



**Governor's Advisory Council for Exceptional Citizens (GACEC)
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August 30, 2022

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

RE: 26 DE Reg. 87/DE Admin. Code 702 DDOE Proposed Education Opportunity Fund regulation (August 1, 2022)

Dear Secretary Holodick:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Department of Education (DDOE) proposal to create 14 Del. Admin. C. § 702, which will identify the types of services and supports which may be funded with the per pupil funding monies from the Opportunity Fund established under Senate Bill 56 of the 151st General Assembly. SB 56 codified the Fund, which provides an additional source of educational funding for Delaware public schools that is intended to support the increased needs of low income (LI) and English learner (EL) students. It also establishes the parameters for how the funding is to be distributed to school districts and charter schools and requires DDOE to adopt regulations relating to the services and supports for which monies from the Fund may be used. The GACEC supports the proposed regulations; however, we would like to offer the following observations.

Proposed 14 Del. Admin. C. § 702.2 includes definitions for English Learner, Low Income students, Mental Health Supports, Opportunity Fund, Students with Interrupted Formal Educations, WIDA English Language Development Standards, and Wrap-around Services. Of concern are the definitions related to ELs, mental health supports, and wrap-around services.

The proposed definition of an EL is "an individual who has English language speaking, reading, writing, or understanding difficulties sufficient to deny the individual the ability to meet challenging state academic standards as defined using Delaware's standardized entrance and exit procedures." This definition does not require either that the child's native language be other than English or that the child be from an environment where a language other than English has had a significant impact on the child's level of English language. Thus, under this definition an EL student could be one from a home where only English is spoken, which would be inconsistent with the reason for EL funding being included in Opportunity Funds. Council recommends the definition be changed to amend that requirement.

The proposed definition for mental health supports is

a variety of strategies and services that can support the social, emotional and behavioral wellbeing and mental health of students and their families. Supports of this type include, behavioral assessment and intervention, individual and group, family psychoeducation and support intervention, social and emotional learning, and mental health promotion, instruction and support, engagement strategies, assessment, screening, crisis management, suicide prevention and coordination of services.

This definition specifically includes the support of psychoeducation yet fails to include its counterpart – psychological treatment. Council recommends that “psychological treatment” be added to the definition to ensure psychological treatment is available under the Fund.

The proposed definition for wrap-around services is “a variety of strategies and services to support the needs of the student in the areas of attendance, academic engagement, behavior incidents or referral.” This definition takes a narrow view of what constitutes wrap-around services by focusing in on the student and his or her interaction with the school environment and disregarding the need for also supporting the student’s family.

For example, the National Wraparound Initiative says the following:

“Wraparound differs from many service delivery strategies, in that it provides a comprehensive, holistic, *youth and family-driven* way of responding when children or youth experience serious mental health or behavioral challenges. Wraparound puts the child or youth and family at the center. With support from a team of professionals and natural supports, the family’s ideas and perspectives about what they need and what will be helpful drive all of the work in Wraparound.”

The DDOE definition of wrap-around refers to academic engagement but fails to mention academic achievement. Council recommends that the definition be modified to make clear that the Fund may be used to provide services directed at the student’s family, outside of the school itself, and to promote academic achievement.

Proposed §702.3 lists personnel, contractual services, and supplies and materials for which Fund monies may be used. The following are concerns within those terms:

1. There is no provision to pay for transportation. However, the contractual services do include extended day learning experiences and summer learning experiences. Therefore, it is important that the contractual services available also include transportation to enable EL and LI students to attend after school programs intended for them.
2. One permitted use of the funding is “[d]ata systems to support instructional decisions” found at proposed 14 Del. Admin. C. § 702.3.1.2.9. Data systems should not be funded by money intended specifically to enhance services for EL and LI students.
3. The list of services and supports that can be funded include school social workers and licensed clinical social workers (LCSW), the latter of which presumably means it could be any LCSW regardless of whether they have specific training for providing services in schools. The list also includes funding for school psychologists; however, it does not include other licensed psychologists or mental health therapists. To make this provision clear that they are included, Council requests that the DDOE include a specific provision, which would allow employing additional personnel such as mental health therapists at the very least.

Finally, the language used throughout the proposed regulation (e.g. “such as” and “includes”) makes the lists appear to be non-exhaustive. The authorizing legislation, 14 *Del. C.* § 1726(b)(1), directs that the DDOE, via regulation, identify the types of services that may be paid for with money from the Fund. To support having the regulation comply with the statute, and to best serve EL and LI students by requiring that the monies from the Fund only be used for purposes that DDOE has determined are needed to enhance services for EL and LI students enrolled in Delaware public and charter schools, Council recommends the following changes be made to ensure the lists are exhaustive.

1. Change proposed §3.1.1 from “Employing additional personnel such as:” to “Employing the following additional personnel:”;
2. Change proposed §3.1.2 from “Contractual services such as:” to “The following contractual services:”;
3. Add §3.1.2.11 which would be “Any other service or support provided for in §3.1.1 or §3.1.3”; and
4. Change proposed §3.1.3 from “Supplies and materials such as:” to “The following supplies and materials:”.

Thank you for this opportunity to share our support and concerns with you. Please contact Pam Weir or me at the GACEC office if you have any questions on our comments.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc

CC: Shawn Brittingham, State Board of Education
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