



GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
7:00PM April 15, 2025
VIRTUAL MEETING

MEMBERS PRESENT: Al Cavalier, Nancy Cordrey, Bill Doolittle, Karen Eller, Ann Fisher, Tika Hartsock, Kristina Horton, Thomas Keeton, Jessica Mensack, Molly Merrill, Beth Mineo, Maria Olivere, Trenee Parker, Erika Powell, Jennifer Pulcinella, Stefanie Ramirez, Brenné Shepperson, and Meedra Surratte.

OTHERS PRESENT: Craig Clizbe, Matthew Clizbe, Harley Dolittle, Mindi Failing, Laura Hattier, Maxwell Lasher, Dale Matusevich/Delaware Department of Education (DDOE), Lillian McCuen, Jessica Meads, Theresa Muschiatti (ALS interpreter), Peg Stewart (ALS interpreter), Deborah Talley (DVI), Jerry Turner (DDOE), and Mary Whitfield.

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

MEMBERS ABSENT: Matt Denn and Erik Warner (Resignations pending), Corey Gilden (requested leave of absence)

ADMINISTRATIVE ACTIONS: Ann Fisher called the meeting to order at 7:02 pm. There was a quorum of members present. The motion to approve the April agenda was made by Jennifer Pulcinella and Bill Doolittle seconded the motion. The motion passed unanimously. Al Cavalier made a motion to accept the March minutes and Molly Merrill seconded the motion. The motion to accept the minutes passed with Meedra Surratte abstaining. Bill Doolittle made a motion to approve the March Financial report. The motion was seconded by Maria Olivere. The motion passed.

PUBLIC COMMENTS: There were no public comments tonight.

GENERAL ELECTIONS: Council held elections for leadership positions tonight. The Chair, Vice Chair and Member at Large (1) and (2) positions were up for election this evening. The votes were taken by roll call.

The Chair candidates were Ann Fisher and Bill Doolittle. The following votes were cast for Ann Fisher – Al Cavalier, Ann Fisher, Jessica Mensack, Kristina Horton, and Molly Merrill. The

following votes were cast for Bill Doolittle -Nancy Cordrey, Bill Doolittle, Karen Eller, Tika Hartsock, Thomas Keeton, Maria Olivere, Erika Powell, Jennifer Pulcinella, Breneé Shepperson and Meedra Surratte. The following members abstained – Beth Mineo, Trennee Parker and Stefanie Ramirez. The newly elected Chair is Bill Doolittle. He will assume the Chair position on July 1, 2025, for a two-year term.

The Vice Chair candidate was Ann Fisher. Thomas Keeton was nominated for Vice Chair, but he declined the nomination. Tika Hartsock was also nominated for Vice Chair, but Tika declined the nomination. The newly elected Vice Chair is Ann Fisher. She will assume the Vice Chair position on July 1, 2025, for a one-year term. Since Erik Warner resigned before the end of his 2-year term, Ann will fulfill the rest of his 2-year term that expires on June 30, 2026.

Al Cavalier ran unopposed for the Member at Large (1) position. Al Cavalier will assume the Member at Large position on July 1, 2025. This will be a two-year term.

Member at Large (2) position became vacant when Bill Doolittle was elected as the new Chair. Stefanie Ramirez was nominated for this position and accepted the nomination. She was unopposed and becomes the new Member at Large (2) on July 1, 2025. This will be a one-year term because she is filling the current Member at Large position (2) Bill Doolittle will be vacating.

COMMITTEE REPORTS:

POLICY AND LAW COMMITTEE: The Committee met tonight and reviewed the Legal Memo and the Addendum to the Memo from April 15th. The Legal Memo can be found at the end of the minutes. Council approved the following recommendations from the Policy and Law Committee. Trennee Parker and Molly Merrill abstained from this vote.

Recommendations to Council for letters to be sent:

The Committee recommends adopting the recommendations relative to the state regulation on 24 Delaware Code regarding licensure requirements proposed by the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers and Senate Bill 78 regarding discrimination in the public schools.

Regarding the proposed Division of Medicaid and Medical Assistance (DMMA) state plan amendment related to doula services, the Committee was supportive of the expansion of the available hours of doula services yet would like to inquire about the possibility of requiring additional training for doulas regarding support to women who have experienced pregnancy loss. It does not appear that this content is included in the content of the 16-hour training requirements.

Regarding Senate Bill 93, which deals with third-party decision making when individuals are deemed incompetent, we would like to get additional clarification about the type of problem they are trying to solve by limiting the only mechanism for declaring someone incompetent to legal

channels. The bill eliminates the mechanism for the individual's attending physician to declare them incompetent.

