

**GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING (ZOOM MEETING)
7:00P.M., May19, 2020
ZOOM MEETING**

MINUTES

MEMBERS PRESENT: Sue Campbell, Al Cavalier, Nancy Cordrey, Cathy Cowin, Matt Denn, Bill Doolittle, Karen Eller, Ann Fisher, Terri Hancharick, Thomas Keeton, Mary Ann Mieczkowski, Beth Mineo, Robert Overmiller, Jennifer Pulcinella, Kimberly Warren and Laura Waterland.

OTHERS PRESENT: Guests: Robin Coventry; Zachary Davis/Center for Disabilities Studies; Shamaine Johnson-Moore; Linda Smith/Delaware Department of Education (DDOE); Meedra Surratte/Parent Information Center

STAFF PRESENT: Wendy Strauss/ Executive Director, Kathie Cherry/Office Manager and Lacie Spence/Administrative Coordinator.

MEMBERS ABSENT: Dafne Carnright, Tika Hartsock and Brenné Shepperson.

Chair Ann Fisher called the general membership meeting to order at 7:02 pm. Ann welcomed everyone to the May general membership meeting. Ann explained that due to the affects of COVID-19 we will be attempting to hold our meetings via Zoom until further notice. Ann reminded members to preregister for meetings and to use the raise hand feature on Zoom if they would like to comment. A **motion was made and approved** to accept the May agenda.

PUBLIC COMMENT

Wendy Strauss spoke about the Rodel Survey that was conducted and stated that they will be conducting another survey geared towards parents. There were 859 responses to the survey which consisted of 49 percent from New Castle County, 26 percent from Kent County, 21 percent from Sussex County, and four percent from out of state. Of those that completed the survey 66 percent were in some way impacted by individuals with disabilities and 69 percent were low income. Wendy stated that the overarching issue is that people including administrators, teachers and parents were unclear of what the expectations were in terms of online/distance learning during the pandemic. Another big issue that people are having is access to wi-fi. Parents are also extremely overwhelmed with having to multi-task to ensure they are fulfilling their duties as an employee in addition to helping their students complete required school work. Some parents have noted that students with disabilities have difficulty with online learning and do better with hard copies of work. Some parents have faced challenges with gaining access to these packets of schoolwork to avoid having to complete assignments online. Wendy encouraged Council to review the survey if they have not already. Any feedback that would help make improvements regarding these issues would be appreciated. Wendy stated that there will be a meeting with Mary Ann Mieczkowski and Secretary Bunting to talk about the CARES Act and review suggestions on how to better reach students, especially students with disabilities. Mary Ann reported that Governor Carney and Secretary Bunting announced three working groups that will plan a safe return to school buildings. The groups will be divided into Health and Wellness, Academics and Equity, and Operations and Services. They will be having a Public Meeting, followed by four to five additional meetings after that. The groups are being asked to develop a framework of essential actions the districts and charters will follow in order to plan a safe return to school. Mary Ann declared that

students with disabilities will be well represented in these working groups. Matt stated that he is hopeful to have a more concrete update by the June GACEC meeting and is eager to hear what these taskforces have been planning. He acknowledges that this is a challenging timeline and stressed the importance of specific guidance from DDOE for districts and charters. Matt explained that this information will be crucial for the GACEC to fulfill our responsibilities.

Ann asked for a **motion to approve** the April minutes. The **motion was approved**. Ann then asked for a **motion to approve** the April financial report. The **motion was approved**.

GUEST SPEAKER

Linda Smith from DOE presented on the Multi-Tiered System of Support (MTSS) and gave an update on the Delaware Positive Behavior Support Project. The power point is attached for your reference.

DOE REPORT

Mary Ann Mieczkowski shared her report. Governor Carney and Secretary Bunting announced Working Groups to plan safe return to school buildings. The working groups will focus on health and wellness, academics and equity, and operations and services
Governor John Carney and Secretary of Education Susan Bunting announced a public strategy on Monday to plan for the safe reopening of Delaware school buildings. Three COVID-19 School Reopening Working Groups will advise the Delaware Department of Education (DDOE), Delaware school districts and charter schools on ways to safely and effectively reopen Delaware school buildings. Last month, Governor Carney closed Delaware public school buildings for the remainder of the 2019-2020 school year due to the threat of COVID-19.

