



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney,
Governor

John McNeal, Director
SCPD

MEMORANDUM

DATE: February 1, 2023

TO: Office of the Child Advocate

FROM: Benjamin Shrader, Chairperson 
State Council for Persons with Disabilities

RE: Proposed Office of the Child Advocate Regulations [Driver Education, Driver's License and Motor Vehicle Insurance Program for Individuals who have Experienced Foster Care, 26 DE 544 (January 1, 2023)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Office of the Child Advocate (OCA) proposal which seeks to enact new regulations implementing new statutory provisions providing for funding to support youth in foster care who are learning to drive, seeking driver's licenses, or needing car insurance coverage to safety drive. The proposed regulation was published as 26 DE Reg. 544 in the January 1, 2023, issue of the Register of Regulations.

The SCPD has the following observations and recommendations:

Substitute 1 to SB 151, which passed at the end of the previous legislative session in June 2022 and was signed into law by the Governor in October 2022, requires the creation of a program to disperse funds to youth in the custody of the Department of Services for Children Youth and Families (DSCYF) for these purposes. In passing this legislation, the General Assembly concluded that the costs associated with obtaining a driver's license and vehicle insurance "serve as an additional barrier to gaining independence and engaging in normal, age-appropriate activities" and "limit opportunities for obtaining employment and completing educational goals" for youth who are in DSCYF custody. See 29 Del. C. § 9011A(a)(1).

The proposed regulations provide further details about the operations of the program:

- The regulations would establish that to be eligible for funding, youth would need to be in DSCYF custody and between the ages of 15 and 18 years old.

- Youth in DSCYF custody when they turned 18 would be eligible for an additional year if not receiving independent living (IL) services from the Department, or for any period they were receiving IL services after their 18th birthday.
- Youth who had been in DSCYF custody and were at least 16 years old when they achieved permanency would be eligible for an additional year after achieving permanency, if not receiving IL services, or for as long as they were receiving IL services.

The proposed regulations do not provide further details about the application process other than that “[a]pplications must be submitted online via the Office’s website” and “[a]pplications will be accepted on a continuous basis.” **The SCPD recommends that OCA clarify what type of information and documentation would be required in the application and under what circumstances the consent or input of any party other than the youth would be necessary.**

In subsection 6.6 of the proposed regulations, there is language providing for the termination of an individual’s participation in the program “if the individual demonstrates unsafe driving practices resulting in increased insurance premiums,” and that the Office will maintain and distribute a policy which outlines “safe driving expectations and the consequences of a failure to meet these expectations.” **SCPD also recommends that OCA provide further clarification as to when an individual’s participation in the program may be terminated due to “unsafe driving.”** Further, it would somewhat defeat the stated purpose of the program to allow youth no room for mistakes. OCA should allow for the consideration of all facts and individual circumstances in deciding to terminate a youth’s participation in the program.

While the cost of a driver’s license currently appears to be \$40.00, which is a small expense compared to what driver education courses and motor vehicle insurance cost, it may still be difficult for a youth in DSCYF custody to pay that amount, especially when not having a license may otherwise prevent them from seeking employment. Additionally, to apply for a driver’s license an individual needs to produce proof of identity, such as a birth certificate, Social Security card, or passport (see https://www.dmv.de.gov/DriverServices/drivers_license/index.shtml?dc=dr_lic_gen_req). Youth in DSCYF custody may not always have immediate access to these documents for a variety of reasons, and there may be cost associated with obtaining duplicates. Finally, there may be additional costs associated with obtaining a driver’s license for individuals with disabilities, such as adaptive driving assessments or instruction. The Division of Motor Vehicles also has discretion to require additional medical examination or testing if a mental or physical impairment is identified that may affect an individual’s ability to safely operate a vehicle and there may be costs associated with this testing that are not covered by insurance. **SCPD recommends OCA to reconsider what is included in eligible expenses and to take a broader view of expenses “incidental to licensure.”**

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.

cc: Ms. Laura Waterland, Esq., DLP
 Governor’s Advisory Council for Exceptional Citizens
 Developmental Disabilities Council

