



**GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
7:00PM APRIL 16, 2024
HYBRID MEETING**

MEMBERS PRESENT: Al Cavalier, Matt Denn, Bill Doolittle, Karen Eller, Ann Fisher (in person), Cory Gildea, Kristina Horton, Thomas Keeton, Jessica Heesh Mensack, Molly Merrill, Beth Mineo, Trenee Parker (in person), Erika Powell, Jennifer Pulcinella, Laura Waterland (on behalf of Stefanie Ramirez), Meedra Surratte and Erik Warner (in person).

OTHERS PRESENT: Carla Jarosz/ Delaware Deputy Attorney General for Delaware Department of Education (DDOE), LaTysse McKinzie-Mack/Court Appointed Special Advocate (CASA) Recruitment & Program Coordinator, Dale Matusevich/Exceptional Children Resource Workgroup (ECR) of (DDOE), Erin Rich/Delaware Health and Social Services (DHSS), Daniella Spatelli-Sarnecky, Nicole Topper (DHSS).

STAFF PRESENT: Pam Weir/Executive Director, Kathie Cherry/Office Manager, Lacie Spence/Administrative Coordinator and Theresa Moore/Administrative Supports Specialist.

MEMBERS ABSENT: Nancy Cordrey, Tika Hartsock, Maria Olivere and Brenné Shepperson.

ADMINISTRATIVE ACTIONS: Chairperson, Ann Fisher, called the meeting to order at 7:06 pm. There was a quorum of members present. A motion was made by Jennifer Pulcinella to approve the April agenda and the motion was seconded by Erik Warner. The motion passed unanimously. Erik Warner made a motion to approve the March minutes and Erika Powell seconded the motion. The motion was approved. A motion was made to approve the March financial report by Erik Warner and the motion was seconded by Jennifer Pulcinella. The motion was approved.

Election of the Council Vice Chair and a Member at Large took place. This year's Nominating Committee members were Trenee Parker and Meedra Surratte. Tika Hartsock and Erik Warner were nominated for the Vice Chair position. Trenee Parker asked Erik if he accepted the nomination and Erik accepted. Tika was not present at the meeting to accept the nomination but was included as a nominee for the Vice Chair position. Trenee also asked Council if there were any nominations from the floor and there were no more nominations made. Council proceeded to take a vote since there were two nominees for the Vice Chair nomination. Erik Warner was elected to fill the GACEC Vice Chair position. Meedra presented the nominations for the Member at Large position. Bill Doolittle was self-nominated to continue in the Member at Large position. Nominations were then taken from the floor. Al Cavalier was nominated and declined

the nomination at this time but would consider it in the future. Next, Erika Powell was nominated, and she also declined the nomination at this time. With no other nominees for the Member at Large position, no vote was needed, and Bill Doolittle will continue as the Member at Large. Jessica posted in the chat. “Congrats Erik and Bill on the voted positions!! I felt the voting process created an attempt to assure equity across member opportunities in the available positions, in hopes that we have an engaged council. Well done! I would recommend, moving forward, person voting be made private, sent by email or on paper in person and compiled for counted votes. This may be helpful in mitigating unintentional bias and promote positive internal culture!” Pam is working to create a Voting Policy and Procedure for the next election. Since there were no other Council Members interested in filling the Member at Large position Bill Doolittle will continue to fill the position of board member at large.

PUBLIC COMMENT: There was no public comment during this meeting.

