



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

John McNeal, Director
SCPD

MEMORANDUM

DATE: October 25, 2023

TO: Department of Education, Office of the Secretary, Attn: Regulation Review

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

RE: Proposed Regulation on 608 Unsafe School Choice Option Policy, 27 Del. Register of Regulations (October 1, 2023)

The State Council for Persons with Disabilities (SCPD) has reviewed the Delaware Department of Education's (DDOE) proposal to amend 14 Del. Admin. C. § 608, which describes the State's unsafe school choice policy. The proposed regulation was published as 27 DE Reg. 217 in the October 1, 2023, Register of Regulations.

In this legislation, the DDOE states it is proposing to amend this regulation to make corrections to grammar and style to bring it into compliance with the *Delaware Administrative Code Drafting and Style Manual*. However, the SCPD finds some of the changes proposed are substantive and could impact all students, including those with disabilities and has the following comments:

- By changing the definition of “unsafe incident”, the DDOE further adds ambiguity. **The SCPD recommends the DDOE use language consistent with Title 11.** For instance, “The school suspends or expels a student for knowingly being in possession of a firearm in violation of 11 *Del.C.* § 1457A.
- The DDOE proposes to remove the possibility of retroactively removing the “persistently dangerous school” designation to ensure parents and students are consistently aware of when schools are designated as “persistently dangerous”. **The SCPD recommends this change but asks the DDOE to identify whether schools are designated due to the number of unsafe incidents or for failing to comply with reporting requirements.**

- Currently, a student who is the victim of a violent felony while in or on the grounds of a school in which he is enrolled is entitled to choice into a “safe school” in the same school district, including a charter school. DDOE proposes amending this to add the words “and attending”. The proposed language would then require that the student who is a victim of a violent felony while in or on the grounds of a school, be both enrolled *and attending* the school before he is entitled to choice into a “safe school.” **The SCPD recommends the DDOE use consistent language in the Act – “attend” or “enroll” -- and would ask for clarification of how these terms are used.**
- **The SCPD would further ask for the DDOE to include additional reporting on unsafe incidents for student victims with disabilities.**

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

cc: Ms. Marissa Band, Esquire CLASI, DLP
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council