GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
7:00PM January 21, 2025
VIRTUAL MEETING

MEMBERS PRESENT: Al Cavalier, Nancy Cordrey, Bill Doolittle, Ann Fisher, Cory Gilden, Tika Hartsock, Kristina Horton, Thomas Keeton, Jessica Mensack, Beth Mineo, Maria Olivere, Trenee Parker, Jennifer Pulcinella, Stefanie Ramirez, and Meedra Surratte.

OTHERS PRESENT: Cindy Brown/Office of Early Childhood Intervention (OECI), Harley Doolittle, Mindi Failing, Fern Goldstein, Dale Matusevich/Department of Education (DOE), Theresa Muschiatti (ALS interpreter), Hope Sanson (Birth to Three), Peg Stewart (ALS interpreter), Stephanie Stranick, Jeri Turner (DOE), Lee Wentz, and Samantha Wooten.

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

MEMBERS ABSENT: Matt Denn, Karen Eller, Molly Merrill, Erika Powell, Brenné Shepperson, and Erik Warner.

ADMINISTRATIVE ACTIONS: Ann Fisher called the meeting to order at 7:02pm. There was a quorum of members present. The motion to approve the January agenda with the change of Stacy Watkins to present in place of Jodi Roberts was made by Trenee Parker and Kristina Horton seconded the motion. The motion passed unanimously. Maria Olivere made a motion, seconded by Kristina Horton to approve the November meeting minutes. The November minutes were approved. Trenee Parker made a motion to approve the November and December financial reports. The motion was seconded by Maria Olivere. The motion passed with Tika Hartsock abstaining.

PUBLIC COMMENT:

Stephanie Stranick was the first person for public comment tonight.

Ms. Stephanie Stranick began her comments by saying it was nice to meet everyone and that this was her first call. Ms. Stranick is the mother of a 17-year-old swimmer and golfer. She transferred from a school in Sussex County early in the fall, with the new State transfer the athletics transfer with Delaware Interscholastic Athletic Association (DIAA). Ms. Stranick went on to say they have faced many issues with the timeliness of getting her approved for a full season of swim. Her daughter has been blocked from the 1st half of swim season and all of states

and conferences. She's a junior in high school now. She's traditionally been in states and conferences since she's been a freshman. Ms. Stranick stated that the process they have gone through with the DIAA has been extraordinarily painful and time consuming. She has had to produce probably at least 50 different documents, including, certification of her daughter's disability and they still received a rejection from Mr. Baylor as of January 11th, refusing to grant her full eligibility. Ms. Stranick stated that she is asking that we start to appeal more so to DIAA and the Department of Education to fix the language in SB 281. That way, other families are not put through the situation she and her daughter encountered. Ms. Stranick stated that she has a disability. Her daughter also has a disability and the amount of work, stress and added trauma, just from having to go through this experience has been excruciatingly painful. Ms. Stranick has had certification from her daughter's sending school confirming that she in no way, shape or form transferred schools due to athletics. The transfer was due to academics and 504 related reasons. The DIAA was provided all of this information. Ms. Stranick went on to say that she had to retain an attorney. The attorney just sent a letter that Mr. Baylor would have received last week, and certified mailing was received today. That means that they will have to go through the appeals process they just went through all over again, from start to finish. This started in December, and it is now January 21st but they still don't have an answer as to her daughter's eligibility. They just know that a lot more work needs to happen. Ms. Stranick stated that she is just here to ask for everybody's support and for assistance, with advocating, on behalf of all disabled students who are student athletes within the State of Delaware. She would like assistance so that they don't have to go through this again and assistance to get the language cleaned up as necessary.

Second public comment for tonight was from Mindi Failing.

Ms. Mindi Failing presented tonight through an America Sign Language (ASL) interpreter. She is the Statewide Programs Director for Deaf, Hard of Hearing, and DeafBlind. She wanted to open the door for discussions, to welcome people to visit and tour the programs and services offered through the statewide programs. They are working in different districts and for families and for all children. Ms. Failing is offering the opportunity to come and visit and observe and have meetings and discussions, and maybe to clarify what the existing services and programs that we have and what our goals are for the long term, and how they can support, deaf and hard of hearing, and their families, wherever they are, whatever their additional disabilities are. Ms. Failing is ready to get to work and make some improvements and provide some long-term support for low incidence groups. Ms. Failing is looking forward to working with the GACEC and collaborating. She encouraged members and guests to feel free to reach out any time there is a deaf or hard of hearing, or deafblind student, or any help and support needed from them. She provided her email address. Melinda.failing@christina.k12.de.us.

