



**STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES**

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**The Honorable John Carney
Governor**

**John A. McNeal
Director**

March 28, 2019

Ms. Emily Cunningham
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 22 DE Register of Regulation [DOE Final Regulations 762 regarding High School Graduation Requirements and Diplomas, and 763 Regarding Student Success Planning (March 1, 2019)]

Dear Ms. Cunningham:

The State Council for Persons with Disabilities (SCPD) has reviewed Delaware Department of Education's (DDOE) final regulations focusing on high school graduation requirements and diplomas and Student Success Planning (SSP). The final regulations were published as 22 DE Reg. 762 and 763, respectively in the March 1, 2019 issue of the Register of Regulations. SCPD has the following observations.

The State Board of Education finalized the proposed amendments to 14 DE Admin. Code 505. The amendments to section 505 align with several statutory changes, one of which was House Substitute 1 to House Bill 287, which eliminated the Certificate of Performance and created the Diploma of Alternate Achievement Standards for students who satisfy their Individualized Education Program ("IEP") requirements, but are not eligible for a traditional high school diploma. The proposed amendment also eliminated the guidance on Student Success Plans (SSPs) and stated in the synopsis that a new regulation on SSPs would be issued "in the near future." SSPs are developed with every student beginning in the eighth grade, and outline a student's post-high school goals.

SCPD supported the amendment, but sought clarification on how SSPs would work while a new regulation was being created and information on when the new regulation would be issued. The State Board of Education addressed Council's concern by subsequently promulgating Section 507, which is the new regulation that addresses SSPs. It appeared in the January 2019 issue of the Delaware Register of Regulations.

Finally, the Board made an additional change to the finalized regulation; it changed the definition of “Career Pathway” by removing the sentence stating “Career Pathway shall be included in the Student Success Plan.” 22 Del. Reg. 762, 763. Career Pathways are a series of “pre-planned” courses that expose students to and help them gain skills in career and academic areas. The Board stated it changed the definition because “a new regulation will be created in the near future that will specifically provide guidance around Student Success Plans. Therefore, reference to Student Success Plans in the definition of “Career Pathway” has been struck.”

It does not follow that the definition of Career Pathway must be changed just because a new regulation about SSPs was created. It is not clear whether this change will result in the removal of Career Pathway planning from SSPs. Even if Career Pathway planning does not go into the SSP, it may not affect student experience because Career Pathway is not itself removed from Section 505; in other words, students may still be engaging with school officials about Career Pathway options even if it is no longer included in the SSP.

SCPD supports the finalized amendment, but is raising concerns about SSPs in its comments on Section 507, as discussed below.

The State Board of Education finalized a new regulation that requires school districts to create a Post-Secondary Advisement Plan (PSAP), which is a plan that outlines processes the school districts will adopt to help students learn about post-secondary education opportunities, and identify their aptitudes and interests. The regulation also requires every student in grade eight and above to have a Student Success Plan (SSP), which is a written plan stating students’ post-high school goals. Previously, the requirements for SSPs were located in 14 DE Admin. C. 505. The previous SSP rules required school districts to help students create “a program of study” comprised of academic courses, electives and extra-curricular activities that would prepare a student for entry into their desired career path. It also required the school district to ensure the student was satisfying graduation requirements, and was taking the steps necessary to meet their career goals. If there were concerns about the student failing or “not being on track” to meet their career goals, the SSP was to identify supports the school district would provide. Unfortunately, Section 507 is much less clear about what will go into an SSP, whether school districts must still work with students to create “a program of study,” whether individualized supports will be provided to students who are “not on track” to meet their post-secondary education goals, and what post-high school planning will look like for each individual student.

SCPD previously asked for clarification and amendments. The SCPD sought clarification that Section 507 requires school districts to still help students develop a program of study, even if it is no longer in the SSP. The Department’s response was that the regulation requires school districts’ PSAPs to “list the specific activities and supports they are providing to help students explore potential career interests, and establish and refine goals to prepare them to pursue the goals after high school.” 22 Del. Reg. 764 (Mar. 2019).

PSAPs are not tailored to an individual child; the purpose of the PSAP is for districts to create processes to follow to ensure that, among other things, there are “activities, supports and resources” available to allow students to gain exposure to career and college information. While there is no doubt value in school districts planning activities and supports that will be provided to the student body as a whole, the concern still exists that the development of a plan to achieve

career goals under Section 507 will be less individualized. In other words, it is one thing for a district to plan how it will expose its student population to career and post-secondary education opportunities, but another for a school district to sit down with a particular student and help that particular student create a concrete plan on how to reach the particular career goal(s) that are in his/her SSP given his/her particular background, aptitudes and skills. Both are arguably valuable, but different. SCPD is reiterating the importance of ensuring individualized planning is still occurring.