The working groups and their leaders are as follows:

Health and Wellness

- Co-chair: Mike Rodriguez, Associate Secretary, Delaware Department of Education
- Co-chair: Dr. Meghan Walls, Pediatric Psychologist, Nemours/Alfred I. duPont Hospital for Children

Academics and Equity

- Co-chair: Monica Gant, Associate Secretary, Delaware Department of Education
- Co-chair: Ashley Giska, Assistant Superintendent, Laurel School District

Operations and Services

- Co-chair: Chuck Longfellow, Associate Secretary, Delaware Department of Education
- Co-chair: Oliver Gumbs, Director of Business Operations, Cape Henlopen School District

“We’re asking each working group to help the Department develop a framework of essential actions that school district and charter school leaders should take to effectuate a safe return to school,” said Secretary Bunting. “These working groups also will help us reach out to our communities so that the ideas and concerns of Delawareans ground our work. These meetings will be open to the public, and I encourage participation across our state.”

The Delaware Positive Behavior Support Project has expanded typical in-school supports to apply to the current context that so many families face - suddenly becoming full-time stay-at-home and work-at-home parents. Check out our new Family Resources including Supporting Positive Behavior at Home and Supporting Learning at Home. One DE-PBS Project member shared her experience working, parenting, and teaching at home by developing shared family expectations and a simple incentive system to teach new behaviors. Stay tuned and continue to check www.delawarepbs.org and @delawarepbs on Twitter for even more DE-PBS Project updates to support families with positive behavior at home! Virtual Professional Learning opportunities abound, so how do we choose? The DE-PBS Project has developed a practical tool, Identifying Virtual Professional Learning for Staff, for administrators, district MTSS coaches, and others planning or recommending Professional Learning activities to their staff. The document guides users to consider the quality, usability and relevance of the activities to their staff needs, based on the National Implementation Research Network's Hexagon Tool. An example of a completed tool is also available. If you are looking for additional research-based, virtual Professional Learning opportunities, please see the current summary of the DE-PBS Project's research-based online modules to support implementation of MTSS for behavior, social-emotional learning and improved school climate.

CRISIS RESPONSE Webinar: Delaware educators, especially our district/school Crisis Response Team members, are invited to join the DE-PBS Project via Zoom for a webinar titled: Crisis Response During COVID-19: System and Practice Considerations for District & School Crisis Team Members. This webinar will highlight best practice ideas and advice for virtual crisis response, along with an opportunity to connect with others across the state. Please direct questions to Brynn Fallah or Niki Kendall.

- When: Tuesday, May 5, 2020 – 1:00 - 2:30 p.m. · Registration Required: Please register via link by May 4th
- Zoom information to be sent prior. https://delaware.cal.qualtrics.com/jfe/form/SV_3POQHjzCvjNRGfj
- What: Two local educators, Dr. Jon Cooper of Colonial School District and Ms. Amanda Wells of Capital School District, will present best practices to identify and support students in need during the COVID-19 crisis. Breakout opportunities and facilitated discussions will allow participants an opportunity to ask questions, share their own experiences and resources.

The DE School Climate Survey Reports & Resources Now Available:

The DE-PBS Project announces release of revised resources to support review of, and action planning around, school-based climate data reports. The Project encourages participating school administrators and teams to access the Use of the School Climate Data page for the following resources and more:

- 1) directions to access school-level Delaware School Climate data reports via the CoVitality App;
- 2) a video to support review of the survey reports; and
- 3) interpretation worksheets and action plan templates per survey population (e.g. Staff worksheet and action plan template).

As a reminder, the DE-PBS Project offers an online School Climate Module Series. As teams review data and identify areas for growth, research-based professional development (PD) resources can be utilized, based on need. Questions can be directed to Sarah Hearn with the DE-PBS Project.

Ann thanked Mary Ann for her report.

CHAIR REPORT

Ann reminded members to make sure they now preregister before Zoom meetings.

DIRECTOR'S REPORT

Wendy introduced Robin Coventry to update Council on the new DelDHUB website. Wendy wanted Council members to be some of the first to see the website before we start sharing it widely. Wendy stated that the Transition Cadre at DOE gave great feedback on the website. Robin was happy to share that the website is 81 percent compliant with ADA website accessibility. She plans on this percentage to progress even more as improvements are still being made. Robin highlighted many of the new and improved features of the website including enlarged text, a reader and the parent section. The transition timeline was another exciting addition to DelDHUB for parents, teachers and students. Robin encouraged Council to let her know of anyone that may be interested in sharing their story on the site including students, teachers and parents. Robin asked that members please share the website with their friends, families and on social media. Wendy thanked Robin for all of her hard work and dedication. Wendy then advised Council that we would appreciate any feedback or suggestions for the website as well. Wendy reiterated that she will be meeting with MaryAnn and Secretary Bunting regarding the CARES Act and will keep everyone updated. Robert reported that Legislative Hall is going to start meeting virtually, but details are still being worked out. The budget will be the main priority of these meetings. Wendy reported that the 30-year ADA celebration is being planned. Wendy asked Council members to please share if you have any ideas to help with the planning of this event. One idea that has been mentioned is a virtual night at the movies. Wendy thought about posting some of the posters we have collected through the annual Poster Contest each day leading up to the event. Wendy will keep everyone posted on the progress of the planning. Wendy let Council know that they have finally began installing the flooring at George V. Massey station.

