



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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April 29, 2015

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

RE: 18 DE Reg. 759 [DOE Proposed School Transportation Regulation]

Dear Ms. Shockley:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to amend its regulation covering school transportation. The proposed regulation was published as 18 DE Reg. 759 in the April 1, 2015 issue of the Register of Regulations. The synopsis indicates that the amendments are prompted by changes in the Delaware Code in the following contexts: 1) maximum age of school bus; 2) criminal background checks for drivers and aides; 3) in-service training for drivers and aides; 4) annual physical for school bus aides; and 5) district disbursements. SCPD has the following observations.

First, it is difficult to determine which standards apply to charter schools. For example, §2.1 indicates that charter schools and districts are responsible for implementing a list of responsibilities. However, the list in some cases literally only applies to districts. See, e.g., §§2.1.7, 2.1.8, 2.1.13, 2.1.17. Criminal background checks and/or in-service training are ostensibly not required for charter school bus aides (§§2.1.8, 7.1.2.2, 7.1.3, 7.1.5, 7.1.6, 7.1.7, and 7.2.) This conflicts with 14 DE Admin Code 745.3.1. Criminal background checks are ostensibly not required for charter school bus drivers (§§6.8.4 and 6.8.6). This also conflicts with 14 DE Admin Code 745.3.1. Safety standards (§9.1) do not apply to charter schools. Transportation benefit standards sometimes only refer to districts (§§11.1, 11.3, 11.6.1) and sometimes include charter schools (§§11.9, 12.2.1.1, and 12.6.2). Standards requiring bi-annual reinspections by DMV do not apply to charter school buses (§21.0).

Second, there is some tension between §§5.3.2 and 5.5.2. The former requires new applicants for CDSBD trainers to "not have more than three (3) points in the past three years". The latter requires renewing CDSBD trainers to have "no more than three (3) points on their driving record". Thus, the standard for recertification is more liberal than

the standard for initial qualification. It is possible that this is intentional, but the DOE may wish to evaluate the justification for maintaining different standards.

Third, the regulation periodically capitalizes “district”. See, e.g., §§6.8.6 and 9.1. The DOE may wish to review the regulation to ensure uniformity in references.

Fourth, the grammar in §7.1.2.2 is incorrect. In the first sentence, consider deleting “be sent”.

Fifth, the regulation is inconsistent in sometimes authorizing supports based on an IEP or Section 504 plan and sometimes only authorizing supports based on an IEP (excluding a Section 504 plan). Compare §§9.16, 17.1.7, and 22.1. Transportation is a related service under Section 504 and includes transportation to and from residential programs. See 34 C.F.R. §§104.33(c).

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
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