



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Lookerman St., Dover, DE 19904
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September 27, 2019

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

RE: 23 DE Reg. 147/14 DE Admin. Code 603 [DOE Proposed Compliance with the Gun Free Schools Act Regulation (September 1, 2019)]

Dear Secretary Bunting:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Department of Education (DOE) proposal to amend 14 DE Admin. Code 603, which requires school districts and charter schools to write and submit to DOE a policy implementing the requirements of 20 U.S.C. § 7961, the federal Gun-Free Schools Act. This regulation also requires school districts to provide DOE with descriptions of firearm and deadly weapon school expulsions. Council supports the proposed changes and would like to share the following observations.

The current version of Section 2.0 reads as follows:

Each school district and charter school requesting assistance under the ESEA shall submit the following to the Delaware Department of Education by June 1 each year, in such form as the Department requires:

2.1 An assurance that its policies comply with this regulation and with 11 Del. C. §1457(j) or its successor statute.

2.2 Descriptions of the expulsions imposed...

DOE proposes to strike the phrase "requesting assistance under the ESEA," and to exclude the requirement that school districts provide an annual assurance that their policies comply with the regulation and 11 *Del. C.* § 1457(j), which is State law on possession of deadly weapons in schools. The proposed amendment adds the current Section 4.0 requirements that school districts have an electronic Gun-Free Schools Act policy on file with DOE and that each school district update its policy within 90 days of changing it.

The Gun-Free Schools Act requires districts seeking Elementary and Secondary Education Act (ESEA) funding from the State to include in their application for funding to the State Education Agency an assurance that they are complying with the Gun-Free Schools Act requirements and a description of any firearm/deadly weapon expulsions. 20 U.S.C. § 7961(d). The State must report the assurance and expulsion information to the United States Secretary of Education. 20 U.S.C. § 7961(e); 20 U.S.C. § 7801(46). It may be that DOE proposes to strike the phrase “requesting assistance under the ESEA” because it wants to require all school districts, regardless of whether they have applied for ESEA funds, to annually report their policies, policy revisions and expulsion information. However, the proposed amendment does not include a requirement that school districts applying for ESEA must make an assurance about their compliance. It may be that DOE intends to obtain these federally mandated assurances from school districts in another way, such as in the school districts’ applications for ESEA funding. However, it is not safe to assume this is the case. Therefore, we would ask how DOE plans to ensure it complies with the federal requirement to collect assurances from the necessary school districts and charter schools.

The proposed amendment leaves Section 3.0 unchanged. Section 3.0 states that this regulation does not change a school district or charter’s obligations under the Individuals with Disabilities Education Act (IDEA). Council appreciates this and considers it extremely important since it is a reminder that students with disabilities who bring firearms/weapons to school are entitled to IDEA procedural protections.

Thank you for the opportunity to share our support of the proposed amendments and 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: The Honorable Susan Bunting, Secretary of Education
Whitney Sweeney, State Board of Education
Mary Ann Mieczkowski, Department of Education
Jenna Ahner, State Board of Education
Valerie Dunkle, Esq.