



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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Dover, Delaware 19901  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

October 29, 2021

Department of Education  
Office of the Secretary  
Attn: Regulation Review  
401 Federal Street, Suite 2  
Dover, Delaware 19901

RE: 25 Del Reg. of Regulations 360 [Proposed DDOE Amendments to 14 DE Admin. Code 615: School Attendance (October 1, 2021)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Delaware Department of Education's ("DDOE") proposed regulations governing school attendance. These proposed amendments include new requirements about the contents of school attendance policies and require these policies to:

- "...[I]nclude information on how families and students may access supports and resources for student absences due to social, emotional and behavioral wellness." (2.1)
- "...[P]ermit one excused absence per school year for students in grades 6 through 12 to attend civic engagements, such as visits to the United States Capitol, Delaware Legislative Hall, political or cultural significance sites, to advocate or testify on behalf of legislation, or to participate in a rally, march, or protest. The student's parent, guardian, or relative caregiver must submit a signed, written excuse which is received by the district or charter school at least three (3) days before the student's absence." (2.2)
- Include procedures for excusing absences for religious observances. (2.3)
  - These procedures must permit excusals for a provided list of Baha'i, Buddhist, Hindu, Islamic, and Jewish holidays upon written and signed request from a student's parent/ caregiver. (2.3.1)
  - The proposed policy also states that schools "*may* excuse student absences on any other day not included on this list for religious or cultural observances." (emphasis added). (2.3.2)
  - The proposed policy requires schools to permit students to make up any grading event that was scheduled during a religious holiday. Additional, under the

proposed amendments, no student “shall be deprived of any award or eligibility to compete for any award” due to absence for religious holiday observance. The proposal also requires that “attendance polic[ies] must discourage teachers from scheduling major grading events...on religious holidays.” (2.3.3-2.3.5)

- Under the proposed amendments, the Department of Education “shall annually release a list of upcoming religious holidays for the upcoming school year and shall also keep an updated list on the Department of Education website,” and will send the annual calendar to each school district and charter school “in time for school calendars creation.” The annual list of holidays will not include outside of the school year. (2.3.6-2.3.8).

Additionally, the proposed amendments require school districts or charter schools to provide a parent or guardian with a hard copy of the attendance policy “when absences have exceeded ten (10) unexcused absences,” The hard copy of the attendance policy provided must “include phone numbers to area supports and a school contact number.” (3.3) This requirement is in addition to the current requirement that the attendance policy must be provided to each student at the beginning of the school year or upon enrollment and to parents or guardians upon request. Under current policy, the attendance policy must also be available on the school website (with written notice to the parent/guardian and to the student of where the policy can be accessed). The amended policies also proposes that the attendance policy must also be provided to “educators and support staff at the beginning of each school year.” (3.4).

Section 2.1 states that “[t]he attendance policy shall include information on how families and students may access supports and resources for student absences due to social, emotional and behavioral wellness.” While this is a beneficial proposal, SCPD recommends further amendments addressing student health and wellness as it extends to attendance, particularly as schools return to near universal in-person instruction following remote learning during the COVID-19 crisis. For example, Illinois has enacted legislation permitting students to request up to five excused absences for mental health purposes without requiring a doctor’s note.<sup>1</sup> Under this new Illinois legislation, after a student requests their second excused mental health absence, they will be referred to a mental health professional. This is part of a growing trend (Arizona, Colorado, Connecticut, Maine, Nevada, Oregon, and Virginia), and several states have adopted similar policies permitting excused absences for student mental health.

SCPD recommends policies to provide more proactive, non-punitive support for students and families who are experiencing chronic absenteeism, or who have experienced frequent absenteeism since March 2020 during periods of remote instruction.

Finally, SCPD recommends that the attendance policy also be provided to each parent each year. Under the amended language, the attendance policy must be provided to every student, faculty member, and support staff member each school year (3.1-3.2;3.4), but parents are only provided with written notice of where the attendance policy can be found on the school website. Under the proposed amendments, parents will only be provided with a hard copy of the policy upon request or after a student has had ten or more absences during a single school year (3.3). It seems like it

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<sup>1</sup> <https://www.ilga.gov/legislation/102/SB/PDF/10200SB1577lv.pdf>; <https://www.npr.org/sections/back-to-school-live-updates/2021/09/02/1033605650/illinois-children-mental-health-days-schools-coronavirus>

may be more streamlined to simply provide parents with the attendance policy annually, with additional reminders of the policy if students have ten or more absences during a school year.

Thank you for your consideration and please contact the SCPD if you have any questions or comments regarding our observations and recommendations 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  
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Governor's Advisory Council for Exceptional Citizens  
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