COMMITTEE REPORTS

POLICY AND LAW

A **motion was made to approve** the May legal memo. The **motion was approved**. The analysis in the memo included the following:

Proposed DDOE Regulation on Certification for Teachers of Students Who Are Gifted or Talented, 23 Del. Register of Regulations 914 (May 1, 2020)

The Delaware Department of Education (DDOE) proposes to amend 14 Del. Admin. C. 1572, which describes requirements for teachers of students who are gifted or talented standard certificate (hereinafter "Certificate") pursuant to 14 Del. C. §1220. DDOE, in cooperation with the Professional Standards Board (hereinafter "The Board"), is proposing to amend this regulation to clarify language in Section 1.0, add definitions to Section 2.0, clarify the requirements for issuing a Certificate, and adding sections 6.0-9.0 which concern the validity of the Certificate, discipline actions, requests for the Secretary of Education to review applications and, recognizing past certifications, respectively.

Many of the proposed changes are similar to the proposed changes to the regulation governing the Standard Certificate for teachers of students with disabilities, which were published in the Delaware Register of Regulations on April 1, 2020 (23 Del. Register of Regulations 810). As with April's proposed regulations, much of the proposed changes to this Certificate do not warrant much discussion or concern, so they will be mentioned only briefly. Proposed §1572.2 reprints, nearly verbatim, a

number of definitions that are found in 14 Del. Admin. C. §1505. These definitions replace the language which had incorporated the definitions from §1505.

In proposed §1572.3.2, DDOE proposes to include a provision that it will not act on an application under this section if the applicant is under official investigation by any local, state, or national authority with the power to issue educator licenses. It goes on to list alleged conduct where DDOE will not act. It is unclear whether the list describes the only investigations where DDOE will not act, or if they represent examples. Council may wish to recommend DDOE clarify this section.

In proposed §1572.4.1.1, DDOE is proposing to include additional ways in which to satisfy the education requirement to apply for a certificate under this section. Those additional routes include (1) having “[o]btained and currently maintain an Exceptional Needs Specialist certificate in specialty area of gifted and talented education from the National Board for Professional Teaching Standards”; (2) “[s]atisfactorily completed an alternative routes for licensure or certification program to teach gifted or talented students as provided in 14 Del.C. §§1260 – 1266; or [s]atisfactorily completed a Department-approved educator preparation program in gifted or talented education[.]”

Proposed §1572.5 includes requirements for the actual application for the certificate under this section and lists the documentation needed in order for DDOE to process the application. The documentation required includes evidence of obtaining and maintaining the applicable certificate from the National Board for Professional Teaching Standards (if applicable), college transcripts, verification of successful completion of Department-approved professional development (PD) (if applicable), completed and signed experience form (if applicable), official score on the Praxis exam, and any additional documentation required by DDOE. For applicants who have met these requirements and hold a valid and current license or certificate in this area, individuals must also provide the official copy of the certificate and any additional documentation required by the DDOE.

Proposed §1572.7 outlines the disciplinary actions that could befall an educator with a certificate under this section. The proposed language incorporates requirements and actions in other current Delaware law and regulations including 14 Del. Admin. C. §1514 (Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits), 14 Del. C. §1222 (Revocation of a Certificate), and 14 Del. Admin. C. §1515 (Hearing Procedures and Rules).

As with 23 Del. Register of Regulations 810 (April 1, 2020), the two proposed sections which require the most scrutiny and consideration are §1572.6 and §1572.8.

Proposed §1572.6 establishes that an educator with a certificate under this section is not required to renew the certificate as long as their educator’s license is valid and current. For background, an educator’s initial license is valid for four (4) years at which point they can apply for a continuing license which is valid for five (5) years. After five (5) years, the educator can apply to renew their license. That renewal requires a certain number of professional development hours along with other requirements. The purpose of these professional development hours is to ensure that Delaware educators are continuing to learn and develop their practice, just as other professions are required to do.

The Board does not prescribe specific professional development for educators. This is true for educators possessing one of the many standard certifications that are available, including the certification under proposed §1572. The only requirements for professional development, found at 14 Del. Admin. C. §1511.6, are that it should include at least ninety (90) “Clock Hours” which are related to 14 Del. Admin. C. §1597 (Delaware Professional Teaching Standards), 14 Del. Admin. C. § 1590

(Delaware Administrator Standards), or “appropriate specialty organization standards.” Therefore, it is possible that an educator with this certificate will not actually participate in any professional development related to their certification.