SCPD sought inclusion of a requirement that school districts identify and provide supports necessary to help students achieve their career goals. The Department believes this concern is addressed by Section 4.1.1.2, which requires school district PSAP plans to “include the activities, supports and resources to enable students to fulfill the opportunities identified in the regulation, as well as requires the plan to be district-wide to enable a comprehensive approach to support students from 8th to 12th grade. Incorporating this into their plans will enable districts to identify areas where students need additional supports and continue those supports between middle and high school.” 22 Del. Reg. 764 (Mar. 2019).

There are two concerns with the response. First, as discussed above, PSAPs are not individualized to the student. It is one thing to create a plan to contemplate supports and resources that will be available to the student body as a whole, it is another to tailor specific supports for a particular student.

Next, providing supports to achieve “the opportunities identified in the regulation” may be different than the provision of supports to achieve post-secondary and career goals. Section 4.1.1.2 requires PSAPs to include a process for “activities, supports and resources to enable students to fulfill the opportunities as identified in Section 3.0, such as but not limited to: small and large group activities, in-school and out-of-school supports, and one-on-one Advisement.” Section 3.0 states that students should have the opportunities to learn about “career and industry trends and earning potential...; to identify their strengths and interests connected to careers;...to identify educational and financial requirements related to potential career interests.” The activities, supports and resources to help students achieve these goals will likely look different than providing activities, supports and resources to help a particular student achieve a particular post-secondary education goal. For example, to help students achieve the opportunities in Section 3.0, school districts may have to think about students’ transportation needs to help students attend career fairs or after-school talks or what steps school districts might take to attract guest speakers. Provision of supports to help a student reach a particular career goal might consist more of things like ensuring she is completing coursework necessary for admission into a particular college program or provision of tutoring in relevant subject areas.

The SCPD noted in their comments on the proposed regulation that perhaps use of the term “advisement” in Section 4.1.2.2 may mean that students will still be developing a concrete plan to achieve their post-secondary goals, even if it is just no longer placed in an SSP. The SCPD recommended the advisement requirement be removed from subsection 4.1.2.2 to clarify that school districts are still responsible for working with students to help them form a concrete plan to achieve their post-high school goals, and not that they are just responsible for planning how the student will be exposed to opportunities identified in Section 3.0, which are essentially the

opportunities to learn about career and post-secondary education options and requirements. The Department declined to make this amendment.

The SCPD may wish to reiterate the importance of school districts providing support services for students not on track to achieve their career goals, as was required in the previous regulation, not just providing the supports necessary to expose students to career information.

The SCPD sought inclusion of a transcript review requirement. The Department declined to include the transcript review requirement, which was previously included in Section 505, because high school counselors will continue to review transcripts “as part of the requirement to increase graduation rates under the Every Student Succeeds Act” and the Delaware School Success Framework monitors graduation requirements. 22 Del. Reg. 764 (Mar. 2019). It is good to hear transcript review will continue, and hopefully the information gleaned from those transcript reviews will be applied by the school districts to student career planning.

The SCPD sought inclusion of a section requiring SSPs to incorporate the IEP transition plan requirements in 14 DE Admin. C. 925. The Department found that this requirement is unnecessary because it believes the transition plan may serve as the SSP, so long as the transition plan satisfies the SSP requirements. 22 Del. Reg. 764 (Mar. 2019). There may be privacy concerns if school districts decide to consolidate a student’s SSP into their transition plan. Transition plans are located within the IEP. IEPs contain sensitive information that may not be found in an SSP. Depending on how SSPs are used, this may create some issues; there may be some situations where it is appropriate to share a student’s SSP, but not to disclose everything that is in their IEP.

The SCPD requested removal of definition the definition “Core Course Credit” The Department adopted this change.

The SCPD requested inclusion of a requirement for data collection on access to ESSA measures and Career Pathways programming for students with IEPs. The Department responded that “district plans are required to identify how they will measure student impact in meeting their post-secondary goals and progress reports will show their progression towards these goals, including measurable outcomes as outlined in the regulation. This includes all students, including those with IEPs.” 22 Del. Reg. 764 (Mar. 2019).

While school districts may be required to measure all students, it still would be helpful to identify which datasets belong to a student with an IEP so that outcomes for students with disabilities can be differentiated from outcomes for all students and tracked. In other words, the data will not be as useful for determining outcomes for students with disabilities unless data for students with disabilities can be disaggregated from the data of all other students. Council may wish to reiterate its request for a requirement that school districts collect data in such a way as to ensure the progress of students’ with disabilities can be monitored.

In conclusion, The SCPD reiterates the importance of ensuring individualized planning is still occurring; that there is a distinction between providing supports that allow a student to gain exposure to career information versus supports to help a student achieve their particular career

goals, and the importance of school districts providing both types of supports; and that school districts ought to be required to disaggregate data to allow the outcomes of students with disabilities to be tracked.

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

Sincerely,

A handwritten signature in blue ink that reads "J. Todd Webb". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

J. Todd Webb, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Susan Bunting – Department of Education
Mary Ann Mieczkowski – Department of Education
Laura Makransky, Esq. - Department of Justice
Terry Hickey, Esq. – Department of Justice
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Governor’s Advisory Council for Exceptional Citizens
Developmental Disability Council

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