PRESENTATION TO FULL COUNCIL: LaTysse McKenzie-Mack presented to Council briefly about the Court Appointed Special Advocate (CASA) program. LaTysse is the Recruitment and Program Coordinator for CASA. CASA volunteers are advocates for children experiencing foster care due to abuse and neglect. Currently there are 559 children in foster care in the State of Delaware. Of those children only about 367 of them have a CASA. There are only about 198 CASAs currently. They need many more people to volunteer to be a CASA. A CASA is that person who speaks up on the child’s behalf and tells the courts, community, or teachers, what is in the child’s best interest. There is a 30-hour training program to become a CASA. As a CASA, you are never left on your own, you have a coordinator and the child’s attorney to help with questions and to provide guidance. There is a mentor program where the more seasoned volunteers help the newer volunteers. CASA asks that you commit to at least one year to work on your cases. This is because the parents have one year to work on their case plan. Volunteers give about 10 to 15 hours of their time monthly to advocate for the child. They ask that you meet face to face at least once per month. You would need to be available for court hearings during the day. In the beginning, the first few court hearings are once a month, and you would know one month in advance of the court hearing. Then the court hearings are usually every 3 to 6 months. Please spread the word that the CASA program needs more volunteers to advocate for these children. Without the CASA advocates these children go unseen and unheard. The program sends birthday gifts and holiday gifts to these children. They hope to give the children the same opportunities that all children have. One hundred percent of all the donations that are received are given to the children. If you cannot be an advocate, there is still an opportunity to help by giving a donation to support the lives of these children. You can get more information by visiting their website at www.courts.delaware.gov/childadvocate/about-us/.

COMMITTEE REPORTS:

INFANT AND EARLY CHILDHOOD COMMITTEE: During their meeting, the Infant and Early Childhood Committee discussed the upcoming Part C regulation review, the Quality

Improvement Awards Policy for Purchase of Care and the Interagency Collaborative Treatment Team (ICT) annual report. Dale informed Council that they are currently having discussions with some of the out of state providers they currently work with to have them come in state to provide services. They are having promising conversations with a couple of those partners about coming in state rather than us having to service kids out of state.

CHILDREN AND YOUTH COMMITTEE: The Committee hoped to discuss criteria for reviewing due process decisions but did not get to that. Instead, there was discussion about adding representative roles of a Special Education Director and a Parent and Training Information Center (PTI)/Parent Information Center of Delaware (PIC) representative to the GACEC bylaws and State law. It was decided that this would be put on hold until new membership is figured out. Pam suggested waiting for about six months, but the Committee was hoping to do it sooner and may discuss bringing it to Council sooner. There was also discussion about GACEC representation at other meetings to build connections between organizations to increase the flow of information and discussion about what type of acknowledgement about limitations of being/not being a representative of the GACEC.

ADULT AND TRANSITION SERVICES COMMITTEE: The Committee discussed the class action lawsuit that DDOE is presenting on at the full Council meeting this evening. There is a need to have a better understanding of the settlement agreement. The legitimate expenses are outlined in the settlement agreement, but they are unclear in terms of what the funds can be used for. There is also a need for more information on how students and families would access these funds. The Adult and Transition Services Committee suggested that a guidance document be developed in a joint effort between agencies identifying the compensatory resources available and what they can be used for. They would like to have Mr. Wentz of the Court Appointed Class Members Council speak with the GACEC to provide additional insight. GACEC would like more information about the make-up of the students in order to provide the best possible resources.

POLICY AND LAW COMMITTEE The Committee reviewed three proposed state regulations and three bills. The Policy and Law Committee recommend that Council endorse all recommendations in the memo with a few wording changes to the recommendations relative to the regulation about compliance with the Gun-Free Schools Act. Regarding Recommendation #1, the Committee suggested slightly different wording: “This proposed regulation makes changes mostly consistent with the federal Gun-Free Schools Act...” In pointing out the inconsistencies between this regulation and current state and federal statutes, the Committee recommends adding a third point (“c”) indicating that this regulation would permit students carrying a weapon to be expelled for a minimum of 180 days, where the state and federal statutes mandate that expulsions be a minimum of one year.

The Committee recommendations were presented as a motion for a vote from Council. The motion passed unanimously.

April 2024 Policy and Law Memo

I. PROPOSED STATE REGULATIONS

➤ PROPOSED DEPARTMENT OF EDUCATION (DDOE) REGULATION AMENDING 14 DE ADMIN. CODE 101 STATE ASSESSMENTS, 27 DEL. REGISTER OF REGULATIONS 726 (APRIL 1, 2024)

With this notice, the Department of Education (DDOE), is proposing amendments to 14 *Del. Admin. Code* 730 regarding state assessments. The edits are primarily technical edits and regulatory drafting style edits. Due to time limitations, this regulation was not reviewed in detail. However, it is worth noting that the regulations (and underlying State law) continue to allow for portfolio assessments for students for whom the parent believes the student, even with accommodations, would not produce a valid result through state testing. The regulation indicates that stakeholder groups, and lists Governor’s Advisory Council for Exceptional Citizens (GACEC) as a partner stakeholder, should be involved in developing portfolio criteria and standards.