Council may wish to recommend that DDOE consider whether including requirements for renewal of this certificate is warranted. For ease, the renewal of this certificate could coincide with the date of renewal for the educator’s license. Proposed requirements for renewal could include activities such as participation in a mandated number of hours (out of the ninety (90) required) of professional development related to this certificate or additional mentoring on top of the current mentoring requirements.

Proposed §1572.8 establishes an additional route to obtaining a certificate under this section. Specifically, it allows DDOE’s Secretary of Education to review and grant certification where the educator does not meet the requirements necessary. This review would be prompted at the request of a local school or school district and would need to be supplemented with documentation showing the educator’s effectiveness.

Proposed §1572.8 mirrors similar language found in 14 Del. C. §1224, which allows the Secretary to “review licensure and certification credentials on an individual basis and to act upon same at the request of the local school district or charter school provided that the local school district or charter school is able to document the effectiveness of the applicant.” The regulations implementing this part, found at 14 Del. Admin. C. §1505.9, use the same language as that found in the proposed regulation. Although proposed §1572.8 is aligned with current regulations concerning standard certificates, DDOE cannot forget that educators of special education students, which includes the gifted and talented population, require Delaware’s most capable educators. Council may wish recommend that DDOE remove proposed §1572.8 or, alternatively, Council may wish to recommend DDOE remove the language allowing for a review by the Secretary where an applicant does not meet the listed requirements.

In conclusion, Council may wish to support the proposed amendment with the included recommendations and suggestions.

Senate Bill 191, Equal Rights Amendment Expansion

Senate Bill 191 (SB 191) is the first leg of a constitutional amendment to add race, color, and national origin to the Article I, §21 of the Delaware Constitution to explicitly declare that protection against discrimination based on race, color, and national origin is one of Delaware's fundamental rights. In January of 2019, the legislature passed an Equal Rights Amendment bill which amended the Delaware Constitution by providing that “Equality of rights under the law shall not be denied or abridged on account of sex.” When Delaware passed the Equal Rights Amendment in 2019, they joined about half of the states across the country that had already passed Equal Rights Amendments to their state constitutions in order to provide protection against discrimination based on sex.

SB 191 would amend Article I, §21 of the Delaware Constitution to say that “Equality of rights under the law shall not be denied or abridged on account of race, color, national origin, or sex.” SB 191 would put Delaware on track to join at least 15 states have added a provision to their state constitution that prohibits the denial or abridgement of equal rights under the law based on race, color, or national origin. Since this is a bill to amend the state constitution, it needs a two-thirds majority in both houses in two separate legislative sessions.

While adding protection to our state constitution for sex, race, color, or national origin is a move in a positive and progressive direction, Council should nevertheless seek to have “disability” added to the Equal Rights Amendment. This could be a longshot but it is something so important that any and all attempts must be made in order to provide Delawareans with disabilities more protection against discrimination. In regards to constitutional equal rights, Delaware Law School Dean, Rod Smolla, has so eloquently stated that “There are specific laws, for example, dealing with discrimination on grounds of disability or age. These statutory civil rights laws, however, do not have the same resiliency or resonance as constitutional protections. Ordinary legislation, whether passed by the United States Congress or the General Assembly of Delaware, may be amended or entirely repealed as majorities come and go.” An unfortunate omission: Delaware's lack of equal protection, Delaware Online, <https://www.delawareonline.com/story/opinion/contributors/2016/06/16/unfortunate-omission-delawares-lack-equal-protection/85833036/> (last visited May 7, 2020). Smolla has further said that “The whole point of a constitutional guarantee is to elevate certain foundational principles above the fray. Constitutional rights exist to insulate core values from the vicissitudes of politics, imbuing certain fundamental rights with higher moral and legal stature.” Id.

In May of 2016, an Equal Rights Amendment bill was proposed in Delaware that included equal protection for those with disabilities. Senate Bill 190, sponsored by Senator Karen Peterson, D-Stanton, would have amended the state constitution by adding, “Equal protection under the law shall not be denied or abridged because of race, sex, age, religion, creed, color, familial status, disability, sexual orientation, gender identity or national origin.” When this amendment was introduced, Senator Peterson said it “would offer stronger, broader protection and serve as a statement that Delaware treats all people equally.” She went on to say that “People with disabilities are routinely denied the right to work, the right to an inclusive education, and the right to live in our communities.” The bill was tabled in June of 2016 due to a lack of support. Since the bill was seeking equal protection for many different classes of people, the lack of support cannot be attributed only to the protection of those with disabilities. Multiple lawmakers had brought up concerns regarding the inclusion of gender identity as a protected class.

