



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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February 26, 2015

Ms. Tina Shockley, Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 18 DE Reg. 616 [DOE Proposed Gifted or Talented Education Plan Regulation]

Dear Ms. Shockley:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to adopt a *Gifted or Talented Education Plan* regulation. The proposed regulation was published as 18 DE Reg. 616 in the February 1, 2015 issue of the Register of Regulations. SCPD has the following observations.

There is little statutory law concerning programs for gifted or talented students. Title 14 Del.C. §3101(6) defines the qualifications for a "gifted or talented child". Title 14 Del.C. §3126 contains a one-sentence authorization for the DOE to issue regulations defining program standards:

§3126 Rules and regulations.

The extent of programs and facilities provided for children determined to be gifted or talented shall be in accordance with the rules and regulations of the Department as approved by the State Board of Education.

The Department is now proposing to require each district and charter school to develop and maintain a "Gifted or Talented Education Plan". Initial plans would be submitted to the Department by July 15, 2015 for implementation no later than the 2015-16 school year. Districts and charter schools could request an extension for implementation to occur no later than the 2016-17 school year.

SCPD has the following observations.

First, the Department may wish to reconsider the July 15, 2015 deadline for submission of the initial plan. The earliest the regulation could become “final” is April 1, 2015. This would provide districts and charter schools with only 2 ½ months to obtain input from stakeholder groups (including parents) [§3.2] and develop a final plan. Schools would not even be “open” during the latter part of this period. If districts and charter schools are “rushed” into submission of plans, plan content may suffer.

Second, §3.1.3 is problematic. It requires “each teacher assigned to teach gifted or talented students to be certified in gifted and talented education”. This is “overbroad”. A student who is gifted in psychomotor ability or the performing arts may not need a certified gifted or talented teacher for academics. Literally, a “gifted or talented child” could not take a world language course unless the foreign language or ASL instructor was certified in gifted or talented education. If a student were gifted in “psychomotor ability”, the student’s coaches and physical education instructors would have to be certified in gifted or talented education.

Third, in §3.1.8, the term “Gifted or Talented Education” should be deleted. The term “Plan” should suffice. See definition of “Gifted or Talented Education Plan (Plan)” and compare references to “Plan” in §§3.1, 3.2, 3.3, and 3.4.

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 Murphy, Secretary of Education
Mr. Chris Kenton, Professional Standards Board
Dr. Teri Quinn Gray, State Board of Education
Ms. Mary Ann Mieczkowski, Department of Education
Ms. Paula Fontello, Esq., Department of Justice
Ms. Terry Hickey, Esq., Department of Justice
Ms. Ilona Kirshon, Esq., Department of Justice
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor’s Advisory Council for Exceptional Citizens

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