Regarding House Bill 79 and House Amendment 1, which deals with reporting of seclusion and mechanical restraint in public schools, we support the recommendations in the memo with two additional considerations. We would like to get clarification of what "temporary" means in the amendment, which would allow school districts to use a law enforcement officer who has not been trained as a School Resource Officer (SRO) to fill in for an SRO who is temporarily absent. We would also like to inquire whether the law enforcement agencies who supply SROs to schools be required to have some additional law enforcement officers undergo SRO training so that if they step in for someone who is "temporarily absent" the school would have assurance that they have been appropriately trained.

You can find a copy of Council's letters in reference to this legal memo at the following links on the [GACEC website](#):

- [28DE Reg720 DE Bd of Speech-Language Pathologists Audiologists and Hearing Aid Dispensers](#)
- [28DE Reg716 DMMA Proposed Doula Services State Plan Amendment](#)
- [SB 93 Third Party Decision Making](#)
- [HB 79 w-HA1 Reporting of Restraints and Seclusion](#)
- [SB 78 Prohibition on Discrimination](#)

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:

- Jennifer Pulcinella attended the Delaware Healthy Mother and Infant Consortium summit. (DHMIC). Delaware is in the bottom third of the country for infant mortality with black mortality four times higher than white mortality. October 11th through the 17th is Black Maternal Health Awareness Week in Delaware. You can go to DeThrives.com for more information.
- In Federal news, the President's proposed budget suggested cutting Head Start, as well as other programs.
- Transition is in the organization phase, internal approval for needs of Birth to Three (B23) state employees and working thru possibilities. Salary differences are a good point of consideration.
- B23 has a Federal appropriation from the Feds for Individuals with Disabilities Education Act (IDEA) Part C and its funding is not in question.
- The Committee will continue to work on a letter on their position of PreK suspension and expulsion. They will request input and data from Susan Venema. They plan to show their position as a Council and meaningful steps to move forward.

CHILDREN AND YOUTH COMMITTEE: The Committee reviewed their three goals and related action items and updates. They discussed the goal around reviewing due process cases and the rubric that they are working on to clarify the objective and implementation of the rubric. They also discussed the email they received from DDOE in regard to classroom compositions. They would like to work collaboratively with DDOE to obtain and look at the data. They will be sending a follow up letter to request data. The Children and Youth Committee plans to reach out to Senator Sturgeon regarding her area of interest in legislative matters as it pertains to classroom composition.

ADULT AND TRANSITION SERVICES COMMITTEE: Discussion took place around their first goal of focusing on the Class Action Settlement Agreement for 18 to 22-year-olds and how to support families. They found it was difficult to find the link to get additional resources from the DDOE website. They discussed adding the link on the GACEC social media platform. Currently there is a lot happening in the schools and a lot is happening to our students. The Committee is still working on what their focus should be.

DDOE REPORT:

- Dale had a couple of meetings with the Office of Special Education Programs (OSEP) for clarification on the annual performance report.
- DDOE has been told that the IDEA funding for next year will remain on the same level.
- The Individuals with Disabilities Education Act (IDEA) grant application is due May 21st.
- State Personnel Development Grants (SPDG) that DDOE applied for has been pulled off the table in the middle of reviews due to the transition of administration. Current administration wants to review to make sure it fits their priorities. The grant was for 2.6 million over five years to continue work around transition activities and continuing the work around our Delaware Individualized Education Program (IEP) initiatives.
- The OSEP in-person monitoring visit is still scheduled for October.
- The Due Process or Dispute Resolution manuals will be ready for review by Council hopefully by the end of this month. Feedback will be due by the middle of May.

CHAIR REPORT: Ann announced the guests and those Council members who were absent.

DIRECTOR'S REPORT:

- Pam shared information from the meeting with Representative Morrison and some of the Council members on the Restraints/Seclusion & School Resource Officer ad hoc committee on House Bill (HB) 79.
- Pam gave an update on the Disability Policy Seminar that she and Ann Fisher attended last week.
- Pam encouraged members to keep telling their stories of how the Federal cuts to programs will affect the disability community. Congressional delegates are hearing your stories and sharing the importance of these programs.

AD HOC COMMITTEE REPORTS:

RESTRAINTS/SECLUSION & SRO: The Committee looked in depth at the annual reports that DDOE publishes on restraint and seclusion. They are developing a list of questions based on those reports and some concerns. Once they finish that list, they will put a letter together to send to Dale at DDOE to get some clarification on some of the issues.

INDIVIDUALS WITH COMPLEX MEDICAL CONDITIONS AND EDUCATION:

- Jessica Mensack said the Committee is still working with Dale at DDOE, school nursing partners, Cassandra Codes-Benjamin and a few others.
- The data button and check box that Council had voted for has not been implemented, due to technology challenges.
- The systems that the school nurses and the educators use do not communicate with each other.
- School nurses are using Health Accounting, and the educators are using Infinite Campus.