Currently, there appears to be only three states that include those with disabilities in their state constitution Equal Rights Amendments. Article I, §2 of the Florida Constitution states that “All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability.” Article I, §3 of the Louisiana Constitution provides that “No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for crime.” Article I, §2 of the Rhode Island Constitution state that “No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws. No otherwise qualified person shall, solely by reason of race, gender or handicap be subject to discrimination by the state, its agents or any person or entity doing business with the state. Nothing in this section shall be construed to grant or secure any right relating to abortion or the funding thereof.”

Since an amendment to the Delaware constitution requires a two-thirds vote in the House and Senate, which must also be approved in two consecutive General Assemblies, passing an Equal Rights Amendment that includes protection for people with disabilities would require strong bipartisan

support and effort. With all of the above in mind, Council should consider supporting the bill, but strenuously advocate for the bill to include people with disabilities as being a protected class who is entitled to equal rights under the Delaware constitution. Council could advocate that Article I, §21 of the Delaware Constitution should be amended to state that “Equality of rights under the law shall not be denied or abridged on account of race, color, national origin, disability, or sex.”

DSAAPD Proposed State Plan on Aging,

https://www.dhss.delaware.gov/dsaapd/files/draft_state_plan_april_2020.pdf.

The Delaware Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) is required by the Older Americans Act of 1965, as amended (OAA), to develop a State Plan on Aging every two to four years. This plan on aging is for the time-period beginning October 1, 2020 through September 30, 2024. The State Plan on Aging functions as DSAAPD’s contract with the Administration for Community Living (ACL). It allows the State of Delaware to receive funding under Titles III and VII of the OAA. Titles III and VII provide for funding for important services for older Delawareans, known as “core” programs, such as: Personal Care, Respite, Adult Day Services, Legal Services Personal Emergency Response Systems, Case Management, Congregate and Home-Delivered Meals, Preventative Care, Adult Protective Services, and Long-Term Care Ombudsman.

The plan appears to be primarily focused on services for the aging population and not services for adults with disabilities that DSAAPD either administers or coordinates. The Plan articulates seven main goals:

Goal 1: Promote excellence in the delivery of core Older Americans Act Programs

Goal 2: Empower older adults, persons with disabilities and their caregivers to be active, engaged and supported in their homes and/or communities of their choice.

Goal 3: Increase the development and implementation of business-related strategies that promote innovation, collaboration, and sustainability of aging and disability network partners.

Goal 4: Expand and leverage alignments with strategic partners to support sustainable integration of discretionary grant programs into Older Americans Act programs.

Goal 5: Promote person-centered planning and participant direction in community-based and long-term care service options.

Goal 6: Promote access to and efficiencies of home and community-based services which enable participants to direct their own care.

Goal 7: Prevent abuse, neglect and exploitation while protecting the rights of older Delawareans and persons with disabilities.

Of particular interest to people with disabilities, we note the following:

In certain areas, there are very few performance goals that actually address expansion or improvement of direct services. Most performance measures relate to training staff, not increasing services or providing measurable outcomes tied to the number of clients served or outcomes.

For example, Objective 2.3 relates to advocating and aligning with efforts to promote accessible and affordable ADA compliant housing options and/or cost- effective home modifications. The only performance measure is that case managers complete housing options training, without any

performance measures related to increasing tenancy supports or having clients actually attain accessible housing.

Likewise, Objective 2.5 is to improve access to and coordination of cognitive resources, but the only performance measure is that case managers attend one cognitive health resource or service related training.

Objective 2.6 is advocating for and supporting transportation plans and innovative mobility options, but the only performance measure is that DSAAPD provides one training for transportation providers and case managers receive training on transportation options.

Objective 5.1 is supporting person-centered service delivery options to better meet the needs of older adults and adults with physical disabilities, but the only performance measure is staff training. There are no Performance measures related to building capacity (strategy 5.1.2) or increasing family caregiver supports and resources (5.1.5)

Goal 6, which is to promote self-directed home and community based care, does not have its own objectives. Performance measures for 6.2, which relates to improved delivery of participant directed services, address respite and legal services program participation which don't appear to further the Objective, or the Goal.

Council may wish to recommend that DSAAPD develop more robust Performance Measures that will show how execution of the State Plan actually leads to improved access to and receipt of services by its constituents.

