has one (1) school, query whether it should have two (2) coordinators for one (1) school.

Third, there are several sections that manifestly apply only to districts rather than districts and charter schools. See, e.g., §§2.2, 2.3, 4.4.1, 4.4.1.1, 4.4.2, 4.5.4, 4.6.1.1, 4.6.1.2, 4.6.2.1, and 4.6.2.2. The definition of "LEA" in §1.2 is somewhat cryptic but literally is limited to entities serving "a school district or combination of school districts". This would exclude charter schools. See also 14 DE Admin Code 924, §9.0 (some, but not all, charter schools qualify as an LEA). In other sections, there are references which differentiate between districts and charters. See §§4.4.3, 10.1, 10.5.2.2, 10.5.2.3, and 12.1.1.2.

Fourth, the regulation contemplates IDEA-eligible students in adult correctional facilities participating in the General Assessment and, potentially, alternate assessments. See §12.2.1.3. Since the DOE is responsible for serving such students, query whether the regulation adequately addresses whether there

will be a “District Test Coordinator” or “School Test Coordinator” to cover incarcerated students.

Fifth, Section 4.6.1.1 contains a “trigger” for a mandatory Department of Education review if a certain relative percentage of students participating in alternate assessments have good results (scoring Performance Level 3 or 4). This provides an incentive to depress student alternate assessment scores to avoid a DOE review/audit. The Department may wish to reconsider the merits of this approach.

Sixth, in §12.1, the first “sentence” lacks a predicate/verb.

Seventh, §12.1.1.1, we suspect the Department meant to include a reference to “School Test Coordinator”. Compare §§12.1.1.2 and 12.1.1.2.1.

Eighth, in §12.2, we believe the reference to “grades 2” should be “grades 3”. Compare §3.1.

Ninth, in §12.2.2, second sentence, the reference to “physician” is too narrow. Compare 14 DE Admin Code 815, §1.0, definition of “healthcare provider”. This term is used in multiple DOE regulations. See, e.g., 14 DE Admin Code 805, §2.1.1. Cf. 14 DE Admin Code 930, §2.2 (referring to physician, advanced practice nurse, and physician assistant).

Tenth, in §12.2.2.2, second sentence, we believe the reference to “School State Assessment Coordinator” should be converted to “School Test Coordinator”.

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 Matthew Denn
The Honorable Mark Murphy, Secretary of Education
Mr. Chris Kenton, Professional Standards Board
Dr. Teri Quinn Gray, State Board of Education
Ms. Mary Ann Mieczkowski, Department of Education
Ms. Paula Fontello, Esq., Department of Justice
Ms. Terry Hickey, Esq., Department of Justice
Ms. Ilona Kirshon, Esq., Department of Justice
Mr. Brian Hartman, Esq.
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