LIFE SPAN WAIVER RENEWAL UPDATE: Stacey Watkins from the Division of Developmental Disabilities Services (DDDS) provided an update on the Lifespan waiver renewal. She explained that the waiver allows the state to leverage federal match dollars,

effectively doubling the services provided. She also discussed the addition of an organized healthcare delivery system for assistive technology, home and vehicle accessibility, adaptations or modifications, and specialized medical equipment and supplies. Stacy mentioned the addition of an agency as a provider type for shared living and the removal of language related to the emergency medical behavioral intervention form. She also discussed the increase in the combined annual budget for respite and personal care services and home and vehicle modifications. Stacy addressed concerns about virtual services, stating that providers are required to go on-site if the technology is not working. Lastly, she shared that the DDDS 1915 C Lifespan waiver was renewed for another five years, effective January 1st, 2025.

COMMITTEE REPORTS:

POLICY AND LAW COMMITTEE: The Policy and Law Committee reviewed and discussed the legal memo, which is attached at the end of these minutes. The members of the committee who were present made the following recommendations to Full Council for a vote. The Committee recommends endorsement of all DLP recommendations, which include:
- Support for language changes in the regulation about paraeducator permits that appear to create flexibility, which may make it possible for more people to meet the eligibility criteria.
- Opposition to the proposed regulation allowing those with no college coursework related to the education of gifted/talented students to be certified as a Teacher of Students Who Are Gifted or Talented based on the completion of only three micro-credentials.
- Opposition to the Public Service Commission regulation that would erode consumer protections regarding termination of residential or natural gas service for non-payment during extreme seasonal temperature conditions to protect those with disabilities who require utilities for health and safety reasons.
- Support for Senate Bills 2 and 3 regarding absentee voting; and
- Support for House Bill 28 regarding school data reporting, with a suggestion to add data regarding alternative placement rates in discipline reporting; and
- Opposition to House Bill 32 regarding funding for school resource officers. GACEC expressed concerns regarding a prior version of this bill, and recent accidental discharges of resource officer weapons raised additional concerns about the appropriate utilization of school resource officers. The recommendation includes a suggestion that the General Assembly redirect the enhanced funding to conduct de-escalation and crisis intervention training for officers and that limits their role in situations more appropriately handled as an internal disciplinary matter. We will also note that the GACEC has established an ad hoc committee on this issue and would welcome the opportunity to engage with the bill's sponsors about this complex matter.

Full Council voted and the motion passed to support the endorsement of the recommendations with Trenee Parker, Maria Olivere and Kristina Horton abstaining. You can find a copy of Council's letters in reference to this legal memo at the following links on the GACEC website:

- 28 DE Reg 490
- 28 DE Reg 497
- 28DE Reg 522
- HB 29

To access all GACEC Regulatory letters, visit https://gacec.delaware.gov/regulatory-letters/. To view Legislative letters, visit https://gacec.delaware.gov/legislative-letters/.

INFANT AND EARLY CHILDHOOD COMMITTEE: Ann Fisher reported that Cindy Brown is retiring on January 31st. Tonight, Cindy gave updates on OECI and indicators 6,7 and 12. The APR data was good. Indicator 12 had 1400 kids transitioning with a compliance rate over 98% and only three districts in noncompliance. Indicator 6 has improving data while Indicator 7 is also improving with intense technical assistance and new strategies.
The Ages and Stages questionnaire is being utilized and completed by parents at a rate of 91%, reinforcing to parents their importance as the expert in their child. Additionally, the Lead Agency Transfer has been meeting internally and nailing down the specifics of staffing structure and professional development. An update will be available in the spring.

CHILDREN AND YOUTH COMMITTEE: The Committee spent time updating and tweaking their Committee goals. The Committee made a motion to send a letter to DOE to request the data around the enrollment of students with disabilities in charter schools, magnet schools and Vo-tech schools and their natural proportions data as well. The motion passed.