Updates from April on low income and earned income tax credits

Policy and Law reviewed HB 316 related to a low income tax credit last month. An earned income tax credit bill, HS 1 for HB 80, was introduced in January 2020. There have been earlier incarnations of HB 80.

The bill creates a refundable Delaware state earned income tax credit (EITC). Currently, individuals can access a non-refundable tax credit of 20% of their federal EITC. (30 Del Code §§1117) Many states offer a state EITC as a refundable credit, meaning that the EITC can lead to a tax refund. HB 80 gives taxpayers the option of either taking 4.5% of their federal EITC as a refundable credit or of taking 20% of federal EITC as a non-refundable credit. Maryland offers taxpayers the option of choosing either a smaller refundable credit or a larger non-refundable credit. The effective date of the change is linked to notification by the Secretary of Finance of the "personal income tax release of the Integrated Revenue Administration System.

There is a strong argument that a refundable tax credit has the potential to put more income into the hands of low-income workers. Many low-income families do not owe state income tax and a non-refundable credit is of little value to them. It is worth noting that Governor Carney vetoed a bill that did very similar things, his reasoning being that eliminating the higher rate non-refundable credit would penalize some working families who currently access the credit and that the bill benefited middle income earners over lower income earners. (The research does not suggest that this is true).

HB 316: Delaware Resident Low Income Tax Credit

House Bill 316 (HB 316) seeks to amend Chapter 11, Subchapter II of Title 30 of the Delaware Code relating to Personal Income Tax Credits for Delaware residents by adding §1119, which creates a personal income tax credit for certain low income Delaware residents. The bill was introduced in the

Delaware House of Representatives on March 12, 2020, sponsored by Representatives Yearick and Ramone and Senators Lawson and Wilson, and co-sponsored by Representative Michael Smith. It was subsequently assigned to the House Revenue and Finance Committee where a hearing will be held once the General Assembly is back in session.

The §1119 personal income tax credit would apply to residents who have claimed income between \$18,000 and \$30,000 and would allow for a credit in the amount of \$250 against the tax imposed under Chapter 11 of Title 30. For Delaware resident spouses filing jointly, their claimed income must be between \$36,000 and \$60,000 and are allowed a credit in the amount of \$500.

If Delaware resident spouses file a federal joint tax return, but file separately in Delaware, the rules for a single Delaware resident apply to this tax credit; however, each spouse will only be eligible for the tax credit if he or she meets the income requirements. For example: if Spouse 1 claims more than \$30,000 in income and Spouse 2 claims between \$18,000 and \$30,000, only Spouse 2 is eligible for the tax credit and will receive \$250. However, if both Spouse 1 and Spouse 2 claim between \$18,000 and \$30,000 in income, both spouses would be eligible for the \$250 tax credit, for a total of \$500.

Although it is clear that this bill is aimed at easing the tax burden for low-income residents, this reviewer believes it will not provide the assistance imagined. Instead, it will likely provide only a minute level of assistance. While the bill is a step in the right direction, Council may wish to urge the Legislature to consider alternative proposals that will likely make a greater impact and provide even more assistance to Delawareans who need it the most.

The Institute on Taxation and Economic Policy (ITEP) published a report identifying state tax codes that actually help fight poverty with recommendations to consider. [<https://itep.org/state-tax-codes-as-poverty-fighting-tools/>]. They identify four effective strategies including the state Earned Income Tax Credit (EITC) (which Delaware has already enacted), property tax circuit breakers, targeted low-income credits (which this bill aims to enact), and child-related tax credits. Regarding the EITC, ITEP notes that states vary wildly in their credits allowed under EITC. The report notes that Delaware is only one of six states which allow only a non-refundable EITC credit, which limits the ability of the credit to “offset regressive state and local taxes.” The Delaware legislature has previously tried to convert the EITC to be refundable, however it was vetoed by Governor Carney in 2018. [<https://www.delawarepublic.org/post/governor-supports-renewed-effort-make-earned-income-tax-credit-refundable/>]. House Bill 80, which was introduced in January of 2020 and has Governor Carney’s support, represents another effort to make the EITC refundable – it would give residents the option of a non-refundable 20% credit or refundable 4.5% credit.

What HB 316 represents is a targeted low-income credit, which complements EITCs. ITEP notes that there are several states whose targeted low-income tax credit essentially “zeroes out” families’ personal income tax contributions. [<https://itep.org/state-tax-codes-as-poverty-fighting-tools/>]. In Ohio, the enacted legislation ensures that families with an income below \$10,000 are not subject to the income tax. In Kentucky, low-income families of a certain size are not subject to state income taxes. In other states, low-income families are offered income tax credits to offset sales and excise taxes. While the former would not be applicable because Delaware does not have sales tax, the latter is applicable. Excise taxes are taxes directly levied on certain goods by the state or federal government and are generally passed to the consumers via higher prices. Delaware collects excise taxes on gasoline, cigarettes, and alcoholic beverages. In Idaho, each resident receives a credit to offset their grocery taxes, even if they are not subject to the income tax.

