



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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410 Federal Street
Dover, Delaware 19901
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The Honorable John Carney
Governor

John McNeal
SCPD Director

November 30, 2020

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

RE: 24 DE Reg. 453 [DOE Proposed Regulation on 934 Family and Large Family Care Homes (November 1, 2020)]

Dear Ms. Cunningham:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to revise existing regulations pertaining to standards for the licensure and operation of family child care homes and large family child care homes. The proposed regulation was published as 24 DE Reg. 453 in the November 1, 2020 issue of the Register of Regulations. SCPD has the following observations.

These regulations now fall under the jurisdiction of the DDOE due to the recent relocation of the Office of Child of Care Licensing ("OCCL") from the Department of Services for Children Youth & Families ("DSCYF") to the DDOE. "Family child care home" and "large family care home," as defined by the regulations, generally refer to "a private home in which a licensee lives and provides licensed child care," although large family child care homes may also provide care in a non-residential setting. A "family care home" is distinguished

from a “large family care home” by the number of children provided care; family care homes may serve as many as six to nine children depending on the home’s designated level (Level I or Level II) and the ages of the respective children, while large family care homes may serve as many as twelve children. As the regulations are quite lengthy, only the proposed amendments to the existing regulations will be discussed here.

The amendments to the regulations are primarily wording changes for consistency and compliance with the Delaware Drafting & Style Manual (for example, replacing the word “administrator” with “director” in reference to OCCL leadership, and numerous adjustments of “his or her” to more gender neutral language). There are three revisions that provide substantive clarification to existing rules. First, language is added in the proposed amended regulations at 6.6 to clarify that only one license can be issued for a given address. Second, the proposed amended regulations at 8.1.7 would require a licensee to have both property liability insurance and comprehensive general liability insurance, while the existing regulations simply require liability insurance without further specification.

The third substantive clarification, in the form of deletions in the proposed amended regulations at 4.2, 55.2-55.5, and 56.2-56.3, is that family care home licensees cannot designate another entity to provide childcare services. Per the synopsis published with the proposed regulations, this is to address “a previously posted error that allowed a family child care home to designate a family provider, when the licensee must be the provider.” It is not clear why the regulations were previously published allowing for the designation of a family provider. Per the proposed amended regulations at 4.2, it appears a licensed large family child care home could still designate a “large family provider”; however, the amendments would further clarify that “[a] licensee must designate a natural person, not an entity.” If that distinction between family child care homes and large family child care homes was intended, it would be helpful for additional language to be added to emphasize that only large family care homes can designate a large family provider, while other family care homes cannot designate a family provider and that the licensee must act as the provider. Simply removing existing references to designation leaves it a bit ambiguous.

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

Sincerely,



Terri Hancharick, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Susan Bunting, Department of Education
Mary Ann Mieczkowski, Department of Education
Linnea Bradshaw - Executive Director of the PSB
Tracy Poitras - PSB
Kathleen Smith - Professional Standards Board
Laura Makransky, Esq. - Department of Justice
Valerie Dunkle, Esq. - Department of Justice
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Governor's Advisory Council for Exceptional Citizens
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