



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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December 1, 2012

Mr. Charlie Michels, Executive Director
Professional Standards Board
Townsend Building
401 Federal Street
Dover, DE 19901

RE: 16 DE Reg. 489 [DOE Proposed Teacher of Students with Autism/Severe Disabilities Regulation]

Dear Mr. Michels:

The State Council for Persons with Disabilities (SCPD) has reviewed the Professional Standards Board's [in collaboration with the Department of Education (DOE)] proposal to adopt a wholly revised certification regulation entitled "Teacher of Students with Autism or Severe Disabilities" codified at 14 DE Admin Code 1573. The proposed regulation was published as 16 DE Reg. 489 in the November 1, 2012 issue of the Register of Regulations. SCPD has the following observations.

First, in §2.2, the definitions of "autism", "intellectual disability", and "severe intellectual disability" merit revision based on the following:

A. The multiple references to Subparts A and D make no sense. These subparts do not appear in the cited regulations.

B. The definitions are imprecise and confusing. For example, reciting that "autism" means a disability as defined in 14 DE Admin Code 922 and 925 literally means autism includes any and all disability classifications (e.g. ED; LD; PI). The same deficiency applies to the definitions of "intellectual disability" and "severe intellectual disability". For an alternate approach, see 14 DE Admin Code 608, §1.0, definitions of "crime", "terroristic threatening", and "violent felony". Based on the latter analogy, it would be preferable to consider the following amendments:

"Autism" shall have the same meaning as provided in 14 DE Admin Code 922, §3.0 and 14 DE Admin Code 925, §6.6.

"Intellectual disability" shall have the same meaning as provided in 14 DE Admin Code 922, §3.0 and 14 DE Admin Code 925, §6.12.

"Severe intellectual disability" shall have the same meaning as provided in 14 DE Admin Code 925, §6.12.

Second, the regulation substitutes "severe intellectual disability" for the current term, "severe disabilities" or "severe developmental disabilities". See superseded version at 490-491. There were no definitions of these terms in the regulation. The latter terms would not be limited to "mental retardation" or "intellectual disability". It is unclear if the terms "severe disabilities" and "severe developmental disabilities" were

interpreted, in practice, to only cover children with severe mental retardation/severe intellectual disability, i.e. those with an I.Q. of 35 or less. For example, does the current regulation also cover children with moderate intellectual disability (formerly moderate mental retardation)? The bottom line is that the regulation may be adopting narrower criteria which merits substantive analysis rather than simply viewing the language change as benign and non-substantive.

Third, there is some tension between the proposed regulation and 14 DE Admin Code 922, §3.0, definition of “highly qualified special education teachers”, Par. 2.0. The latter regulation restricts “highly qualified” teachers to those with “State certification as a special education teacher”. Literally, this would be limited to educators certified under the special education teacher standard, 14 DE Admin Code 1571, to the exclusion of teachers certified under 14 DE Admin Code 1573-1575. The DOE may wish to consider amending Part 1571 for consistency.

Fourth, SCPD endorses the addition of “APA” coursework (§4.1.2.1.4).

Fifth, SCPD would like to inquire about the application of the “Teacher of Students with Autism or Severe Disabilities” certification. As a practical matter, SCPD could not identify in which contexts the certification would be required. There are some general regulatory references to qualified teachers (14 DE Admin Code 923, §56.0; 14 DE Admin Code 922, §3.0, definition of “highly qualified special education teachers”), but Council could not locate any standards which definitively address when a teacher would require this particular certification.

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

Sincerely,



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

cc: The Honorable Mark T. Murphy
Dr. Teri Quinn Gray
Ms. Mary Ann Mieczkowski
Ms. Paula Fontello, Esq.
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Developmental Disabilities Council
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