As stated previously, this bill represents a step in the right direction for providing assistance to low-income Delawareans; however, this reviewer does not believe it goes far enough nor will it accomplish the level of assistance contemplated or needed. Instead, the Delaware legislature should consider enacting legislation that will provide the greatest impact. Council may wish to support this bill with a recommendation to increase the amount of the credit to at least \$500 and/or with a recommendation to consider other proposals to make more substantial changes, especially making the tax credit refundable.

Policies:

Delaware Division of Motor Vehicles Testing Procedures for Non-English Speaking and Deaf or Hard of Hearing Driver License Applicants

Update:

The Division of Motor Vehicles (DMV) shared some revised policies with Kyle Hodges of the State Council for Persons with Disabilities (SCPD). The Disabilities Law Program (DLP) reviewed the new draft procedures and compared them side-by-side with the procedures analyzed last month. This new draft from the DMV is very good for deaf and hard of hearing driver license applicants. The DMV has addressed the concern raised in last month's Policy and Law Memo analysis. The new draft now provides that "In cases where translation assistance is needed for an applicant to take an automated knowledge exam, translators may sign the questions and multiple-choice answers to the applicant as shown on the Division's automated test system." Whereas before, the DMV did not allow a translator for signing the questions and multiple choice answers, unless the applicant was also non-English speaking. That distinction has been removed.

In last month's memo, the DLP pointed out that the National Association of the Deaf (NAD) and Registry of Translators for the Deaf, Inc. (RID) have a code and system that interpreters must adhere to. The DMV took this information and actually added a paragraph in Section 3.0, Non-compliance, which states that "Those translators who interpret for deaf and hard of hearing applicants must adhere to The National Association of the Deaf (NAD) and the Registry of Translators for the Deaf, Inc.'s (RID) Code of Professional Conduct. Those who violate the Code are subject to the RID Ethical Practices System (EPS), whose goal is to uphold the integrity of ethical standards among translators."

The changes made by the DMV should allow deaf and hard of hearing Delawareans a more just and fair process when seeking a driver license.

Previous analysis:

The Delaware Division of Motor Vehicles (DMV), created procedures to address the use of translators for driver license applicants who cannot read or speak English and the use of interpreters for the deaf and hard of hearing. Under federal law, 28 C.F.R. §36.303(c), "a public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities", which includes the deaf and hard of hearing. The goal of the procedures is to outline "exactly how a translator/interpreter may assist an applicant during the Division of Motor Vehicle's... written and road tests." The procedures are currently in use by the DMV.

The testing procedures are divided based on non-English speaking/reading driver license applicants and deaf and hard of hearing driver license applicants. The use of a translator and/or interpreter for both groups of applicants during the road test portions is largely similar and does not appear to raise

issues. Along with the road tests, driver license applicants are required to successfully complete an automated written test.

The DMV policy regarding the use of interpreters for deaf and hard of hearing driver license applicants during the automated written test appears to be problematic. Non-English speaking/reading driver license applicants who need translation assistance to take an automated written test may have a translator read the questions and multiple choice answers to them as shown on the DMV automated test system. The use of an interpreter by a deaf or hard of hearing driver license applicant during the automated written test is limited.

In comparison, “Unlike a translator for a non-English speaking/reading driver license applicant, a deaf and hard of hearing interpreter shall not sign the questions and multiple choice answers for the applicant. In these situations the applicant will be able to read the questions and answers from the automated testing system him/herself.” An interpreter can only be used during the written test if the applicant has a question or needs to communicate with the DMV employee proctoring the test. The procedures further state that “If a deaf or hard of hearing driver license applicant is also a non-English speaking applicant, then the interpreter may sign the questions and multiple choice answers on the automated testing system.”

The DMV procedures are making an incorrect assumption that all people who communicate via sign language are able to read written English text. “American Sign Language (ASL) is its own unique language, complete with its own grammar and structure that is unrelated to English.” Differences between ASL and English, <http://signaphasiatests.salk.edu/appendix/langdiff.html> (last visited Apr 13, 2020). The procedures do not offer any clear justification as to why an interpreter cannot sign the questions and multiple-choice answers for the applicant on the automated written test. Perhaps, it could be argued that the DMV’s justification was to curtail cheating that could result from an interpreter providing answers to applicants but that would defy common sense since translators/interpreters are allowed to be used by non-English speaking applicants on the automated written test and present an equal risk of cheating.

