



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: June 6, 2017

TO: The Honorable Members of the Delaware General Assembly

FROM: Dafne A. Carnright, Chairperson
GACEC

RE: **Senate Bill No. 85 (Student Discipline)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed Senate Bill No. 85 which was designed to encourage public schools to reduce disproportionate discipline of certain subpopulations and to compile and publish discipline data. The preamble touts the benefits of non-punitive disciplinary responses consistent with restorative justice practices (lines 1-9). The Department of Education (DOE) would publish a report based on data from three consecutive school years covering various forms of discipline imposed on students by individual schools (lines 40-46). Schools whose data exceeds certain thresholds would develop and implement a remedial plan (lines 47-61). Based on a DOE annual data report, public schools whose data on suspensions exceed certain thresholds would be required to take certain remedial action (lines 79-90). Council would like to share the following observations.

First, there is a typographical error on line 34. It should include a strike-out of "activity; and". Compare prior Senate Bill No. 239 at line 29.

Second, the legislation defines "disruptive behavior" at lines 17-19. Schools are then invited to adopt a broader definition ("further define") of "disruptive behavior". This is dysfunctional. It makes little sense to adopt a statutory definition and then invite schools to adopt an assortment of non-conforming, amplifying definitions. It is also inconsistent with the public policy embedded in House Bill No. 42, adopted in 2011, which instructed the Department of Education to adopt "uniform definitions for student conduct" related to student discipline. Consider the following alternate remedial amendments to lines 35-36:

(2) ~~Further define and/or or~~ Provide interpretive guidance or examples of ‘disruptive behavior’ set forth in paragraph (a)(2) of this section.

OR

(2) ~~Further define and/or or~~ Provide an explanation or examples of ‘disruptive behavior’ set forth in paragraph (a)(2) of this section.

Third, unless repeal of current §702 is intended, the sponsors may wish to include a provision which explicitly recites that current §702 is redesignated as §703. The reference to §703 in line 29 suggests that redesignation is desired.

Fourth, although the legislation is apparently intended to collect data based on “the subgroups of students categorized as those with disabilities” [lines 23-24 and synopsis (Par. “(2)”], these subgroups are omitted from those subject to disaggregated data collection (lines 44-46). This is a major oversight. The term “disability classification” could be inserted in lines 45-46.

Fifth, the synopsis recites that schools are expected to “first collect and publicly report disaggregated student discipline data, and solicit feedback from students, staff, families, and community representatives.” In contrast, the bill omits the concept of soliciting input from students, staff, and community representatives (lines 47-56 and 79-90). Plans and strategies are apparently developed exclusively by public school personnel. The following amendments could be considered:

A. Amend line 49 as follows: “...submit a plan, developed with input from student, parent, and community stakeholders, identifying the strategies...”

B. Amend line 83 as follows: “(2) After soliciting input from student, parent, and community stakeholders, fincorporate strategies to promote greater fairness and equity in discipline.”

OR

Amend line 83 as follows: “(2) After consultation with student, parent, and community stakeholders, fincorporate strategies to promote greater fairness and equity in discipline.”

Sixth, since certain disability classifications (e.g. emotional disability; traumatic brain injury; other health impairment) are correlated with significantly higher suspension rates, using global data for all students with disabilities (lines 74-75) will likely conceal disproportionate suspension. Using a global benchmark is equivalent to “lumping” all racial minorities into one group rather than breaking out data on subgroups with historically disproportionate suspension rates (e.g. Black; Hispanic). The bill could be improved by the following amendment to line 75: “...without disabilities, or the suspension gap between any subgroup of students with disabilities”

by classification and students without disabilities, exceeds any of the following:”

Seventh, Council would like to know what happens to subgroups of less than 100 students. Is the rate mentioned a percentage to be applied to the actual number in each subgroup of students in each school? More clarity on this would be beneficial.

Thank you for your time and consideration of our observations. Please feel free to contact me or Wendy Strauss at the GACEC office should you have any questions.

CC: The Honorable Matthew Denn, Attorney General
Kathleen MacRae, ACLU of Delaware