



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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October 21, 2011

Ms. Susan K. Haberstroh
Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 15 DE Reg. 409 [DOE Proposed Teacher Appraisal Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to amend its regulation covering appraisal of teachers published as 15 DE Reg. 409 in the October 1, 2011 issue of the Register of Regulations. SCPD has the following observations.

First, the term "Highly Effective" in §6.2.1 should be in bold print to match the references to "Effective", "Needs Improvement", and "Ineffective". Alternatively, the bold print should be eliminated for the terms "Effective", "Needs Improvement", and "Ineffective" for consistency.

Second, the regulation is inconsistent in characterizing a "passing" score/rating in the student improvement component. Section 6.2.1 identifies an "Exceeds" rating as the official acceptable benchmark in contrast to inconsistent references to a "Satisfactory" rating in §§3.2 and 6.2.2.1 and "Unsatisfactory" rating in §§6.2.3.2, 6.2.4.2, 7.2.1, 7.2.2, 7.2.3, and 8.2.1. Section 2.0 includes a definition of "Satisfactory Component Rating" but no definition of an "Exceeds" rating. SCPD suspects the isolated reference to an "Exceeds" rating is an oversight and the word "Satisfactory" should be substituted.

Third, DOE establishes 5 appraisal components in §5.0: 1) planning and preparation; 2) classroom environment; 3) instruction; 4) professional responsibilities; and 5) student improvement. The last component, student improvement, is new. Teachers are rated in these 5 contexts resulting in an overall classification of highly effective, effective, needs improvement, and ineffective. See §6.0. The classification system could be characterized as "overly generous" or "misleading" in some contexts. For example, a teacher scoring a satisfactory rating in only 3 of 5 components inclusive of student

improvement (60%) is characterized as “effective”. Reasonable persons might view such a characterization as a distortion of the plain meaning of “effective”. Likewise, a teacher scoring a satisfactory rating in only 1 of 5 components inclusive of student improvement (20%) is euphemistically characterized as “needs improvement”. DOE may wish to revisit the qualifications for “effective” and “needs improvement” to more closely align to the plain meaning of the terms.

Fourth, the current DOE regulation contains a chart defining the criteria for a finding of a “pattern of ineffective teaching” (§7.1). This pre-existing chart is “diluted” by a new §7.2 which directs a “disregard” of an unsatisfactory student improvement rating for the 2011-12 school year. The DOE ostensibly balanced competing considerations, i.e. fairness to teachers since “student improvement” was not included in the current regulation versus fairness to students who deserve effective teachers. The attached October 10, 2011 News Journal article provides further background in this context. It indicates that the DOE and teachers union arrived at an agreement to disregard negative student performance scores for the 2011-12 school year. Similarly, §8.2 categorically bars development of a teacher improvement plan for a teacher with an overall “needs improvement” rating if solely based on an unsatisfactory “student improvement” score. However, positive student performance results can be counted to enhance prospects for teachers qualifying for rewards such as retention bonuses. Rather than totally ignoring an unsatisfactory student performance rating, the DOE could at least encourage public schools to affirmatively offer additional training or mentoring to such teachers.

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

Sincerely,



Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Lillian Lowery
Dr. Teri Quinn Gray
Ms. Mary Ann Mieczkowski
Ms. Paula Fontello, Esq.
Ms. Terry Hickey, Esq.
Mr. John Hindman, Esq.
Mr. Charlie Michels
Mr. Brian Hartman, Esq.
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Teacher ratings linked to tests for first time

The state Department of Education and the state's largest union representative for teachers have come to an agreement on how to rate teachers for the current school year.

For the first time, student test score data will be used as one measure for rating teachers in Delaware. This comes one year after the state rolled out a new computer-based assessment for students that helps measure test score growth by requiring students to take the exam several times during the school year. The test score data are part of a five-component ranking system that also takes into account other factors.

Teachers will not face negative consequences for the 2011-12 school year if they score low in the student test score portion of the rating system. That's because the state failed to create a complete system for gathering student achievement data for all teachers. For instance, school auto mechanic vocational teachers or music teachers are untested content areas.

"Teachers have a right to a fair evaluation system, one that makes sense for the job they were hired to do," said Delaware State Education Association President Frederika

Jenner, who also is a teacher. "We know that both parents and teachers want student progress to be determined fairly and reliably, and this year is about continuing to work together to make that happen."

Since there is no test score data available for all educators, the agreement with the DSEA was created as a one-year patch as the state works to complete the major overhaul of its teacher rating system. That will allow test score data to be part of an educator's ranking, but teachers will not be punished if they fail in this area. For teachers who do not have a test linked to their subject area, the state will substitute school-wide scores in that area.

Teachers will, however, be eligible for rewards if they do well in the student data and the other four components. They are eligible for retention bonuses and other financial incentives to transfer to high-needs schools. These rewards are being paid for with a portion of the state's \$119 million Race to the Top grant.

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Delaware, along with several other states, promised to make major changes in teacher ratings systems in return for federal grants under Race to the Top. The state earned the grant based, in part, on its ambitious goals for rating teachers.

A new state law requires that those who began teaching after the 2009-10 school year have at least two years of satisfactory ratings in three years under student test score performance to be afforded special due-process rules that affect how a union teacher can be fired. However, because the state failed to create a test score component for every teacher, this provision will not go into effect this year.

Should Delaware fail to create the system it promised in the Race to the Top grant application, the federal government has threatened to withhold \$13.8 million of the state's grant, according to a U.S. Department of Education letter sent in July approving the state's one-year delay in using student data to rate teachers. The federal government made this threat as a condition for allowing the state to roll out a modified teacher rating system this school year.

"They gave us the extension, but it's an exception with consequences for failure," said Dan Cruce, deputy secretary for the state Department of Education.

To help the state come up with a way to include student data for currently untested subject areas, the state Department of Education has been meeting with groups of educators. About 250 teachers were part

of a group that met last week. The state Department of Education hired Diane Donohue, the outgoing president of the teachers union, to help oversee this work.

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