



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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June 24, 2013

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

RE: 16 DE Reg. 1245 [Proposed Specialist Appraisal Process Revision Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to revise its specialist appraisal standards effective with the 2013-14 school year. The proposed regulation was published as 16 DE Reg. 1245 in the June 1, 2013 issue of the Register of Regulations. SCPD has the following observations.

A. "Weakening" of Appraisal Process

SCPD and GACEC have previously criticized the DOE's specialist appraisal process as "overly generous" or "misleading". See e.g., the attached October 21, 2011 SCPD letter which shared the following concerns:

Third, DOE establishes five appraisal components in §5.0: 1) planning and preparation; 2) professional practice and delivery of services; 3) professional collaboration and consultation; 4) professional responsibilities; and 5) student improvement. Unlike the teacher appraisal regulation, these five components are included in the current regulation last revised in May of 2010. Specialists are rated in these five 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 specialist scoring a satisfactory rating in only three of the five 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 specialist scoring a satisfactory rating in only one of the five 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.

Unfortunately, the DOE’s proposed regulation further dilutes the already “overly generous” specialist appraisal standards. The following are examples.

1. The current regulation (§5.1) contains four (4) appraisal contexts apart from student achievement: 1) planning and preparation; 2) professional practice and delivery of services; 3) professional collaboration and consultation; and 4) professional responsibilities. There are a total of eighteen (18) subparts under these four (4) appraisal contexts. Under the proposed regulation, districts and charter schools are authorized to “waive” one subpart under each of the four (4) appraisal contexts. No permission is needed, i.e., the district or charter school simply notifies DOE of its decision in August. This results in the option to disregard 22% (4/18) of appraisal components, including the following ostensibly important measures:

5.1.2.3. Communicating Clearly and Accurately: Verbal and written communication is clear and appropriate to students’ or clients’ ages, backgrounds, needs, or levels of understanding. (Optional)

5.1.1.2. Demonstrating Knowledge of Best Practice and Models of Delivery: Specialist uses practices and models of delivery that are aligned with local and national standards. (Optional)

5.1.4.2. Recording student data in a Record System: Specialist keeps student or client records relevant to their services and shares information with appropriate school personnel. (Optional)

Since each district and charter school can waive different components, valid comparisons of data among districts and charter schools are not possible. Each district and charter school will be using different criteria.

2. DOE proposes to reduce the number of “observations” of novice specialists. Currently, three (3) observations (2 announced; 1 unannounced) are required. See §3.4. This is reduced to two (2) observations (1 announced; 1 unannounced) in the proposed regulation.

3. The DOE proposes to no longer require improvement plans for specialists with an “unsatisfactory” rating during an observation. Such improvement plans will be optional:

8.1.1. An Improvement Plan ~~shall~~ may be developed if a specialist’s overall performance during an observation is unsatisfactory. This unsatisfactory performance ~~shall~~ may be noted by the evaluator ~~on the Formative Feedback form~~ Evaluator on the required forms by noting “PERFORMANCE IS UNSATISFACTORY” and initialing the statement.

B. Unannounced Observations

One proposed change in the standards merits endorsement. The revised standards contemplate more “unannounced” versus “announced” observations of specialists who have earned a rating of “highly effective” or “effective”. See §§3.1 and 3.4. This should result in enhancing the validity and reliability of assessments for such specialists.

C. Miscellaneous

The word “evaluator” in §8.4, second sentence, should be capitalized.

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 Jack A. Markell
The Honorable Matthew Denn
The Honorable Mark Murphy
Dr. Teri Quinn Gray
Ms. Mary Ann Mieczkowski
Ms. Paula Fontello, Esq.
Ms. Terry Hickey, Esq.
Ms. Ilona Kirshon, Esq.
House Education Committee
Senate Education Committee
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
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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. 417 [DOE Proposed Specialist 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 specialists published as 15 DE Reg. 417 in the October 1, 2011 issue of the Register of Regulations. SCPD has the following observations.

First, 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.

Second, SCPD recommends that DOE consider deletion of the many references to "client" in §5.0. The word "student" is used throughout the regulation and the reference to "client" is ostensibly extraneous. Specialists will not be serving clients apart from students.

Third, DOE establishes 5 appraisal components in §5.0: 1) planning and preparation; 2) professional practice and delivery of services; 3) professional collaboration and consultation; 4) professional responsibilities; and 5) student improvement. Unlike the teacher appraisal regulation, these 5 components are included in the current regulation last revised in May of 2010. Specialists 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 specialist 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 specialist 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 practice” (§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 rationale for “disregard” is not provided. Since the student improvement standard has been included in the regulation since at least May of 2010, specialists have been on notice that student improvement would be part of their evaluation. Similarly, §8.2 categorically bars development of an improvement plan for a specialist with an overall “needs improvement” rating if solely based on an unsatisfactory “student improvement” score. SCPD recommends deletion of §§7.2 and 8.2. Alternatively, 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 specialists.

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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