



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Margaret M. O'Neill Bldg., Suite 1, Room 311
410 Federal Street
Dover, Delaware 19901
302-739-3621

The Honorable John Carney
Governor

John McNeal
SCPD Director

February 21, 2017

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

RE: 20 DE Reg. 602 [Proposed Unit Count Regulation (2/1/17)]

Dear Ms. Shockley:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposed regulation to readopt its current unit count regulation with no changes. The proposed regulation was published as 20 DE Reg. 602 in the February 1, 2017 issue of the Register of Regulations.

SCPD has the following observations.

At 602.

First, the DOE indicates that public comment was already received on this regulation:

Public comment was received for this regulation in which the Department of Education was asked to include language that provides more control over how local education agencies use the units they receive. The Department cannot mandate the requested change. Therefore, the regulation is being readopted in its current form.

At 602.

This is an "odd" recital since the regulation has not been published with a solicitation for comments since 2011. See attachment.

Second, the SCPD commented on the same regulation in 2011. The Council endorsed it at that time. See 15 DE Reg. 68 (7-1/11) (final) and attached May 31, 2011 SCPD letter. However, current review has revealed a few contexts in which revision may be warranted as follows.

A. Section 2.3 recites that “(s)tudents not assigned to a specific grade shall be reported in a grade appropriate for their age or their instructional level for purposes of the unit count.” I recommend striking “or their instructional level”. For example, if a student in a special school (e.g. Leach; Ennis) is functioning several years below age expectations, the student could be reported as a much younger student. A high-school age student could therefore be reported as an elementary level student. Moreover, given the disjunctive “or”, schools have the option of reporting based on age or instructional level. This will result in lack of uniformity in statistics. It would simply be preferable to report a student not assigned to a specific grade based on age.

B. Section 4.1.7 addresses pre-kindergarten children. The reference to “7.1” should be revised since there is no §7.1 in the regulation. I suspect the reference should be to “7.0”.

C. Section 4.1.5 allows a district or charter school to include students in the unit count if temporarily in Stevenson House or the NCC Detention Center if expected to return to school prior to November 1. The DOE may wish to consider adding an analogous reference covering 18-21 year old students in Department of Correction pre-trial settings.

D. The regulation does not appear to address the operation of the unit count for the adult prison population. The DOE is responsible for provision of special education to students in prison. Cf. 14 DE Admin Code 923.75 I assume such services would be funded in part through qualifying unit count funds.

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

Sincerely,



Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Steven Godowsky, Ed.D, 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. Laura Makransky, Esq., Department of Justice
Ms. Terry Hickey, Esq., Department of Justice
Ms. Valerie Dunkle, Esq., Department of Justice
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor’s Advisory Council for Exceptional Citizens

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May 31, 2011

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

RE: 14 DE Reg. 1161 [DOE Prop. Unit Count Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to adopt some discrete amendments to its unit count standards based on the enactment of H.B. 1 in February 2011. In addition, the DOE proposes to delete a reference to a repealed regulation. The proposed regulation was published as 14 DE Reg. 1161 in the May 1, 2011 issue of the Register of Regulations.

SCPD endorses the proposed regulation.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position 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. Martha Toomey
Ms. Paula Fontello, Esq.
Ms. Terry Hickey, Esq.
Mr. John Hindman, Esq.
Mr. Charlie Michels
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens

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