ADULT AND TRANSITION SERVICES COMMITTEE: Tonight, Lee Wentz gave an update on the Class Action Settlement Agreement – Compensatory Education. The settlement Agreement provides compensatory education services for students who did not receive a high school diploma but were aged out of special education and related services before their 22nd birthday. The settlement, however, excludes certain students who were eligible to receive an additional year of services pursuant to a Delaware law that made available an extra year of services for students during the 2020-2021 school year because of the Covid-19 pandemic (the "Covid Law")

DDOE REPORT:

- Dale Matusevich discussed the launch of a new High Needs Grant Application Process, which is a new reimbursement process. Dale explained the methodology for calculating current expenditures and the example of how it would occur for Local Education Agencies (LEAs) applying for high needs grants. HE also discussed the limitations of the high needs grant application process, including the three-year limit and the exclusion of prison education.
- Dale Matusevich discussed the implementation of a new accountability measure for LEAs, particularly around their LEA determinations. He mentioned that his team would be attending trainings on school improvement and literacy and would be integrating their work with the school improvement team. Dale also mentioned a new State Personnel Development Grant RFP (request for proposal) and the upcoming Annual Performance Report (APR) due to the Office of Special Education Programs (OSEP). He also discussed the current data collection for the APR and the need for more meaningful conversations around data. There was discussion around the need to better engage stakeholders, especially parents, in understanding data and indicators related to special education.

CHAIR REPORT: Ann announced the visitors and those Council members who were absent tonight. Ann reminded all Council members to email their committee goals for the year, as well as their monthly committee reports to Lacie and Theresa.

DIRECTOR'S REPORT:

- Pam reminded Council members to complete the Retreat survey.
- We have members that have asked to participate in the Prison Ed, Restraints and Seclusion and School Resource Officer ad hoc committees. We also have received volunteers to work on the Nominating Committee. We will be scheduling these 1st meetings in the coming days.
- During the Director's Report, Bill Doolittle made a motion, that was seconded by Tika Hartsock to recognize Cindy Brown's retirement. Cindy is a tireless advocate for the children of Delaware. The motion passed and staff will work on a recognition to thank Cindy Brown for all of her dedication to the children of Delaware.

OUTSIDE COMMITTEES:

ICE AD HOC COMMITTEE: Jessica gave an update on the Individuals with Complex Medical Conditions and Education (ICE) committee. We're supporting the subpopulation of students with complex medical conditions. The Committee met with the Department of Education. I think it was August 26th to discuss the data migration from E-school to Infinite Campus and ICE had provided some feedback to Council on September 4th with thoughts and recommendations as we move forward in partnership with Dale and his team. Currently, ICE is working with Council staff to schedule a follow up with the Department of Education to see how things are going with the data migration. Jessica asked if there were any questions, thoughts or feedback to revisit that email back in September. The Committee welcomes, any thoughts that you may have in regard to the data migration.

The ICE Committee is looking to build a partnership with the folks working with the Medicaid school-based services grant. This is monies to support the infrastructure for those school-based services, and there's a contract group by the name of Mercer that we are hoping to meet with soon.

EDUCATIONAL EQUITY COUNCIL: Jessica gave an update tonight. This Council was established by House Bill 188, with House Amendment 1, and its purpose is to provide input and oversight into the Education Equity Ombudsperson Program. They have had many meetings, and have worked through revising, finalizing, and putting out a new Request for Proposal (RFP) for the Ombudsperson program. Jessica reported that she couldn't say much, because much of the work was done in executive session. She can say that an awardee has been selected. The next meeting, which is public, is January 23rd at 5pm.

ADJOURNMENT: Kristina Horton made a motion to adjourn the meeting. The motion was seconded by Bill Doolittle. Motion passed. Ann adjourned the meeting at 9:05 pm.

Date: 1/14/25
January 2025 Policy and Law Memo

I. Proposed Regulations

➔ Proposed PSB/DDOE Regulation on Paraeducator Permits, 28 DE Reg. 490 (1/01/25).

With this notice, the Delaware Department of Education (DDOE), Professional Standards Board is proposing to amend 14 Del. Admin. C. § 1517 with respect to paraeducator permits. The proposed amendments in this regulation include revising the requirements for an applicant for an Instructional Paraeducator Permit, as well as a Service Paraeducator Permit, to clarify that a secondary credential approved by a state can also be used to qualify for a permit (proposed language: "applicant who holds a high school ~~diploma or its recognized equivalent~~ diploma, the equivalent of a high school diploma approved by a state, or a secondary credential approved by a state."). The proposed amendments also include grammatical and style changes. Further analysis is not necessary.

Recommendation: GACEC may wish to support these changes as they appear to create flexibility to encourage more paraeducators to serve Delaware.

