



**Governor's Advisory Council for Exceptional Citizens (GACEC)**  
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February 27, 2023

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

**RE: 26 DE Reg. 657/14 DE Admin. Code 915 DDOE Proposed James H. Groves regulation (February 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 14 DE Admin. Code 901, which describes the operation of the James H. Groves. Council submitted comments on November 30, 2022 on the proposed regulations published on November 1, 2022 but those comments were not noted in the February Register of Regulations, only the comments provided by the State Council for Persons with Disabilities (SCPD). Since our comments were similar, we will note the comments and the DDOE response in this letter, along with observations Council would like to reiterate.

First, Council recommended in November that DDOE include the word "education" between "alternative" and "program" in order to clearly identify this as an alternative education program and not an alternative program for students facing disciplinary actions. The DDOE responded as follows:

**"[T]he Department decided to add 'education' to the definition of 'In School Credit Program' in Section 1.0[.]"**

The Council would like to thank the DDOE for responding and incorporating this comment.

Second, proposed 14 Del. Admin. C. § 915.2.1.1.1.2 removes the standardized assessment requirement as part of the application for enrollment at Groves. Council recommended that DDOE not remove this requirement or if it chooses to remove the specific requirement of a

standardized test, that it identify other ways of meeting this secondary skill level. The DDOE responded as follows:

**“[T]he Department decided to . . . not strike the standardized assessment requirement from subsection 2.1.1.1.2 and add additional language to the subsection.”**

The additional language added to subsection 2.1.1.1.2 allows a student to demonstrate secondary level skills by either a standardized assessment or a review of high school credits attained. This partially addresses the earlier-expressed concern; however, Council would like to request that DDOE explain what it means by “high school credits attained” and whether there are specific instances where one measure is used over the other.

In its November letter, Council noted that there are additional concerns with the regulation outside of the proposed amendments that we would like to address. First, the admission criteria do not contemplate those students in the prison education program specifically. Students in prison who are seeking their high school diploma or GED are automatically enrolled in Groves, yet there is no indication in section 915 that there is an exception to the admission criteria for those students (or that students enrolled in prison education are enrolled in Groves). Therefore, Council would recommend that DDOE include language in this regulation that identifies Groves as providing education to incarcerated students and that those students are otherwise exempt from the admission criteria. The DDOE submitted the following response:

**The Department decided not to make any further changes to the regulation that was published on November 1, 2022 as a result of [Council]'s written submittal.**

Therefore, Council would like to reiterate our recommendation that the DDOE include language identifying Groves as providing education to incarcerated students and that those students are otherwise exempt from the admission criteria.

Second, current Section 2.3 disallows enrollment of students who have been expelled or are pending expulsion unless he or she receives a waiver from DDOE. Title 14 Del. C. § 4130(d) explicitly exempts Groves from the prohibition on enrolling expelled students. Council would like to reiterate our recommendation that the DDOE reconsider its position on whether expelled students can enroll at Groves without a waiver. The GACEC and SCPD made this recommendation previously in 2006 (10 Del. Register of Regulations 988 (December 1, 2006) and 18 Del. Register of Regulations 561 (January 1, 2015). The DDOE response at this time is as follows:

**The Department decided not to make any further changes to the regulation that was published on November 1, 2022 as a result of [Council]'s written submittal.**

Council would again like to recommend that DDOE reconsider its position on whether expelled students can enroll at Groves without a waiver.

Third, Council recommended DDOE consider whether having an outright “no excused absences” policy is appropriate in light of federal and state law and regulations regarding the rights of people with disabilities to be free from discrimination. The DDOE responded as follows:

**“[T]he Department decided to strike the requirement that provision cannot be made for excused absences from subsection 4.2 because each Groves site has its own attendance policy and the requirement is not necessary.”**

Council thanks the DDOE for considering this comment and removing the ban on excused absences.

Thank you for addressing our comments and those credited to the SCPD. We appreciate the opportunity to collaborate with you on issues affecting students with exceptionalities. A copy of our November letter is being re-sent to you, as it was not noted in the Register of Regulations as having been received earlier. 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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