



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Lookerman St., Dover, DE 19904  
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December 5, 2018

Kelly McDowell  
Office of Child Care Licensing  
Division of Family Services  
Department of Services for Children, Youth and their Families  
3411 Silverside Road, Hagley Building  
Wilmington, DE 19810

**RE: 22 DE Reg. 379 DFS OCCL Proposed DELACARE Regulations for Early Care and Education and School-Age Centers Regulation [(November 1, 2018)]**

Dear Ms. McDowell:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Family Services Office of Child Care Licensing (OCCL) proposal to amend its DELACARE: Regulations for Early Care and Education and School-Age Centers. Council **endorses** the proposed amendments; however, we would like to share the following observations.

First, there are a number of items in the Definitions section that merit a closer look. In the definition of "Conference", a qualifier or definition of the term 'serious' would be helpful. How is this measured? The definition of "Probation" should include a duration requirement. It would be helpful to include information on extension limits in the definition of "Provisional License".

Second, section 4.4 lists the fine for operating a center without a license at "...not more than \$100..." Council feels that this is too low to be an effective deterrent.

Third, there appears to be a typographical error in section 7.3. The last sentence states the following: "...This annual license will be valid for six months." Council believes "provisional"

license is meant here.

Fourth, section 13.2.4.3 states the following: “The licensee pays any costs for this appeal.” It would not be fair to expect the individual who successfully appeals a decision to have to pay court costs and fees.

Fifth, Council notes that there is no mention of the minimum amount of insurance coverage required.

Sixth, in section 20.5 and following, Council would suggest additional information on the term, ‘timeout’. DFS might consider adding a definition in the Definitions section of the regulation.

Seventh, in section 23.1.6, Council would suggest contact information be included in addition to the identities of the governing body members and owners.

Eighth, Council would suggest DFS revisit the requirements listed in the charts in sections 24.4 and 24.5 as the numbers listed lack clarity on the requirements.

Ninth, in section 32.1.20, “Screen time” is not defined. DFS should also consider Assistive Technology when defining ‘screen time’ for staff training purposes.

Tenth, Section 63.0 on Administration of Medication is very important. However, there are a number of concerns in sections 63 and in earlier sections. All of those concerns will be listed here as they all fall under Administration of Medication.

Section 63.6 states that “a licensee may administer medication to a child who has a medical need during child care hours that requires the administration of medication by non-intravenous injection.” This change is an important one that will help ensure that child care centers comply with the ADA by meeting the needs of children who require medication by non-intravenous injection, such as children with diabetes who need insulin. However, OCCL could improve the regulations on medication administration in several ways:

- Child care centers may interpret the language in Subsection 63.6 as meaning that they have discretion over whether or not to administer medication by injection. In order to comply with the Americans with Disabilities Act (ADA), child care centers must provide medications by injections (with the consent of parents and medical providers) unless doing so would cause a fundamental alteration to the program. Thus, as a general rule, child care centers should be administering medications by injections when parents ask them to. OCCL should consider adding a subsection to Section 63.0 that clarifies that medication administration must be part of the reasonable accommodations that child care facilities make in order to provide equal services to children with disabilities.
- OCCL should require licensees to develop and consistently implement a written policy on the administration of medication. The sections on Procedures for Initial Licensure (Section 7.0) and License Renewal (Section 8.0) do not seem to require licensees to submit such plans for approval. However, it seems that policies on medication administration must be included in the parent/guardian handbook (see Subsection 23.1.13). These policies should be written in a way

that makes it clear that the child care center is willing and able to accommodate children with medication needs, including medication by non-intravenous injections. Council also recommends that OCCL require licensees to develop individualized written plans for providing medication to students who need them. The proposed regulations do not currently have such a requirement, but they state that licensees shall ensure that medication is given as prescribed (Subsection 63.3).

- The section on staffing (Section 26.0) should cross-reference Section 63.0 and note that licensees must also ensure that at least one staff member with a valid Administration of Medication certificate is present at all times.
- The section on personnel files (Section 30.0) should note that, if applicable, valid Administration of Medication certificates (as well as certifications for any other trainings concerning medication administration) must be included in the personnel files for each trained staff member.
- The section on field trips and program outings (Section 68.0) makes no mention of meeting the needs of children who require medication while away from the child care center. Licensees must have plans and policies to accommodate children with medication needs on any field trips, and medication administration must not be interrupted when children are on these outings. The regulations should also state that licensees must not require parents/legal guardians to accompany their children on field trips to administer medications.

Eleventh, section 82.2 limits the number of hours staff members may work. Council would suggest additional limitations on the number of double shifts staff may work as well.

Twelfth, Council would suggest DFS revisit the requirements listed in section 87.1.1 as the charts appear to be in conflict.

Thank you for your consideration of our endorsement and comments. Please contact me or Wendy Strauss at the GACEC office if you have any questions on our observations.

Sincerely,

*Ann C Fisher*

Ann C. Fisher  
Chairperson

ACF: kpc