➔ Proposed PSB/DDOE Regulation on Teacher of Students Who Are Gifted or Talented, 28 DE Reg. 497 (1/01/25).

With this notice, the Delaware Department of Education (DDOE), Professional Standards Board is proposing to amend 14 Del. Admin. C. § 1572 which concerns the requirements for a Teacher of Students Who Are Gifted or Talented Standard Certificate. The biggest substantive proposed change to this regulation concerns the addition of a pathway toward achieving the Certificate through completion of "micro-credentials." Many of the other proposed changes are non-substantive or have been commented on previously in this 1500 series and will not be discussed below.

Delaware's proposed regulation defines micro-credential as "evidence-based professional learning activities that are competency-based, personalized, on-demand, and sharable." This is consistent with how the National Education Association[1] defines the term. Micro-credentials have several benefits including (1) skills broken down in several smaller chunks; (2) being delivered online which improves access; and (3) allowing teachers to learn skills before applying them in their classroom.[2] It must be noted that the use of micro-credentials is still a growing area of professional development that will benefit from additional research to identify its effectiveness on the current teacher workforce.[3]

[1] https://www.nea.org/professional-excellence/professional-learning/micro-credentials.
[2] https://www.ed.gov/sites/ed/files/2022/07/EIR_Using-Micro-credentials-to-Improve-Teacher-Skills-in-Computer-Science_FINAL.pdf; https://www.air.org/sites/default/files/downloads/report/Micro-Creditials-for-Teachers-September-2017.pdf.
[3] https://www.air.org/sites/default/files/downloads/report/Micro-Creditials-for-Teachers-September-2017.pdf, p. 2 ("Currently, the research on micro-credentials for educators is thin. Most of the available research is based on teacher feedback about their own use of micro-credentials.").

This proposed change will add new section 4.1.1.6 which provides for a new path to obtaining the Certificate. Specifically, it would require an applicant to have earned a bachelor's degree from a Regionally Accredited college or university in *any* content are and complete three specific micro-credentials from the National Association for Gifted Children (NAGC) which are (1) curriculum compacting; (2) identification; and (3) social and emotional needs of gifted students. Each of the other pathways to earn the Certificate identified in the 1572 regulation require some sort of instruction as preparation for teaching gifted or talented students. The new 4.1.1.6 pathway would not require any preparation for teaching this particular group of students. On its website describing the micro-credentials, the NAGC specifically states that "[t]he micro-credentials are intended to serve as an introduction to specific topics and are not intended to replace, nor are they equivalent to, a certificate, endorsement, or graduate level program."[4]

It is not apparent that Delaware intended micro-credentials to replace teacher preparation when it adopted micro-credentialing for professional development. Michael Watson, the former chief academic officer and associate secretary for DDOE, previously indicated the purpose of micro-credentialing to be a way to personalize professional learning for educators when engaging in professional development.[5] Micro-credentialing cannot take the place of teacher preparation programs. By allowing this alternative route to obtaining this Certificate, Delaware will be setting its teachers of gifted and talented students up for failure. This will undoubtedly have a negative impact on these students.

Recommendations: GACEC may wish to consider objecting to the additional pathway to obtaining this Certificate, for the following reasons.

1. Micro-credentialing is not meant to replace formal teacher preparation training programs and it cannot provide the same level of education as those programs.

2. Delaware will be sending unprepared teachers into the classroom which will negatively impact gifted and talented students and those who are 2e (twice exceptional).

➔ **Proposed Department of State/Public Service Commission Regulation Governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Non-Payment During Extreme Seasonal Temperature Conditions, 28 DE Reg. 522 (1/01/25).**

With this notice, the Department of State/Public Service Commission (PSC) is proposing to amend its regulations governing termination of residential electric or natural gas service by public utilities for non-payment during extreme seasonal temperature conditions. PSC summarizes the change as a proposal to lower the Heat Index metric used during the Cooling Season and eliminate the requirement that a utility attempt to make personal contact at a customer's premises prior to disconnection.

[4] https://nagc.org/page/nagc-micro-credentials.
[5] https://www.air.org/sites/default/files/downloads/report/Micro-Creditials-for-Teachers-September-2017.pdf, p. 6.

