

**GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS**

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Tina Shockley  
Education Associate – Policy Advisor  
Department of Education  
401 Federal Street, Suite 2  
Dover, DE 19901

**RE: 18 DE Reg. 280 [DOE Proposed Extended School Year (ESY) Services Regulation (October 1, 2014)]**

Dear Ms. Shockley:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Department of Education (DOE) proposal to amend its extended school year (ESY) regulation in order to implement Senate Bill No. 229. Senate Bill No. 229 amended Title 14 Del.C. §3110 by adding the following mandate:

(e) With respect to any child with a disability who is not beginning to read by age seven, each IEP prepared for such student until that student is beginning to read shall (a) enumerate the specific, evidence-based interventions that are being provided to that student to address the student's inability to read, and (b) provide for evidence-based interventions through extended school year services during the summer absent a specific explanation in the IEP as to why such services are inappropriate.

An August 26, 2014 News Journal article offers the following perspective on the new law from its co-author, the Lieutenant Governor:

*This fall, a new law that helps elementary school students with disabilities will also take effect. The law, which I was proud to help author, helps elementary school students with disabilities who have reached age 7 but have not yet started to read. We know reading is critical to every facet of student success, but many of the students we wrote this law for*

*have dyslexia or other diagnosable conditions that make it harder for them to decode written texts. There are evidence-based programs that have proven very successful at helping young students with decoding-related disabilities learn to read, but not all of our schools are providing young students with prompt access to these programs.*

*Under the newly enacted state law, every Individualized Education Plan for a student with a disability - who is not reading by age 7 - must state the specific, evidence-based interventions that are being provided to that student to address his or her reading skills. Just as importantly, each IEP for such students must provide for extra reading help over the summer, unless the IEP team explains why such help is not appropriate.*

*I encourage parents of students with disabilities who are not reading by age 7 to take full advantage of this new law. Ask for an IEP meeting if one is not already scheduled, and at that meeting, ask: "What are the evidence-based interventions that you are using to help my child learn to read," "What is the evidence supporting this program" and "What summer interventions will we be using to help my child learn to read?" ...*

In pertinent part, the DOE proposes to implement the new law with the following regulation:

6.5.4 Reading acquisition: For a child who is not beginning to read by age seven, or who is beyond age seven and not yet beginning to read, the team should determine whether, without extended school year services, appropriate and meaningful progress on IEP goal(s) related to reading will not be achieved.

The regulation represents a reluctant, weak attempt to fulfill the statute. First, while the statute creates a presumption that ESY will be offered to a non-reading student, the regulation simply promotes some vague consideration of ESY when reviewing progress on reading goals. Second, the regulation omits the requirement that the ESY interventions be "evidence-based" and targeted to reading. Third, the regulation omits the requirement that declining to include ESY in the IEP is disallowed unless the team includes "a specific explanation in the IEP as to why such services are inappropriate."

Council recommends adoption of the following substitute regulation:

6.5.4 Reading acquisition: For a child who is not beginning to read by age seven, or who is beyond age seven and not yet beginning to read, the team shall presumptively include extended school year services in the IEP which incorporate evidence-based interventions that address the child's inability to read. The team may decline to include such extended school year services in the IEP only if the team provides a specific explanation in the IEP why such services are inappropriate.

This version of the regulation is consistent with both the letter and spirit of the enabling legislation.

Thank you for your consideration of our comments and recommendations. We look forward to our continuing collaboration on the implementation of Senate Bill No. 229. Please contact me or



Wendy Strauss at the GACEC office if you have any questions on our observations.

Sincerely,



Robert D. Overmiller  
Chairperson

RDO:kpc

CC: The Honorable Matthew Denn, Lt. Governor  
The Honorable Mark Murphy, Secretary of Education  
The Honorable Nicole Poore, Delaware Senate  
The Honorable Bethany Hall-Long, Delaware Senate  
The Honorable Valerie Longhurst, Delaware House of Representatives  
The Honorable Quinton Johnson, Delaware House of Representatives  
The Honorable Michael Ramone, Delaware House of Representatives  
The Honorable Melanie Smith, Delaware House of Representatives  
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