RECOMMENDATIONS:

1. **While not a proposed amendment, Council may wish to inquire whether any LEAs or public charter schools are currently utilizing a Portfolio Alternate Assessment.**
2. **If so, Council may wish to inquire why the Governor’s Advisory Council for Exceptional Citizens has not been involved with updating standards or criteria.**
3. **Council may wish to further inquire as to who DDOE’s current portfolio assessment provider is.**

➤ PROPOSED DEPARTMENT OF EDUCATION (DDOE) REGULATION AMENDING 14 DE ADMIN. CODE 603 COMPLIANCE WITH THE GUN-FREE SCHOOLS ACT, 27 DEL. REGISTER OF REGULATIONS 730 (APRIL 1, 2024)

With this notice, the Department of Education (DDOE), is proposing amendments to 14 *Del. Admin. Code* 730 regarding gun free schools. The proposed regulation adds a new section 1.0 that ties the regulation to the DDOE’s regulatory authority to protect the health and physical welfare of students and adds a new section 2.0 for definitions. DDOE’s proposed regulation uses the same meaning for “firearm” as that term is defined in the federal Gun-Free Schools Act, 20 U.S.C. § 7961(b)(3), which in turn uses the definition from 18 U.S.C § 921(a)¹ The proposed amendment makes technical updates including to statutory citations.

Substantively, in section 3.0, the proposed amendment adds a provision requiring the school district or charter school to include a copy of their written Gun-Free Schools policy in their Student Handbook or Code of Conduct. DDOE also moves the discretionary ability to modify an expulsion requirement from the “chief school officer” and gives it instead to the local school board or charter school’s board of directors. This change was made to be consistent with 11 Del.

¹ 18 U.S.C § 921(a)(3): “The term ‘firearm’ means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.”

Code § 1457A(f), which places that discretion with school boards and charter school board of directors. **Of note, § 1457A(f) is not consistent with the Gun Free Schools Act, which gives that discretion to the “chief administering officer of a local educational agency.”** 20 U.S.C. § 7961(b)(1). Also of note: while our State law, at 11 Del. Code § 1457A(f), requires a minimum term of expulsion of 180 days, rather than the one year minimum which appears in the proposed regulation, the Gun Free Schools Act requires a one year minimum. 20 U.S.C. § 7961(b)(1). Finally, the regulation removes the requirement to record the expulsion modification in writing and instead requires simply it to be reported to DDOE, while the federal Gun Free Schools Act requires that any modification be “in writing.” 20 U.S.C. § 7961(b)(1). **This could be fixed by adding that the reports required in section 4.0 of this proposed regulation must be in writing. DDOE may wish to review section 3.0 because presently the proposed regulation is inconsistent within section 3.0 with whether it is following the federal or state language.**

DDOE cleans up language and citations in section 4.0 and adds that when school districts and charter schools provide descriptions of expulsions imposed due to firearms, that the district/charter must provide a description of the circumstances surrounding the expulsion, including: 1) the name of the school; 2) the number of students expelled; and 3) the type of firearms. This is required by the federal Gun-Free Schools Act, 20 U.S.C. § 7961 (d).

Section 5.0 is not substantively changed and reminds districts and charter schools that the regulation does not alter their duties under the Individuals with Disabilities Education Act.