Utility termination poses significant public health and safety concerns for people with disabilities who rely on utilities to use medically necessary equipment, such as oxygen, suctions, and more. For those who are not technology dependent, the lack of electricity can pose a health risk for individuals with disabilities that are impacted by the weather or humidity (e.g. asthma and humidity[6]). For these reasons, Delaware has elected to protect individuals with disabilities by disallowing utility termination "if any occupant of any dwelling unit shall be so ill that the termination of such sale or service shall adversely affect the occupant's health or recovery, which has been so certified by a signed statement from any duly licensed physician, physician assistant or advanced nurse practitioner, of this State or of a state with similar accreditation and received by any employee or officer of such person engaging in the distribution or sale of gas, water or electricity." 26 Del. C. § 117(d).

The intent of the law is compromised by the proposed regulatory amendment. The proposal removes the use and definition of the term "Personal Contact", which presently means "a face-to-face meeting between the customer or responsible occupant of the premises served and an employee of the covered utility who is authorized to receive payment and issue a receipt or make other arrangements for payment" and PSC proposes to remove in the entirety the current personal contact requirements that follows (emphasis added in bold):

> *3.3 Final Contact Prior to Termination.*
> ***The employee of the utility who is to disconnect service shall make a reasonable good faith attempt to make personal contact at the premises to be disconnected**. If personal contact is made, the employee shall:*
>
> > *3.3.1 Identify himself or herself to the customer or some responsible person then upon the premises and shall announce the purpose of his or her presence.*
> >
> > *3.3.2 Identify and record the name of the person contacted.*
> >
> > *3.3.3 **Accept payment of all amounts tendered which are necessary to avert disconnection** and issue a receipt for such payment. If the form of payment is unacceptable to the utility, the employee can make other payment arrangements with the customer.*
> >
> > *3.3.4 Record and report to his or her supervisor any statements disputing the accuracy of the utility's findings concerning the cause for termination of service.*
> >
> > *3.3.5 **Record and report to his or her supervisor statements or other information concerning the existence of any condition on the premises which would result in a medical emergency if service were terminated.***
> >
> > *3.3.6 **Receive written certification from a duly licensed Delaware physician or accredited Christian Science practitioner that a named occupant of the dwelling unit is so ill that termination of service will adversely affect the occupant's***

[6] For example, asthma attacks can be triggered by extreme weather or humidity. See e.g. https://aafa.org/asthma/asthma-triggers-causes/weather-triggers-asthma/.

health or recovery. *Upon receipt of such certification, the utility shall not disconnect service*.

The proposed striking of the "personal contact" requirements removes three safeguards, that are of particular importance to people with disabilities, prior to the termination of the utility services: 1) the ability to provide payment at the personal contact to stop the termination; 2) the ability of a utility worker to record and report to his or her supervisor that a condition on the premises exists which would result in a medical emergency if service were terminated; and 3) the ability of the occupant to provide a medical certification at the "personal contact" prior to disconnect.

Individuals with disabilities have varied communication need and may or may not have independent access to mail or phone service. Relying on indirect contact only means that some people with disabilities may not receive or understand the notice to disconnect their utility. The personal contact requirement helps to ensure that there is direct communication of the impending shut off, and gives the person with a disability the opportunity to prevent the shut of via one of the means described in 3.3.

PSC also proposes to remove from the regulation the following:

6.2 Deferred termination
Where termination of service, otherwise authorized, has been deferred by virtue of § 6.1 [heating season conditions below 32 degrees], notice of such fact shall be left at the subject dwelling unit on the date on which termination was to be effected, notifying the occupant that unless proper payment arrangements are made, service will be terminated thereafter on a day when § 6.1 does not apply. If the termination of service involves an apartment complex, trailer park, or other grouping of individual residential dwelling units to which service is provided directly or indirectly through a master meter without individual meters, the notice required by this section shall be deemed sufficient if the notice is given in accordance with § 5.3 [notice to occupants of a multi-occupant dwelling].

This additional step helps ensure actual notice and is an additional safeguard that PSC proposes to remove.

The other changes in the proposed rulemaking were technical drafting and grammatical changes.

Recommendations: GACEC may wish to oppose this proposed regulatory change as it removes important safeguards that help ensure people with disabilities are not put at risk during extreme weather.
GACEC may wish to include in their comments that they would like to meet with PSC to discuss 1) the proposed rulemaking and why it would be so problematic for people with disabilities and 2) potential modifications to utilities practices under ADA/Section 504, such as by creating a means for disability service agencies, or other designated individual, to receive a copy of the notification and resources prior to a termination.

