



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
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April 29, 2019

Department of Education
Office of the Secretary
Attn: Regulation Review
401 Federal Street, Suite 2
Dover, DE 19901

RE: 22 DE Reg. 832/14 DE Admin. Code 901 [DOE Proposed Education of Homeless Children and Youth Regulation (April 1, 2019)]

Dear Secretary Bunting:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Department of Education (DOE) proposal to clarify the definition of "homeless children and youths" to comply with changes made to the federal Every Student Succeeds Act (ESSA). The McKinney Vento Homeless Education Assistance Improvement Act, 42 U.S.C § 11431 et seq., (McKinney Act) requires State and Local education agencies to provide certain protections to "homeless children and youths" in order to receive federal funding under the Act. ESSA removed children awaiting foster care from the McKinney Act's definition of "homeless children and youths." The Act also provides a dispute resolution process in the event there is a disagreement about which school a homeless student should attend. Council would like to share the following observations.

First, Council suggests that "Best Interest Meeting" be removed from the definitions section. That term is not used in the proposed amendment. The proposed amendment uses the term "best interest," but based on context, it is referring to the standard by which the placement decision should be made, not a meeting where the decision is made. Council would also suggest the DOE clarify the individuals who would be considered "...certain individuals..." who are to convene to make the determination.

Second, Council would recommend amending the definition of "School of Origin." The proposed amendment defines School of Origin as "the specific public school building that the student attended when permanently housed, the school in which the student was last enrolled before becoming homeless or the next receiving school the student would attend for all feeder schools." The phrases "attended when permanently housed" and "before becoming homeless" have the same meaning. In other words, the school a child "attended when permanently housed" would be the same as "the school in which the student was last enrolled before becoming homeless." The McKinney Act defines School of Origin in relevant part as "the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including preschool." 42 U.S.C. § 11432(g)(3)(I)(i). The

first part of the federal definition contemplates the situation where a child was not homeless and then became homeless. The second part of the definition addresses a situation where the child has always been homeless. The DOE definition of School of Origin could be improved by striking the phrase “before becoming homeless.”

Third, the proposed amendment re-wrote the subsection providing guidance on where a homeless student should be enrolled in the event of a dispute. The current section states that in the event of a dispute, the student will be enrolled in the parent/guardian/relative caregiver/unaccompanied youth’s choice of either the School of Origin or the School of Residence. *See* Section 4.1. The proposed section 4.2 just states in relevant part that “the child or youth shall be immediately enrolled in the school in which enrollment is sought” by the parent/guardian/relative caregiver/unaccompanied youth. The available school placement choices under the McKinney Act are either the School of Origin or the School of Residence. DOE may wish to clarify the available choices in the proposed amendment by stating the child or youth shall be immediately enrolled in either the School of Origin or the School of Residence, whichever is sought by the parent/guardian/relative caregiver/unaccompanied youth.

Fourth, “Local” should be added in front of School District in sections 4.4.1 and 4.4.3.1 to be consistent with the terminology used in section 4.3.

Fifth, in Section 4.5.1 of the proposed amendment, Council recommends the term “Homeless Youth” be changed to “Unaccompanied Youth” to reflect the change in name for this category of students and for consistent use throughout the regulation.

Sixth, in the beginning of section 4.5.7, DOE may wish to add the phrase “or designee” following “Secretary” for consistency.

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

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc

CC: Whitney Sweeney, State Board of Education
Mary Ann Mieczkowski, Department of Education
Jenna Ahner, State Board of Education
Mr. Chris Kenton, Professional Standards Board
Valerie Dunkle, Esq.