Recommendations:

- 1. This proposed regulation makes changes consistent with the federal Gun Free Schools Act and thus generally speaking does not pose new concerns for students with disabilities.**
- 2. However, Council may wish to recommend that DDOE review section 3.0 because presently the proposed regulation is inconsistent within section 3.0 with whether it is following the federal or state language. Specifically,**
 - a. state law and this proposed regulation differ from the Gun Free Schools Act in that they give modification of expulsion discretion to school and charter boards, while in the federal law that discretion lies with the “chief administering officer of a local educational agency.” 20 U.S.C. § 7961(b)(1).**
 - b. the regulation removes the requirement to record the expulsion modification in writing and instead requires simply it to be reported to DDOE, while the federal Gun Free Schools Act requires that any modification be “in writing.” 20 U.S.C. § 7961(b)(1). This could be fixed by adding that the reports required in section 4.0 of this proposed regulation must be in writing.**

➤ PROPOSED DEPARTMENT OF EDUCATION (DDOE) REGULATION AMENDING STUDENT ATHLETE ELIGIBILITY, 27 DEL. REGISTER OF REGULATIONS 740 (APRIL 1, 2024)

DDOE seeks to amend regulations related to eligibility for interscholastic athletics. Of specific interest to councils may be a provision, Section 3.3, related to the exclusion of students who are

placed in alternative schools or programs for disciplinary reasons through the Comprehensive School Discipline Program, (14 Del. Code 1601 et seq.). The provision reads:

3.3 A student with a disability who is placed in a school or program by the student's school district or charter school shall be eligible to participate in interscholastic athletics as set forth in subsections 3.3.1 through 3.3.4. Subsection 3.3 does not apply to students who are placed in alternative schools or programs for disciplinary reasons through the Comprehensive School Discipline Improvement Program (14 Del.C. §§ 1601 - 1607).

Categorical exclusions such as this raise concerns that the proposed provisions may result in impermissible discrimination against students with disabilities.

The benefits of participation in athletics and sports for students with disabilities is well documented. “The benefits of sports participation are significant for people with disabilities. Physical activity improves academic success, builds self-esteem, and prevents health problems.”² The United States Department of Education has directed districts to ensure that students with disabilities have equal access to such programs.³ Students with IEPs must be afforded an equal opportunity to participate in extracurriculars, including with supplementary aids and services deemed appropriate and necessary by their IEP team. 34 CFR § 300.107.

Because some students are placed in alternative schools through the IEP process, and not for disciplinary reasons, it is important that the regulation clearly indicate that such students are not excluded from participation in interscholastic sports. The current language does not adequately clarify this distinction as it can be read to exclude any student placed in an alternative school.

Moreover, eligibility criteria that are inflexibly tied to discipline may have discriminatory impact against students whose behavior problems may be a manifestation of their disability. See, e.g., Ontario-Montclair (CA) Unified Sch. Dist., 24 IDELR 780 (OCR 1996) (instructing a district to modify its eligibility criteria where they had a behavior standard that made students with a specific number of disciplinary actions ineligible, to respond to the individual needs of students with behavioral health disabilities); and Chrysalis (CA) Charter Sch., 113 LRP 27944 (OCR April 11, 2013) (concluding that because a district banned a child from recess, field trips, etc., based on grades and behaviors related to disability, it violated Section 504's antidiscrimination provisions).

We know some student populations in Delaware are disproportionately disciplined for behaviors. These groups include students of color and students with disabilities.⁴ Categorical exclusions of students placed in alternative schools for disciplinary reasons can further marginalize some students already subject to discriminatory disciplinary practices.

² Lawowski, Advancing Equity for Students with Disabilities in School Sports, *Journal of Intercollegiate Sport*, 2011, 4, 95-100 (<https://journals.ku.edu/jis/article/view/10047/9477>).

³ <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>

⁴ <https://www.delawareonline.com/story/news/education/2023/06/07/delaware-schools-suspension-rates-student-behavior-discipline-restorative-practices/70247312007/>.

Recommendation: Council may wish to express concern about this provision 3.3, and suggest that it be redrafted to reflect that a. some students are placed in alternative schools for reasons other than discipline and should not be excluded; and b. individual considerations may allow a student with a disability who has been placed in an alternative school for discipline to participate in interscholastic sports. This would include any student placed pursuant to an IEP and on an individual basis a student who has been placed as discipline for behaviors that are a manifestation of disability.