II. Bills

➔ **Senate Bill 2 and 3**

These bills are "the first leg" of constitutional amendments[7] to specifically authorize 1) early, in-person voting for the general election, a primary election, and a special election filling a vacancy in the General Assembly (SB 2) and 2) to eliminate the limitations on when an individual may vote absentee and provide an absolute right to vote by absentee ballot without an excuse (SB 3; often called "no excuse absentee voting").

The bills are in response to recent Supreme Court decisions regarding absentee and early voting. For the reasons explained in the amicus brief filed on behalf of Community Legal Aid Society, Inc. (CLASI) and the ARC of Delaware, in one of those cases, early voting and permanent absentee ballots are extremely useful tools to ensure the enfranchisement of voters with disabilities: see pages 1-5 at https://www.declasi.org/wp-content/uploads/2024/05/Brief-of-Amici-Curiae-Community-Legal-Aid-Society-Inc.-and-The-Arc-of-Delaware-in-Support-of-Appellant-and-the-Reversal-of-the-Decision-Below.pdf. As detailed later in that amicus brief, currently the Delaware constitution should be interpreted to allow for early voting and at least permanent absentee voting for voters with qualifying reasons. That said, having this confirmed via constitutional amendment, while not necessary, would not be harmful to the ability of people with disabilities to vote. Further, expanding the absentee ballot to do away with the requirement to have an "excuse" to vote absentee could further increase the accessibility of voters with disabilities.

Recommendation: Council may wish to support these bills.

➔ **House Bill 29**

House Bill 29 is sponsored by Rep. Shupe and Sen. Buckson, and co-sponsored by Reps. Hilovsky, Morrison, and Michael Smith and Sens. Lawson and Pettyjohn. The bill would Change the requirements around Delaware's school data reporting, currently known as School Performance Data Reports (reports). These reports are available on the Department's website as the Delaware Report Card.

This Act revises current law to correspond with and codify current Department practices regarding these reports to:

1) Change the term "Education Profile" to "education-related data" to reflect the broad range of data that the Department publishes, in addition to the annual reports required under existing State and federal law.
2) Require that there is a link to these reports on the school choice website.
3) Require that these reports continue to include proficiency rates.
4) Require the inclusion of a list of career pathways offered at a high school.

[7] Amending the Delaware Constitution requires these bills to pass, but also passage of the same changes after the next general election by the next General Assembly, and requires a greater than majority vote for passage because the Delaware Constitution requires the "yes" vote of two-thirds of the members elected to each house of the General Assembly.

In addition, this Act requires that the reports be linked on the home page of the Department's website, and makes technical corrections.

While the reports generally require data about discipline, presently rates of alternative placements under 14 Del. Admin C. 616.7 (not through expulsion) by school and district is not part of these reports. Alternative placements can be for lengthy time – sometimes a year or more, but under current regulations students are not entitled to as many due process protections as those students facing expulsion (and who practically may receive the same alternative placement). More transparency about the frequency of alternative placements would give a fuller picture of the students of Delaware students with disabilities, and others.

Recommendation: GACEC may wish to support the bill but to take this as an opportunity to encourage the bill sponsors to specifically require these school data reports to include alternative placement rates in the discipline reporting.

➔ **House Bill 32**

This bill, sponsored by Rep. Shupe, Sen. Lawson and Rep. Dukes, would establish school officer units to fund school resource officers or constables in all Delaware public schools. If passed, it would fund at least 1 school officer in each school in a school district and in each charter school, regardless of enrollment, and provides for additional school officers for schools with over 1,000 students. This bill is quite similar to HB 167, analyzed in the June 2023 Policy & Law memo, and HS 1 for HB 167 (which changed a definition only)[8]. The analysis from the June 2023 memo is included below and equally applies to House Bill 32.

House Bill 167 ("HB 167") seeks to amend Chapter 17, Title 14 of the Delaware Code relating to state appropriation for public education by adding § 1716H, which would add a new school resource officer ("SRO") unit for the employment of SROs.[9] HB 167 does the following:

1. *Establishes SRO units to fund school resource officers in all Delaware public schools;*
2. *Funds one SRO in each school in every district and charter school;*
3. *Funds an additional SRO for schools with over 1,000 students, including a fractional unit for the percentage of students above 1,000 that are insufficient to meet the threshold for an additional unit; and*
4. *Allows a school district to refuse the funding.*

