



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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May 18, 2015

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

RE: 18 DE Reg. 836 [DOE Proposed Gifted or Talented Education Plan Regulation]

Dear Ms. Shockley:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to adopt a *Gifted or Talented Education Plan*. The proposed regulation was published as 18 DE Reg. 836 in the May 1, 2015 issue of the Register of Regulations. The SCPD commented on the initial proposed version of this regulation in February, 2015. The Department of Education has now issued a new proposed regulation. SCPD has the following observations.

First, the new version corrects the three concerns outlined in the Councils' earlier commentary. It provides more time to submit plans to the DOE, no longer requires all instructors to be "certified in gifted and talented education, and deletes extraneous language.

Second, the new regulation does not require charter schools to develop and submit plans. The rationale for deleting charter schools from the regulation is not offered. There is some "tension" between authorizing "each public school in the state" to apply for "accelerated academic program" grants for academic and non-academic programming while omitting charter schools from gifted and talented education planning. See 14 DE Admin Code 917.2.1 and 917.2.5. Moreover, Delaware statutory law does not exclude charter schools from offering gifted or talented education. See 14 Del.C. §§3101(6) and 3126. SCPD question the exclusion of charter schools in the new regulation.

Third, the new regulation includes multiple references to “professionally qualified persons”. This is acceptable since identical language is contained in 14 Del.C. §§3101(6).

Fourth, §3.1 merits amendment since: 1) it omits the concept of an “identification process” in contrast to §2.0, definition of “Gifted or Talented Education Plan”; and §3.1.3; and 2) the term “educational services for identified gifted or talented students” is superfluous since this language is part of the definition of the Plan. It could be amended to read as follows: “3.1 Each school district shall have a Plan which, at a minimum, shall:”.

Fifth, §3.1.6 requires all teachers assigned to instruct students identified as gifted or talented to be “certified in accordance with the applicable Professional Standards Board regulations.” SCPD recommends deletion of this subsection since it actually limits the use of instructors. For example, if a student is a virtuoso of the piano or violin, a district may wish to contract with an exceptional expert who may not have a teaching certificate. A brilliant swimmer who appears to be of Olympic caliber may benefit from a contracted instructor without a certificate. It is Council’s impression that public school teachers, apart from student teachers, are predominantly certified so the provision may add very little to the regulation.

Sixth, in §4.2, “periodic” review by the DOE is a rather obtuse standard. The DOE may wish to include a minimum timetable (e.g. at least every 4 years).

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

Sincerely,


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

cc: 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. Kathleen Geiszler, Esq., Department of Justice
Ms. Terry Hickey, Esq., Department of Justice
Ms. Ilona Kirshon, Esq., Department of Justice
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor’s Advisory Council for Exceptional Citizens

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