II. PROPOSED BILLS

➤ HB 345

HB 345 provides additional doula coverage for additional postpartum doula visits (beyond the three postpartum visits of up to 90 minutes) when recommended by a practitioner or clinician acting in their school of practice. Expansive doula services is supported by many data points. Last year's HB 80 notes that while Black women made up 28% of Delaware live births in 2019, they represent 78% of pregnancy-related fatalities over the 2017-2021 period, aligning with the national trend; Black women are three times more likely to experience pregnancy-related mortality than white women in the United States. HB 80 additionally notes that the Maternal Mortality Review found that the most common accompanying issues to infant death were those related to the provision of support in making medical decisions, the ability to access care, and effective communication with healthcare professionals. HB 80 further notes that doulas provide positive and nurturing environments throughout the pregnancy and birthing process and provide care "that is more informed of their patient's experiences, values, or identities[.]" Pertinently, doula care has been found to more positively affect women who are socially disadvantaged, low income, unmarried, giving birth for the first time, are without a companion, or who experience language or cultural barriers.⁵ Finally, doula-assisted mothers were "four times less likely to have a low birth weight [] baby [and] two times less likely to experience a birth complication involving themselves or their baby."

Recommendation: Given the state-wide and national statistics regarding pregnancy-related fatalities, the inclusion of doulas in insurance-coverage is a life-saving effort which will also prevent disability. As such, councils should consider endorsement.

➤ HS 1 to HB 293

House Substitute 1 to House Bill 293 seeks to add a provision to Chapter 2 of Title 15, Elections, requiring the Department of Elections (DOE) to ensure that polling places are accessible. Currently there is a vague provision at 15 Del Code § 4512 which generally requires that polling Previously, Counsel had the following recommendations/observations:

⁵ Kenneth J. Gruber, Susan H. Cupito, & Christina F. Dobson, Impact of Doulas on Healthy Birth Outcomes, *The Journal of Perinatal Education* (2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3647727/#>.

1. *Emergency is not defined. Emergency should be defined, either as a situation where the Governor has issued an Order declaring an emergency, or when a specific polling place is unusable on Election Day due to circumstances beyond the DOE's control and that cannot be remediated.*
2. *There is no enforcement provision in this bill. At a minimum, that language be added providing for a complaint process or some type of judicial enforcement.*
3. *DLP has noted that there have been occasions when accessible locations, often schools, are not accessible on Election Day because a particular feature, such as an accessible door or ramp, has not been made available. Language should be added that requires any polling location make its accessible features fully available on Election Day, or that the DOE makes this a requirement of any contract or agreement that the DOE makes with the owner or operator of a polling place.*

HS 1 addresses each of these recommendations:

- 1) The emergency exception is clarified as “a natural disaster or other emergency that renders a polling site unsafe or unusable.”
- 2) Any person with information that the Department of Elections has not complied with accessibility requirements under this Act can file an administrative complaint with the Department; and
- 3) Add that: “the accessibility features of such [polling] places are available to voters for any election.”

Recommendation: Council may wish to thank Senator Carson for being responsive to Councils' concerns. Council may wish to endorse this bill.

➤ **House Bill 348, Concerning Lifeguards at certain pools.**

HB 348 seeks to amend Section 122 of Title 16 to prohibit DHSS from issuing any regulation requiring that a “hotel, private campground facility or pool servicing residential communities including apartments, townhomes or single-family communities provided the pool is not accessible to the general public” have a lifeguard. The Synopsis indicates that hotels, campgrounds and community pools where the pool will be or is owned by residents are already exempt from any requirement to have lifeguards. The bill extends this exemption to other private community settings, specifically apartment complexes and townhomes. The reason given is that requiring a lifeguard at such facilities increases costs that are passed along as rent. There is no mention whether any tenants of these settings have objected to the increased costs, which are obviously spread over multiple units. There is also no mention of risk to or safety of the residents of these settings in not having a lifeguarded pool.

