



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>

October 25, 2023

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

RE: 27 DE Reg. 220/14 DE Admin. Code 902 DDOE Proposed Gifted and Talented Education Plan regulation (October 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 Del. Admin. C. § 902 Gifted and Talented Education Plan. Council **supports** the change to include charter schools in the language used in the regulation but is concerned that the new language will essentially water down or lessen the degree of obligation schools will have to provide plans for gifted and talented students.

The proposed language changes the degree of obligation schools have to create a plan for gifted and talented students (a change from "each school district **shall** have a Plan" to "each school district or charter school **may** have a Plan"). Also, throughout the proposed regulation, there is new language that would allow schools to consider their capacity when determining what they offer. The new language includes:

"The school districts' or charter schools' capacity to provide the differentiated educational programs or services should also be considered as this varies between school districts and charter schools."

and

"5.0 School District and Charter School Responsibilities

5.1 Each school district or charter school shall provide a Plan that outlines the anticipated services provided based upon each individual district's capacity. This shall include how each district identifies gifted learners and in which defined ability areas.

5.2 Each school district's or charter school's Plan shall be reviewed periodically, but not less than every 5 years, by the Department of Education for compliance with this regulation and equitable practices. Any substantive changes to the Plan shall be provided within 1 year for review for compliance with this regulation.”

There are minor changes to the language involving charter students. (From schools must “[e]stablish procedures for the identification and placement of a student who was identified as gifted or talented in the school district from which the student transferred” to schools must “[e]stablish procedures for students who transfer into the school district or charter school who have been identified as gifted or talented in their prior school.” This change suggests that the schools do not need to necessarily identify or place those students, merely they must have a plan of what to do when a student previously identified at another school transfers in.

The move from mandatory to permissive language is concerning. Either schools have a requirement to provide differentiated educational programming for students identified as gifted and talented or they do not. Because the proposed language explicitly says that schools can determine their offerings based on their capacity and resources, this inevitably means that under-resourced schools have the option to forgo additional programming, while better resourced schools may choose to offer additional programming. Also, with a shift in educational research and commentary regarding lack of diversity and perpetuation of existing inequities in gifted and talented programs, we would encourage the Department of Education to reconsider the goals of a gifted and talented program and how these programs can better address equity and opportunity.

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
Kathleen Smith, State Board of Education
Dale Matusevich, Department of Education
Emily Cunningham, Department of Education
Linnea Bradshaw, Professional Standards Board
Carla Jarosz, Esq.
Alexander Corbin, Esq.