



# DISABILITIES LAW PROGRAM

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**To: John McNeal, Daniese McMullin-Powell, Pat Maichle, Wendy Strauss**

**From: Laura Waterland, Disabilities Law Program, CLASI**

**Date: 3/13/2018**

**Re: Proposed Regulation regarding school resource officers**

Wendy Strauss asked DLP to evaluate a DDOE proposed regulation to implement HB 142 (12 Del code 4112F (d)(1) regarding training for School Resource Officers (“SROs”). HB 142’s effective date is 7/1/2018. The legislation is an attempt to improve training of SROs to prepare them for their interactions with students with disabilities. This will hopefully lead to better interactions within the school and help address the trend toward criminalization of student behavior that can often be a manifestation of disability (the school to prison pipeline).

The proposed language regurgitates the language in the statute and does not add to or expound upon the content of any required training. The rationale given is that the statute is “prescriptive.” The regulation requires, in general terms:

1. Annual awareness level training of SROs:
  - a. Consistent with what required of other school personnel of disabilities awareness and behaviors;
  - b. [including] best practices for de-escalation techniques;
  - c. [including] information on intervention decisions and techniques;
  - d. [including] such other training as is necessary to protect health and safety of students which shall include basic awareness training specific to IEPs, FBAs and Behavior support plans.
2. The SRO is required to participate in state police annual SRO “refresher “ in service training or equivalent.
3. The training is to include a cross reference to the duties and responsibilities of SROs highlighted in the respective MOU between district and police agency.
4. At the beginning of each school year or within 30 days thereof, the SRO will meet with school representative of the assigned building to become familiarized with behaviors related to disabilities that may occur in the school and typical responsive actions.

The legislation contemplates the issuance of regulations, in coordination with GACEC, that among other things covers “other training as is necessary to protect the health and well-

being of students with disabilities.” §4112F(d)(1)(d). The regulations do not necessarily have to be limited to rehashing what the statute requires. GACEC and others may wish to flesh out some of the other trainings that are necessary to protect health and safety, such as hands on training in appropriate de-escalation techniques and restraints and more specificity regarding timelines and content.

I have the following specific observations that Councils may wish to share with the DOE:

1. Add a durational requirement; the disability-specific training should be at least 8 hours, perhaps ( and not 30 minutes)
2. Flesh out what “awareness level training” means. I believe this is a “term of art” in first responder training; it would be helpful to know what it actually means. Is it basic familiarity or working knowledge? (9.1 )
3. Articulate with more specificity the type of training referred to in 9.1.1. Is there a training module for teachers and administrators?
4. Specify that SRO training will incorporate hands- on training in de-escalation techniques.(9.1.2)
5. Require that the school provide current information on intervention decisions and techniques that are to be used with specific students. (9.1.3)
6. Clarify that SROs get training on specific IEPs and behavior plans that are in place for students that they may encounter in their schools or at least the full range of interventions that are currently in place in IEPs for students they may encounter. (9.1.4)
7. Use of word “refresher” course in 9.1.5 suggests that SROs are not required to attend any beginners or initial training that may be available. The word refresher is not in the statute. (9.1.5)
8. Require that SROs be updated not only at the beginning of the year but also when new students with IEPs start school throughout the year or when IEPs change throughout the year and the changes are relevant to behavioral interventions. (9.3)

8.1.3 The request shall include a written authorization signed by the parent agreeing to the issuance of a waiver on the prohibition of the use of mechanical restraints or seclusion for that student and a signed written consent for release of information to the Department and the waiver review committee.

8.1.4 All privileged documentation shall be maintained confidentially by the Department and the waiver review committee to the extent permitted by law.

8.2 All requests shall be considered by a waiver review committee appointed by the Secretary. A decision by the waiver review committee shall be rendered no later than (60) sixty calendar days of receipt of the waiver request.

8.3 The committee shall make a written recommendation to the Secretary, which shall include:

8.3.1 A summary of the compelling justification based on the documentation submitted in support of the waiver requested;

8.3.2 Recommendations to include any specific conditions and safeguards, and a brief statement of the reasons therefore;

8.3.3 A requirement that, where a waiver is issued, there be continual visual monitoring, parental notice of each use of mechanical restraint or seclusion, and collection of data to include the number of times the student was subject to mechanical restraint or seclusion, the duration of each mechanical restraint or seclusion, and any other data as required by the Department;

8.3.4 A statement as to the duration of the waiver, not to exceed a period of one calendar year.

8.4 The Secretary shall consider the entire record of the case and the committee's recommendations in reaching a final decision. The Secretary's decision shall be issued in writing and mailed to the applicant and the parent by certified mail no later than ten (10) calendar days from receipt of the recommendation of the waiver review committee.

8.5 The Secretary's decision shall be final.

## **9.0 School Resource Officer Training**

9.1 School Resource Officers shall annually receive the following awareness level training from the school district or charter school in which they are assigned:

9.1.1 Training which is consistent with that which is required of other public school personnel for disability awareness and behaviors that may manifest as a result of disabilities;

9.1.2 Best practices for de-escalation techniques utilized in the school setting;

9.1.3 Information on the intervention decisions and techniques used by school personnel within the school setting;

9.1.4 Such other training as is necessary to protect the health and well-being of students with disabilities which shall include basic awareness training specific to Individualized Education Programs (IEP), functional behavior assessments and Behavior Support Plans;

9.1.5 School Resource Officer shall participate in the annual SRO refresher in service training provided by the Delaware State Police or equivalent training provided by the police agency employing the SRO.

9.2 The training outline in this regulation shall include reference to how it relates to the duties and responsibilities of a School Resource Officer (SRO) as outlined in the Memorandum of Agreement between the school district or charter school and the police agency employing the SRO as required under Regulation 601.

9.3 Prior to the start of each school year, or as soon as practical, but no later than 30 calendar days after the first student day of school, an SRO shall meet with a representative of each school building in which they are assigned in order to be familiarized with behaviors related to disabilities that may occur in the school and typical responsive actions that may be taken by school personnel in that school:

9.4 Nothing within this regulation or contained within 14 Del C §4112 F shall be interpreted as creating any additional restrictions on the sworn authority of law enforcement officers or their ability to carry out their required sworn duty.

18 DE Reg. 130 (08/01/14)