The Division of Public Health has the responsibility for regulating swimming pools. The regulations are found in 16 Delaware Admin Code Section 4400.⁶ Indeed, in Section 1.4, motels, hotels, private campgrounds and any pool that has been granted private pool status are

⁶[https://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Health%20Systems%20Protection%20\(HSP\)/4464.shtml](https://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Health%20Systems%20Protection%20(HSP)/4464.shtml);

exempted from the requirement to have a lifeguard on duty. Private pools are defined in Section 2 and include pools that are not open to the general public and intended strictly for the “beneficial owner/s” or their guests. A pool with multiple users can be considered a private pool if it is owned by the homeowners collectively and no pool memberships are available to non-beneficial owners. The pools that HB 348 intends to exempt do not meet the definition of a private pool under the regulation. The pool is not owned or controlled by the residents, and they have no control whatsoever over the operation of the pool or who can use it.

Swimming pool- related accidents are a significant cause of both deaths and serious and frequently disabling injuries. Obviously, death by drowning is a primary risk. Death by drowning is the leading cause of death for children between the ages of 1 and 4 and the third leading cause of accidental death for children ages 5 to 19.⁷ People of color are at significantly greater risk of drowning.⁸ According to the CDC:

For people younger than age 30, drowning rates among Black people were 1.5x higher and among American Indian and Alaska Native people were 2x higher than White people

- Drowning is a leading cause of death among children 1–4 years of age
- Deaths among persons with autism spectrum disorder were nearly 40x as likely to be caused by drowning as deaths in the general population ([Injury mortality in individuals with autism](#), AJPH)⁹

In addition, nonfatal swimming accidents cause a significant number of spinal cord injuries, and brain injuries due either to blunt trauma or anoxia from near-drowning. Diving is especially dangerous and is one of the top five causes of spinal cord injuries.¹⁰ Swimming accidents are one of the top ten causes of brain injury in children under 14.¹¹

Moreover, as of 2021, 19% of Delaware residents lived in multifamily housing and 28% lived in renter-occupied housing.¹² It is also true that African Americans constitute a disproportionately high percentage of renters.¹³ Pools at apartment and condo complexes are attractive nuisances. There are frequently many young families living in these settings. Many users are young, and they are not accomplished swimmers. In every way, pools at multi-family housing complexes resemble community pools rather than private pools owned and maintained by homeowners.

⁷ AAP Policy Statement, Prevention of Drowning, Sarah A. Denny, MD, et al, http://publications.aap.org/pediatrics/article-pdf/143/5/e20190850/1076765/peds_20190850.pdf;

⁸ Id; [https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6319a2.htm#:~:text=Blacks%20aged%205%E2%80%9319%20years%20were%205.5%20times%20more%20likely,times%20the%20rate%20of%20whites](https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6319a2.htm#:~:text=Blacks%20aged%205%E2%80%9319%20years%20were%205.5%20times%20more%20likely,times%20the%20rate%20of%20whites;);

⁹ https://www.cdc.gov/drowning/pdf/CDC-DIP_At-a-Glance_Drowning_508.pdf;

¹⁰ <https://helpholive.org/5-unforgettable-facts-about-diving-and-spinal-cord-injuries/>

¹¹ <https://www.aans.org/Patients/Neurosurgical-Conditions-and-Treatments/Sports-related-Head-Injury>

¹² https://www.destatehousing.com/FormsAndInformation/datastatmedia/ds_delaware_fs.pdf;

¹³ <https://www.nlc.org/article/2023/09/12/housing-for-renters/#:~:text=People%20of%20color%20are%20more%20likely%20to%20be%20renters%2C%20reflecting,in%20the%20lowest%20income%20groups.;>

The American Academy of Pediatrics recommends that all community pools have lifeguards, as one layer of protection against drowning and serious injuries.¹⁴ Given the risks associated with unattended swimming, particularly among children and especially children from disadvantaged groups who are more likely to live in apartment complexes, it makes little sense not to require such facilities to provide lifeguards. This is not a decision that should be driven by economics, especially as it is unlikely that the impetus for this bill is coming from tenant complaints.

