



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Margaret M. O'Neill Bldg., Suite 1, Room 311
410 Federal Street
Dover, Delaware 19901
302-739-3621

The Honorable John Carney
Governor

John McNeal
SCPD Director

November 30, 2017

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

RE: 21 DE Reg. 363 [Proposed Accountability Regulation (11/1/17)]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposed regulation. DOE is publishing a regulation comprehensively revamping its public school accountability regulations to align with its approved ESSA Plan. At 363. Given the length of the ESSA Plan (145 pages) and proposed regulation (15 pages), the SCPD has only had time to conduct a cursory review of the regulatory initiative. The proposed regulation was published as 21 DE Reg. 363 in the November 1, 2017 issue of the Register of Regulations.

The SCPD has the following observations.

First, overall, the regulatory scheme appears more "forgiving" than its predecessor. For example, "sanctions" are no longer contemplated. See proposed §1.1 and current §7.0. Language is also more euphemistic. For example, a parent would understand that a school characterized as a "Persistently Low Achieving School" is a school with chronic low performance. See, e.g., current §8.0. In contrast, the new "lowest" status is "Comprehensive Support and Improvement - Re-identified". Such a school has demonstrated chronically poor performance for at least six (6) years. See proposed §§7.1 and 7.2. The term is highly uninformative and could aptly be characterized as mumbo jumbo.

Second, proposed §2.4 cross references 14 DE Admin Code 101.9.0. That regulation has been "suspended" since FY08. The DOE may wish to revise the reference.

Third, the availability of disaggregated data is a valuable resource in “drilling down” to the source of performance deficits or high achievement. For example, one grade or one classroom in a school may be an outlier with either impressive performance or poor performance when compared to the school as a whole. Unfortunately, proposed §2.5 authorizes reporting only by whole schools and districts. Although §§ 2.62 and 2.6.3 refer to subgroup data, these sections do not literally authorize reporting of disaggregated data below the level of a school. It would be preferable to authorize reporting of data which is less “blunt” than composites of entire schools and districts.

Fourth, there is an error in proposed §2.6. The term “AYP” should include a strikeout - “~~AYP~~”.

Fifth, proposed §4.3 should be reconsidered. It states as follows:

- 4.3. For accountability purposes, a student with a special exemption, as defined in 14 DE Admin Code 101, shall not be included in accountability calculations.

In contrast, 14 DE Admin Code 101 contains no “definition” of “special exemption” while directing the opposite result:

- 12.2.3.2. Students who are granted a special exemption shall be counted in the school participation rate for school and district accountability pursuant to 14 DE Admin Code 103.2.4.

There is also some “tension” between §4.3 (directing that exempt student results not be included in accountability calculations) and 14 Del.C. §1511.(j): “Students who are granted portfolio assessment under this subsection shall be included in the participation rate calculation for schools and school districts.”

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

Sincerely,



Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Susan S. Bunting, Ed.D., 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. Laura Makransky, Esq., Department of Justice
Ms. Terry Hickey, Esq., Department of Justice
Ms. Valerie Dunkle, Esq., Department of Justice
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor’s Advisory Council for Exceptional Citizens

21reg363 doe accountability 11-27-17