The DMV has also put procedures in place to monitor and punish cheating by translators/interpreters. The procedures allow the division to use video and audio devices to monitor translators/interpreters during the written and road tests to ensure translators/interpreters are not providing answers to the applicant. The procedures address non-compliance by stating “Any applicant whose translator/interpreter is found speaking or signing during a written or road test at any time other than when permissible under these written procedures will automatically fail the test. Translators/interpreters who assist applicants by providing answers to questions or by pointing out the correct answers will be prohibited from providing future translation/interpretation services in division facilities.”

Furthermore, the National Association of the Deaf (NAD) and the Registry of Interpreters for the Deaf, Inc. (RID) have their own Code of Professional Conduct that must be followed. If interpreters violate this Code they are subject to the RID Ethical Practices System (EPS), whose goal is to uphold the integrity of ethical standards among interpreters. “In keeping with that goal, the system includes a comprehensive process whereby complaints of ethical violations can be thoroughly reviewed and resolved through complaint review or mediation.” Enforcement Procedures, <https://rid.org/ethics/enforcement-procedures/> (last visited Apr 13, 2020).

Many other states allow for a deaf and hard of hearing interpreter to sign the questions and multiple choice answers for the applicant during a written test portion. Some states, like Virginia, implemented

ASL in to their actual testing system for the written exam portion. The Virginia DMV created a testing system called SecuriTest, which allows customers the option to complete knowledge exams in 16 different languages, including ASL. This system was created because “For many individuals who are deaf or hard of hearing, ASL is their first language, so offering DMV tests in ASL, as opposed to just reading the questions, allows them to receive the information in the language they prefer.” Virginia DMV Offering ASL Version of Written Tests for Driver Licenses, <https://nvrc.org/vddhh-dmv-offering-asl-version-of-written-tests-for-licenses-press-release/> (last visited Apr 13, 2020).

Council should strenuously advocate for change in the procedures to allow for deaf and hard of hearing applicants to have the option of an interpreter to sign the questions and multiple choice answers during the automated written test.

COMMITTEE REPORTS

ADULT TRANSITION SERVICES

Cathy Cowin updated Council on the report from Maureen Whelan from the prison education program at DOE. The PowerPoint is attached for your reference. Cathy explained there is some information that Maureen was unable to access due to COVID-19. Cathy reported that they are trying to continue with education in the prisons throughout this pandemic and there are some good statistics on the PowerPoint. They are open to expanding the opportunities for students to learn and they have currently been implementing the use of video and telephone conferencing. Cathy stated that they are learning as they go and continuing to move forward along with the rest of us.

CHILDREN AND YOUTH

Bill reported that COVID-19 has obviously slowed down the progress of addressing their goals. There may be a need for the committee to meet over the summer to review plans as the state continues to update them. Annalisa Ekbladh from Autism Delaware presented at the Children and Youth Committee meeting regarding 12 month programming, which seems to be diminishing in length and quality. The committee plans on doing a review on this topic as one of their goals to ensure that children’s needs are being met. The second topic that Annalisa spoke about was restraints and seclusion. Bill stated that there are many issues surrounding this topic and it may be wise to restart a restraints and seclusion ad-hoc committee. Wendy agreed that it would be a good idea to meet or have an ad-hoc committee to discuss some of these issues throughout the summer.

INFANT AND EARLY CHILDHOOD

Jen gave an update that there are now four documents available on the Birth to Three website for public comment. These documents include the Early Intervention Policy and Procedure Manual, Guide to Parent’s Rights, Birth to Three Prior Written Notice, and the Birth to Three Dispute Resolution Request Form. The public comment period ends in early June. Jen also thanked Zack for his article on Adjustment for Remote Learning that he wrote for the University of Delaware. She said that the article is very relatable for many students.

PERSONNEL COMMITTEE

There was no Personnel Committee report for this month.

AD HOC COMMITTEE REPORTS

There was no ad-hoc Committee report for this month.

OUTSIDE COMMITTEE UPDATES

Bill shared that the Part C Stakeholder group has been established. It consists of a wide array of stakeholders who are helping to coordinate the progress that is being made in Part C from an outside perspective. Bill feels as though everything has gone well thus far and they are listening to our concerns. Not many recommendations have been made yet, but it is moving in that direction. Wendy agreed that they have listened to what we have to say and thinks there will be a very positive outcome.

Ann reminded members that responses to letters could be found in the binder at the GACEC office and thanked all of our guests for attending. **A motion was made and approved** to adjourn the meeting at 8:46pm.