Recommendation: Council may wish to suggest that DHSS be allowed to continue to require lifeguards at pools in multi-family complexes including apartments and townhomes as one layer of protection for residents and their guests who access the facilities. Even preventing one serious spinal cord injury or one drowning of a child is well worth the expense of a seasonal lifeguard. This bill is fairly far in the process and Councils should move quickly to provide comment, if they choose to do so.

MEMBERSHIP COMMITTEE: There was no committee report for this month.

PERSONNEL COMMITTEE: There was no committee report for this month.

DDOE REPORT: Staff emailed all Council members in advance of tonight's meeting the information Dale Matusевич provided about the class action suit that was filed surrounding the age of eligibility for students with disabilities that DDOE would like to discuss with Council. They would like Council to assist with getting information about the class action settlement out to the prospective class members. According to Carla Jarosz, the lawsuit has been dismissed by the court and a settlement agreement has been approved. There are two class member sections. One class member section is the students eligible to receive compensatory education who were not parentally placed in a private school or homeschool, and who reached the age of 21 during the 2019 to 2020 school year, and exited services at the end of that school year because of their age without a regular high school diploma. The other class is students who were not parentally placed in a private school or homeschool, who reached the age of 21 during the 2020 to 2021 school year, who exited services at the end of that school year because of their age, without a regular high school diploma, but excluding students who did not receive services pursuant to the extension, the Covid extension of services legislation or who participated in Project Search. Each one of these students will be entitled to compensatory education in the amount of \$75 per hour for three- and one-half hours per school day for each school day, between the date they exited services after the end of the school year in which they turn 21, and the date in which that class member turns 22 rounded up to the nearest month. DDOE has come to Council for our assistance. They need GACEC's help in spreading the word and making sure the class members who are entitled to this compensatory education have access to it. They also need the Council to brainstorm ways in which these funds can be used for this population. The Adult and Transition Services Committee gave a summary of the discussions in their meeting tonight after the DDOE report. Al Cavalier suggested that all Council members send to staff/Pam in an email whatever issues they would like to be considered in coming up with the assistance in addressing the class

¹⁴AAP Policy Statement, supra.

action lawsuit guidance. Then at the next Leadership Committee meeting the members could collate, process and synthesize the ideas and present them at the next General Membership meeting. Meedra Surratte agreed with this suggestion. She thinks it would be an effective way to get the information needed and processed.

During the DDOE report, Bill Doolittle asked Carla Jarosz, Deputy Attorney General for DDOE, if DDOE had a process in place to handle the extensive list of noncompliance issues, or if they wait for a lawsuit to be filed. Bill asked if it is better to go the Federal route to make complaints. Carla responded that there is always someone from DDOE at these Council meetings to give information about what we suspect to be noncompliance or issues that need to be improved upon. They are always ready to receive any input on improvements that can be made or suspected noncompliance issues. Dale Matusevich interjected in response to Bill's question that DDOE must be informed of the issues that he is referring to before they can respond to and correct them. Dale stated that he has offered to meet with Bill several times to address issues. Dale said if Bill would like to draft a process to handle noncompliance issues or issues that need to be improved upon, he would be more than happy to sit down with Bill to help draft a document. Pam addressed Council and asked Bill for the issues to be given to Council, as well. Pam added that we need be clear about what the issues are before implying they are being ignored or not addressed. Al Cavalier suggested the possibility of forming an ad hoc committee to create the process that Bill and Dale mentioned. Jessica Mensack asked Bill for clarification of what he was working on because she did not understand and was unaware. Bill replied that "I, as you know, wear a lot of hats. This has absolutely nothing to do with GACEC. I'm working on a set of Federal complaints against the (State Education Agency) SEA, covering a wide array of assurances and claims." Dale responded that he cannot address Bill's issues if he is not aware of what these issues are. Dale has worked very hard to build the relationship between GACEC and DDOE to where it is today. Dale added that if Bill is going straight to the US Department of Education, that will fray the relationship that has been built very quickly. Thomas Keeton added that he appreciated all the time he has spent with Dale on the prison education problems. Dale has had an open door and spent a lot of time with Thomas trying to get him prepared for the age issue that was discussed. Thomas asked that this discussion be included in the GACEC minutes.

