

February 15, 2017

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

RE: 20 DE Reg. 602/14 DE Admin. Code 701 [DOE Proposed Unit Count Regulation (February 1, 2017)]

Dear Ms. Shockley:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Department of Education (DOE) proposal to re-adopt its current unit count regulation with no changes. At 602. The GACEC would like to share the following observations.

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 unusual recital since the regulation has not been published with a solicitation for comments since 2011. See attachment.

Second, the GACEC commented on the unit count regulation in 2011. The Councils endorsed the proposed regulation at that time. See 15 DE Reg. 68 (7-1/11) (final) and attached May 18, 2011 GACEC letter. However, our 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.” Council recommends 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. Furthermore, 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 be preferable to simply 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. Council suspects 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 New Castle County (NCC) Detention Center if expected to return to school prior to November 1. The DOE may wish to consider adding a similar 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 Council can only assume that such services would be funded in part through qualifying unit count funds.

Thank you for the opportunity to share our observations with you. Please contact me or Wendy Strauss at the GACEC office if you have any questions on our comments.

Sincerely,

Dafne A. Carnright
Chairperson

DAC:kpc

CC: The Honorable Susan Bunting, Secretary of Education
Dr. Teri Quinn Gray, State Board of Education
Mr. Chris Kenton, Professional Standards Board
Mary Ann Mieczkowski, Department of Education
Matthew Korobkin, Department of Education
Terry Hickey, Esq.
Valerie Dunkle, Esq.

Attachments