The bill was assigned to the House Education Committee which met on May 7, 2023.[10] Despite strong objections from Representative Morrison and an indication from the bill's sponsor that HB 167 would be amended, it was voted out of committee. Rep. Shupe, HB 167's sponsor, indicated that the purpose of the bill was to reduce the burden on local school districts and charter schools (collectively, "LEAs") for funding SROs – instead, HB 167 would allow those

[8] HS 1 for HB 176 did not make it out of the appropriations committee.
[9] Sponsors: Reps. Shupe & K. Williams and Sens. Lawson & Walsh; co-sponsors: Reps. Bush, Collins, Gray, Parker Selby, Ramone, Michael Smith, & Yearick and Sens. Buckson, Hocker, Pettyjohn, & Wilson.
[10] https://legis.delaware.gov/MeetingNotice/33114.

LEAs to use the local funds currently paying for SROs for other services for students. Other concerning alternatives were discussed at committee meeting.[11]

Funding for the SRO units would be shared between state and local funds with the state paying a maximum of 70% of the annual salary rate and other employment costs. The remaining 30% would be paid with local funds. This bill would generate approximately 239 full-time SRO units with an average personnel cost to the state of $111,465 and $40,766 from local funds for each unit. This does not include the annual per unit equipment and maintenance cost of approximately $25,000 or one-time vehicle and equipment costs per unit of $110,000.[12] *To implement this bill, the total cost is approximately $69 million in FY 2024,*[13] *$45 million in FY 2025, and $46 million in FY 2026. Because this year's budget is tight and Joint Finance Committee is already over, HB 167 will likely not get out of appropriations this year with the 70/30 split; however, it may move forward next year. Rep. Shupe shared that he spoke with Governor Carney, and he supports the bill but would not include in the recommended budget.*

For the reasons discussed below, ***GACEC may wish to oppose, in its entirety, this bill and any effort to expand the use of police in schools.*** *Of concern, according to a 2022 opinion piece in the Hechinger Report,*[14] *"[r]esearch has shown that policing in schools disproportionally affects children of color, LGBTQ+ youth and students with disabilities. Black and Latinx students, who are already overrepresented among students suspended and expelled, make up more than 70 percent of all students referred to law enforcement. While LGBTQ+ youth comprise only 6 percent of the total youth population, they represent about 15 percent of the young people in juvenile detention. In some states, students with disabilities were arrested nearly three times as frequently as their peers."*

This is consistent with the data collected in the 2017-18 Civil Rights Data Collection ("CRDC") which found that Delaware was not only among the top 10 in referrals to law enforcement but was the ***first*** *in the nation for disproportionately suspending minority students and students with disabilities.*[15] *Delaware's own data reporting (the School Discipline Improvement Program Statewide Summary Report) mirrors the CRDC data in showing that students of color and students with disabilities are suspended or otherwise subject to discipline at much higher rates than their white and non-disabled peers.*[16]

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[11] Rep. Shupe stated during the committee meeting that he would be amending HB 167 to include constables. Rep. Shupe stated that substituting constables for SROs would reduce the fiscal note from $44 million to $19 million. Rep. K. Williams then questioned why the funding provided by the state could not be at the level of funding needed for constables, with the LEAs making up the difference. She noted that this would lower the fiscal note attached; however, Rep. Shupe expressed concerns with this approach and that it may lead to LEAs choosing between constables or SROs. According to the fiscal note attached to the bill, the September 2022 unit count showed that Delaware had approximately 195 schools with less than 1,000 students, 25 schools with 1,000-1,999 students, 4 schools with 2,000-2,999 students, and 1 school with more than 3,000 students.

[12] Equipment and maintenance costs are assumed to be fully funded through state funds.

[13] Includes state one-time cost of approximately $26 million.

[14] https://hechingerreport.org/opinion-more-police-in-schools-are-not-the-answer-its-up-to-educators-to-make-schools-safe/.

[15] https://ocrdata.ed.gov/estimations/2017-2018.

[16] https://education.delaware.gov/wp-content/uploads/2021/11/20.21_discipline_improvement_report.pdf. *See also* https://data.delaware.gov/Education/Student-Discipline/yr4w-jdi4.

