



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

December 19, 2019

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

RE: 23 DE Reg. 452/14 DE Admin. Code 930 [DOE Final Supportive Instruction (Homebound) Regulation (December 1, 2019)]

Dear Secretary Bunting:

The Governor's Advisory Council for Exceptional Citizens (GACEC) reviewed the Department of Education (DOE) proposed regulation to amend 14 DE Admin. Code 930 in October of 2019. Council supported the proposed regulation and offered a suggestion to expand the categories of medical professionals with the authority to certify that a child has a mental health condition. Council made this recommendation because often these physicians and medical professionals are a child's sole provider. Additionally, accessing specialized mental health services in a timely fashion can be difficult, given the shortage of providers in Delaware. The DOE responded to our comments that "the proposed language has appropriately expanded the medical professionals eligible to certify absences due to a mental illness or mental health condition." Although we recognize that the regulation is now final, we would like to **reiterate** our earlier suggestion to broaden this category.

Furthermore, in the final regulation, DOE provided clarification on supportive instruction provided to preschool students, since some districts provide preschool for non-IEP students. Specifically, the regulation now provides that for students with a disability, "the district shall provide supportive instruction each week of eligibility in an amount recommended by the student's individualized education program (IEP) team." These provisions neglect to address the possibility that preschool students may require accommodations under 504 plans, which may take the form of supportive instruction. This lack of clarity could cause children with disabilities who are protected under Section 504 of the Rehabilitation Act to not have equal access to preschool services. Therefore, Council would like to strongly recommend that the DOE re-publish this regulation for comment, after addressing and providing clarification on this issue.

Thank you for the opportunity to share our reiteration of the concern we pointed out to you earlier and our recommendation to ensure that the needs of preschool students with 504 plans will also be met. 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
Emily Cunningham, Department of Education
Linnea Bradshaw, Professional Standards Board
Jenna Ahner, State Board of Education
Rae Mims, Esq.