



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>

November 26, 2021

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

RE: 25 DE Reg. 486/DE Admin. Code 1564 DDOE Proposed Physical Education Teacher Regulations (November 1, 2021)

Dear Secretary Bunting:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Department of Education proposal in consultation and cooperation with the State Board of Education to develop amendments to 12 DE Admin. Code 1564 Physical Education Teacher. The proposed changes include the following:

1. adding definitions and striking defined terms in Section 2.0;
2. clarifying the requirements for issuing a Physical Education Teacher Standard Certificate in Section 3.0;
3. specifying the education, knowledge, and skill requirements for obtaining a Physical Education Teacher Standard Certificate in Section 4.0;
4. specifying the application requirements in Section 5.0;
5. adding Section 6.0, which concerns the validity of a Physical Education Teacher Standard Certificate;
6. adding Section 7.0, which concerns disciplinary actions;
7. adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and
8. adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Council would like to share the following observations.

First, Council suggests adding the education, knowledge, and skill requirements for Adaptive Physical Education (APE) Teachers to the proposed amendments. APE is an adapted or modified, physical education program designed to meet the individualized gross motor needs or other disability-related challenges, of an identified student. The DDOE should encourage APE teachers to have additional qualifications such as a degree and/or certification.

Physical Education should be as appropriate for a child with a disability as it is for a child without a disability. Federal and state regulations state that physical education services, specially designed, if necessary, shall be made available to every child with a disability receiving FAPE unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

Delaware law addresses physical education inclusive including APE or accommodation when necessary. The statute explains that each child with a disability shall be afforded the opportunity to participate in the regular physical education program available to non-disabled children unless: (1) the child is enrolled full time in a separate facility; or the child needs specially designed physical education, as prescribed in the child's IEP. (2) If specially designed physical education is prescribed in the child's IEP, then the public agency responsible for the education of that child shall provide the services directly or arrange for those services to be provided through other public or private programs. It also states that the public agency responsible for the education of a child with a disability who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services in compliance with this section. See 20 U.S.C. 1412(a)(5)(A) and 14 Del.C. §3110

Second, in 2016, the GACEC convened an ad hoc committee to research the availability of APE in Delaware schools. At that time we learned that there were only a few certified teachers in Delaware and that most parents were not aware that APE could be requested on their child's IEP. At this time Council would like to request data from the DDOE on the number of children who have adaptive PE represented in their IEPs and the number of individuals serving Delaware schools who have certification in adaptive PE.

Third, an adaptive educationally trained professional would be able to assess individual students and implement specialized physical education programs as needed. Requiring APE teachers to have the additional qualifications would ensure students in Delaware public schools are receiving equitable physical education. Council suggests the DDOE implement incentives such as bonuses or tuition reimbursement to reward teachers who are qualified in Adaptive Physical Education. If it is not feasible at this time to require certification for all those teaching APE, Council would encourage DDOE to ensure that teachers without the certification who are serving children in need of APE have access to training and/or technical assistance from certified individuals.

Thank you for the opportunity to share our observations. Please contact Pam Weir or me if you have any questions on our comments.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc

CC: Pamela D. Weir, GACEC
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
Carla Jarosz, Esq.