One of the concerning aspects of these numbers is that one of the most common reasons for school-based arrests of students is for disorderly conduct.[17] This infraction is so broad and subjective which has historically led to it being disproportionately imposed upon students of color. In referring these students to law enforcement or otherwise imposing school-based discipline, schools are criminalizing normal youth disruptive behavior. These subjective discipline policies, which divert students away from school-based discipline and toward law enforcement, are major contributors to the school-to-prison pipeline. Moreover, despite a decrease in crime generally, arrest rates at schools with SROs are 3.5 times the rate of arrests at schools without SROs – and in some states the rate is as high as 8 times.[18]

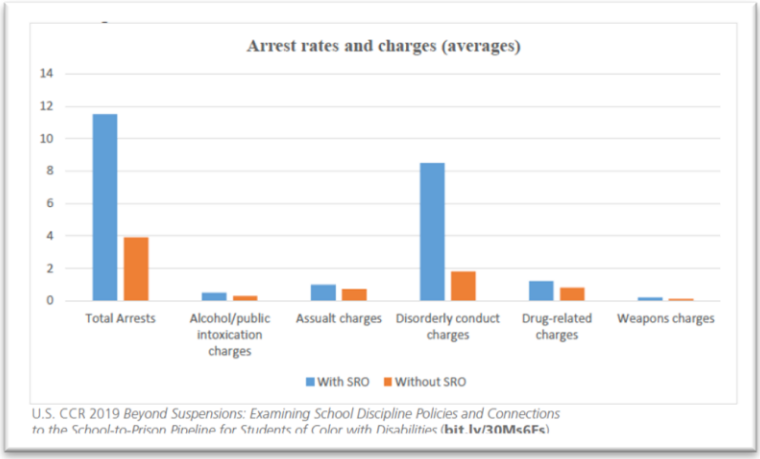

Table pulled from the Education Civil Rights Alliance and American Federation of Teachers' report Police in Schools: A Background Paper.[19]

Instead, state funding could and should be used for strategies that actually decrease discipline infractions in school or may otherwise lead to an increase in academic gains for students. These strategies could include:

1. *funding for at least one social worker at each school, to increase the number of student wellness centers, to expand facilities or otherwise increase staffing to reduce teacher-to-student ratios;*
2. *removing subjective discipline from the Delaware code and regulations (including infractions such as disorderly conduct, disrupting the educational process, disrespect to staff or student);*
3. *requiring restorative justice and positive behavior intervention supports to be used at each LEA;*
4. *removing SROs from elementary and middle schools;*
5. *developing specific guidelines for when it is appropriate to involve an SRO in a disciplinary issue on school grounds.*

[17] https://www.usccr.gov/files/pubs/2019/07-23-Beyond-Suspensions.pdf.
[18] https://www.aclu.org/report/cops-and-no-counselors.
[19] https://edrights.org/wp-content/uploads/2020/08/PoliceInSchools-by-ECRA-and-AFT.pdf.

Conclusion/recommendation: *Because of the disastrous impact that SROs have on the school climate and environment, especially with respect to those students of color and students with disabilities, Council may wish to oppose HB 167 in its entirety.*

One additional concern we wish to highlight, that has occurred in the intervening time, are the two recent accidental shootings by Delaware School Resource Officers in Delaware Schools.[20] Fortunately no students were harmed but these occurrences certainly highlight the risks posed to Delaware students by the presence of armed officers in their school buildings.

Conclusion/recommendation: Because of the disastrous impact that SROs have on the school climate and environment, especially with respect to those students of color and students with disabilities, Councils may wish to oppose HB 32 in its entirety. Council may wish to express that instead the General Assembly should look at an effort that provides funding to conduct de-escalation and crisis intervention training to officers and that limits their role to not include involvement in disciplinary matters.

➔ **Other bills of note:**

- SB 34 early lease termination (language around termination due to LTC or group home placement was modified) https://legis.delaware.gov/BillDetail?LegislationId=141750
- SB 26 (unemployment compensation) https://legis.delaware.gov/BillDetail?LegislationId=141739
- HB 1 Veteran's Affairs – State office https://legis.delaware.gov/BillDetail?LegislationId=141733
- HB 28 related to Sussex County Vo Tech HS https://legis.delaware.gov/BillDetail?LegislationId=141731

[20] One occurred in November 2024 at Stanton Middle School: https://www.delawareonline.com/story/news/local/2024/11/07/delaware-stanton-middle-school-constables-gun-accidentally-fires-no-injuries/76108171007/ ; another occurred in December 2024 at the Evelyn Morris Early Childhood Center: https://www.wboc.com/news/milford-school-district-constable-accidentally-fires-gun-in-school/article_5fae7cf0-b73b-11ef-916f-afd47ed0daad.html.