



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: March 5, 2024

TO: The Honorable Members of the Delaware General Assembly

FROM: Ann C. Fisher, Chairperson
GACEC

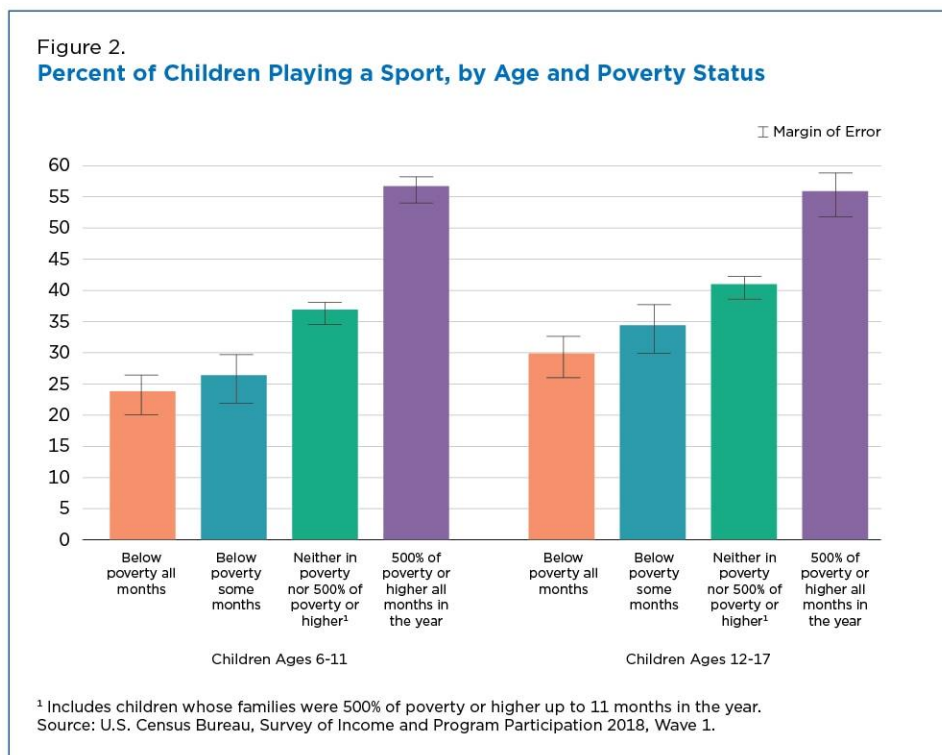
RE: **House Bill No. 263 Meal Debt Restrictions on Student Participation in Extracurricular Activities**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill 263, which will prohibit schools from excluding a student from participating in a school sponsored extracurricular activity on the basis the student has an outstanding debt for unpaid school meals. The bill adds a new § 4136A to title 14 of the Delaware Code. Extracurricular activities are defined to include band, clubs, homecoming, interscholastic sports, prom and student government. See proposed § 4136A(a). House Amendment 1, added to the bill on February 29, would also add graduation ceremonies to the list of extracurricular activities. Council supports this proposed legislation as it enables children to participate in extracurricular activities regardless of the financial status of their family. However, Council would like to recommend an additional amendment to include orchestra and choir and/or a catchall for extracurricular activities that are not a part of the current list. Also, Council would recommend that the bill apply to any public agencies providing public education, who have extracurricular programming.

It is unclear why orchestra and choir were omitted from this list. Notably, there is also no catchall to include other extracurricular activities not enumerated in the list. Finally, this proposed bill would apply to "local educational agencies" and "charter schools"; "public agencies" providing educational services are omitted. While Council is not aware of whether there are public agencies that provide extracurricular activities, if there are, they should be included in this bill, in order to reach more children.

This bill aims to help children facing poverty and hunger, to participate in extracurriculars. According to Feeding America, one in seven children face hunger. To meet all of the hunger needs within Delaware, those experiencing hunger would need an estimated \$62,582,000 **more**

per year to meet their food needs. Family income does, unfortunately, impact participation in extracurricular activities. Data collected by the U.S. census shows a significant difference in participation in gifted and extracurricular programs, based on household poverty status. For example, as illustrated in the chart below, with respect to athletics, less than 25% of children experiencing poverty, aged 6-11, participated in a sport, compared to over 55% of those over 500% of the poverty level. For tweens and teens, 30% of kids experiencing poverty participated in a sport, versus over 55% of those not experiencing poverty.



Also of note, for students with disabilities, extracurricular activities may be an important part of their skill development and integration with peers without disabilities. For example, one study made findings that extracurricular clubs can help build social competence for students with autism. Although this bill is not focused on children with disabilities, it would be a benefit to them in terms of both integration with their peers and skills development. It is also important to recall that a student's IEP may require the provision of "supplementary aids and services" for extracurricular activities. After an IEP team has determined that the provision of those aids and services is required, the denial of those services may constitute a denial of a free appropriate education. 71 Fed. Reg. 46583 (2006); and 34 CFR § 300.107 (a). See, e.g., Tahquamenon Area Schs., 115 LRP 23747 (SEA MI 04/21/15) (finding that a district's failure to address a student's behavioral issues impeded his ability to participate in extracurricular activities as required by his IEP).

In conclusion, HB 263 is an important piece of legislation that will help students in Delaware to greater inclusion rather than more exclusion based on the inability to pay. Food insecurity is an issue that must be addressed in Delaware. Thank you for your time and consideration of our support of the proposed legislation and our recommendations. Please feel free to contact me or Pam Weir at the GACEC office should you have any questions.