



Governor's Advisory Council for Exceptional Citizens (GACEC)
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January 28, 2022

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

RE: 25 DE Reg. 699/DE Admin. Code 615 DDOE Final School Attendance Regulations (January 1, 2022)

Greetings:

The Governor's Advisory Council for Exceptional Citizens (GACEC) reviewed the Delaware Department of Education (DDOE) proposal to include new requirements to its school attendance policies in October of 2021. Council provided a number of observations and suggestions on improvements to the regulations. We are writing to you today because the DDOE did not respond to our suggestions and did not mention the source of the suggestions in the Register of Regulations. Instead, the DDOE responded as follows:

Comments received, which were pertinent to the subject matter of the regulation, suggested the following:

(1) Further amendments addressing student health and wellness as it extends to attendance in light of COVID-19 and as students return to in-person instruction following remote learning during the COVID19 crisis. Response: The Department does not believe need further amendments are warranted at this point, but should student health and wellness gaps become apparent, the Department will consider future regulation changes. The language is intentionally broad to provide LEAs opportunities to work with students and their families.

(2) Policies to provide more proactive, non-punitive supports for students and families who are experiencing chronic absenteeism, or who have experienced frequent absenteeism since March 2020 during periods of remote instruction. Response: The Department intentionally wants the language to be broad. Most LEAs are already providing these types of support. (3) The attendance policy be provided to each parent each year. Response: LEAs didn't believe providing the attendance policy to each parent each year was necessary. This policy will be on LEAs websites and shared as needed, much like other forms.

Council would like to share the following observations.

First, the DDOE does not acknowledge who filed comments. Providing commentary on educational services and processes is a statutory function of the GACEC. One purpose of the Council is to analyze and report on proposed regulations. In carrying out our responsibilities, we would like to be confident that the DDOE would acknowledge that responsibility and respond in kind.

Second, the DDOE continues to ignore virtually all GACEC comments, without explanation. For example, stating that the LEAs do not want to do something is not an answer to our comment. The GACEC suggested that parents need to know about these resources before problems occur, not afterward and that parents should receive a written copy of the policy and not just be told it is available online. DDOE should know better than any agency that many parents lack access to computers, internet service and printers. DDOE was non-responsive to this observation.

Third, DDOE did not address at all the suggestion of creating mental health excused absences. Perhaps DDOE did not think this suggestion was “pertinent to the subject matter of the regulation...”.

Fourth, Council would appreciate information when a process or procedure is changed. Historically, GACEC comments on DDOE regulations were responded to in writing. Changes were not always made based on our comments but at least we were notified that our comments had been received and considered. Most recently, the source of comments received on proposed regulations was listed in the Final Regulations in the Register of Regulations, along with the DDOE response to those comments. Now, we do not receive any acknowledgement from the DDOE either directly in writing or in the Register of Regulations. Council notes that this is unlike any other agency that receives commentary from the GACEC.

As the federally mandated State Advisory Panel for the Individuals with Disabilities Education (IDEA) Act and its amendments, it is our responsibility to advise the DDOE on services provided to students in special education. In order to monitor how well we are living up to that responsibility, we have worked throughout the years to maintain a close, amicable working relationship with the DDOE. That relationship has largely disappeared but our responsibility has not.

We would like to meet with you as the new Secretary of Education, to start a new era, in which the DDOE and GACEC can work together toward providing the best services available for our students. We believe that this new era needs to begin with an acknowledgement of our role and responsibilities toward students. Please let us know if there are policy changes Council should be aware of in terms of how comments are handled now and what we need to do to ensure that our voices are being heard.

Thank you for your consideration of our desire to work with you. Please contact Pam Weir or I at the GACEC office to continue this dialogue.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc

CC: The Honorable Mark A. Holodick, Secretary of Education
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
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