Prior to the meeting, staff emailed each Council member the DRAFT Spring 2024 LEA IDEA Annual Determinations. This information is about the accountability framework around the Local Education Agencies (LEAs) determinations that were discussed at last month's Council meeting. Dale went through the slides with Council and explained what was going on to date with the accountability of the LEA determinations. DDOE would like feedback from Council and added that this process is moving fast. DDOE has started meeting with the LEAs. Dale stated that they have already received some feedback and have made some changes to the draft. Dale will send an updated draft for staff to resend to Council members with the changes that have already been made. Dale asked Council for feedback during this meeting. Bill Doolittle gave feedback that he was a little uncomfortable with the three months between LEA meetings with the ECR. Bill thinks that is too long of a gap to not have communication, especially when it's the third year. Erik Warner spoke up and said the plan presented is a great plan with

reasonable expectations. As a middle school Special Education Coordinator, Erik's district has already begun implementing the plan to improve student scores and success rates. Erik added that his school is working on their (Multi-tiered System of Supports) MTSS program and it is working. Dr. Erika Powell asked questions about disproportionality of kids being classified as special education students along with the discipline issue. She thinks a big part of the teacher retention problem has to do with the lack of discipline in our schools. The fact that so many referrals get thrown out means the data is not accurate. She feels that saying things are going to be punitive is going to make things worse in the schools. Some of the schools she has worked with have teachers out for an extended period of time due to being injured. She is worried this will drive districts to not report, especially when it comes to discipline. She has seen a number of kids being identified who are children of color that do who have mental health needs and the schools don't know what to do with them. Does DDOE have any plans for these children with specific needs, so that it doesn't escalate for three years? Dale said that Cassandra Codes-Benjamin (DDOE) and her group from School Supports are doing a lot around social and emotional learning. It might be a good ideal to invite her into the conversation, so she could update Council on what they are doing on their end. DDOE is working closely with school supports and Dr. Eddie Ferguson, from Rutgers, on the disproportionality piece. We are looking at those who have been identified and are working and coaching the LEAs through this process over the next year.

CHAIR REPORT: Ann Fisher announced the absent members and the guests.

DIRECTORS REPORT: Pam attended the Disabilities Policy Seminar in Washington DC last week. It was based around Federal level policy. Pam added that it was very engaging and there was a lot of information to take in. Pam and staff are working on drafting a report that includes information from the Seminar to be distributed to Council once it is completed.

OUTSIDE COMMITTEE REPORTS

EDUCATION EQUITY COUNCIL: Jessica Mensack provided an update to Council. There have been several meetings to get the Education Equity Council up and running. The purpose of this council is to provide input and oversight into the Education Equity Ombudsperson program and to study the recommended solutions to ongoing or systemic equity problems in Delaware schools. PIC was awarded the Request for Proposal (RFP) and they launched their initial program in 2022. During the last meeting, Dr. Doris Griffin was appointed as Chair and Fleur McKindell was elected as the Vice Chair. There will be three subcommittees that will be guiding this work:

1. The RFP process, which is reviewing, proposing updates and receiving new applicants for the new RFP process that will move forward.
2. Performance and review, which will review the current Ombudsperson program, the RFP and comparing that work with deliverables.
3. Best practices, research and recommendation from other states.

INDIVIDUALS WITH COMPLEX MEDICAL CONDITIONS AND EDUCATION (ICE):

Jessica Mensack provided an update to Council. They are still working with Dale to schedule next steps and the next meeting. Dale will be sending them some additional dates in the next couple of weeks. There were no updates regarding the conversation around Medicaid.

EXTENDED LEARNING SUBCOMMITTEE: Bill Doolittle provided an update to Council.

They had a presentation from Capital School District on their extended learning program. It is quite extensive and most of it is funded under the 21st Century Grant. They also discussed the 12-month programming.

ADJOURNMENT: Motion was made by Erik Warner and seconded by Kristina Horton to adjourn the meeting. The meeting was adjourned at 9:04pm.