



**Governor's Advisory Council for Exceptional Citizens (GACEC)**  
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January 30, 2023

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

**RE: 26 DE Reg. 514/14 DE Admin. Code 508 DDOE Proposed Multi-Tiered Systems of Support regulation (January 1, 2023)**

Dear Secretary Holodick:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Department of Education (DDOE) proposal to amend existing regulations to require that social and emotional learning and mental health content be added to the curriculum for each grade in every public school district and charter school. This aligns with legislation signed into law in August of 2022. These programs are to be effective beginning in the 2023-2024 school year and are to be developed in consultation with mental health experts. Council would like to share the following observations.

The proposed amendments would update existing regulations relating to multi-tiered systems of support (MTSS), which is the framework used to respond to individual student needs beyond the core instruction and the non-academic supports available to all students. Interventions of various levels (Tier 1 through Tier 3) may be implemented to help students make progress and keep up with identified benchmarks (see existing regulations at section 6.0). MTSS are available to all students, including students with disabilities and students without disabilities, however per the regulations if Tier 3 interventions are unsuccessful a referral for a special education evaluation may be necessary (see existing regulations at subsection 6.1.3.3).

The proposed amendments clarify that social and emotional learning and mental health will be part of the instructional curriculum and would be areas in which interventions of any tier may be needed and implemented.

Council would like to suggest that the regulations include more details, and that additional guidance be issued by the Department, about other referrals or interventions that may be

necessary if a child is struggling or not meeting identified benchmarks in the specific areas of social and emotional learning and mental health. For example, referrals (with consent of the child's parent or guardian) to outside counseling or to the Division of Prevention and Behavioral Health Services (DPBHS) may be appropriate before other steps in Tiers 1 through 3 are otherwise exhausted. Additionally, a child's demonstrated difficulties in these areas may be less likely to coincide with specific points or time periods in the academic calendar as they would for academic subjects.

Council is also concerned that the MTSS regulations are not being implemented as intended, particularly with regard to the purpose and scope of MTSS, and that MTSS is not intended to preclude access to needed services when warranted. Examples of the misunderstandings that educators hold and how they have denied students access to appropriate services have been discussed by Council members; therefore, Council recommends that the regulation require DDOE to issue additional guidance regarding the role and implementation of MTSS in general. Council also recommends that DDOE provide stronger education and oversight, including monitoring for compliance.

Thank you for allowing us the opportunity to share our observations 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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