OUTSIDE COMMITTEE REPORTS:

EDUCATIONAL EQUITY COUNCIL:

- Route 9 Community Development Corporation was awarded the Request for Proposal (RFP) for the Ombudsperson Program.
- Services were initiated February 1st. They had 17 active cases in the February report.
- A point of significant interest for them was to expand the Memorandum of Understanding (MOUs) used with the Local Educational Agencies (LEAs) to agree that when a case would come through, the LEA and Ombudsperson Program would work together in a collaborative manner towards a resolution for the student and family.

ADJOURNMENT: Bill Doolittle made a motion that was seconded by Tika Hartsock to adjourn the meeting. The motion passed and Ann adjourned the meeting at 8:28 pm.

POLICY AND LAW MEMO

Date: 5/29/2025

Re: April 2025 Policy and Law Memo

I. Proposed Regulations

- **PROPOSED Division of Medicaid / Medical Assistance (DMMA) STATE PLAN AMENDMENT RELATED TO DOULA SERVICES, 28 DE REG. 716 (04/01/25)**

DMMA added doula services to the Delaware Medicaid State Plan on January 1, 2024 as a new benefit, pursuant to HB 80. The initial benefit covered three prenatal visits (minimum of one visit) and three postpartum visits within 90 days of delivery (which do not have to be authorized by a licensed provider). Through this proposed State Plan Amendment, DMMA is now expanding access (as authorized by HB 345) to include an additional five postpartum visits within 180 days of delivery if authorized by a licensed provider. It also authorizes three postpartum visits after a pregnancy loss; however, there must have been at least one prenatal doula visit.

Recommendation: *While Council should consider endorsing the expansion of this important service, it may wish to query why doula coverage for miscarriage and pregnancy loss is restricted to those women who have already engaged with a doula in the pre-natal period.*

There is a requirement that an expectant mother have a minimum of one prenatal doula visit, which would appear to be a pre-requisite to having postpartum support. It could be that they wish to limit the service to women who have later term pregnancy losses, as people don't likely engage with a doula until later in pregnancy. It is hard to say whether this is a philosophical choice, a clinical choice, or an economic one.

However, doula support for a woman who has lost a pregnancy could well be desired and/or beneficial, whether the person has engaged with a doula prior to the loss or not.¹ And perhaps it is unfair to exclude assistance if the person has not yet engaged with a doula in the pre-natal period, which might include miscarriages up to 20 weeks, and death from prematurity or stillbirth losses later on. Grief and physical and psychological recovery from such losses can be difficult and DMMA should do what it can to provide these supports.

II. Bills

➤ SENATE BILL 78

This bill amends Delaware law around the prohibition of discrimination in public schools, including school districts and charter schools, based on race, ethnicity, creed, color, religion, national origin, sex, sexual orientation, gender identity, protective hairstyle, body size, pregnancy or childbirth or related conditions, disability, genetic information, socioeconomic status, familial status, immigration status, or housing status. This bill would require DDOE to update its regulations to align the protected classes to include those created by SB 78. The definition of bullying in 14 Del. C. § 4161 would also be expanded to include targeting membership in any protected class or based on the target's age.

SB 78 fails to include several important provisions related to the prohibition of discrimination captured in the Delaware Equal Accommodations Law captured in 6 Del. C. Ch 45. Specifically, this bill does not provide a delineation of unlawful practices, including a prohibition against retaliation, a complaint/grievance procedure, nor authority for compliance oversight.

The bill was reported out from the Senate Education Committee on April 9, 2025, as ready for consideration.

¹ <https://carryingtoterms.org/the-role-of-a-bereavement-doula-and-how-they-can-help/>

Recommendation: *Council may wish to engage with the bill sponsors to see if they would be open to revising the bill, or introducing a companion bill, to include a grievance procedure, compliance oversight and add language prohibiting retaliation in a substitute or companion bill.*

➤ **SENATE BILL 93, RELATED TO THIRD PARTY DECISION MAKING**

SB 93 seeks to make a number of amendments to Title 12, Chapter 39, which relates to the Public Guardian and Title 16, Chapters 11(Resident Bill of Rights), 25 (DMOST), 55 (persons with intellectual disabilities) Title 21, Chapter 27 (related to DMV) and Title 31 Chapter 39 (related to Adult Protective Services). The Bill seeks to align numerous code sections with passage of the Delaware Uniform Health Care Decisions Act of 2023, which becomes effective in September 2025.

The amendments by and large update terminology and citations that related to surrogate health care decision makers (now called default surrogates) and to “advance health care directive, including eliminating synonyms such as “durable health care power of attorney” and other terms. Hopefully this may eliminate some confusion.

Perhaps of some significance is the repeal of some language in the Residents Bill of Rights in Chapter 11, Title 16. The bill repeals Section 1121 Residents Rights subsection (40) which relates to the devolution of rights held by the resident under the Residents Rights Section. 1121 lists a number of very significant rights for residents, many of whom relate to day-to-day life in a facility, such as privacy, mail, freedom of association, and others. DRD has used this section to facilitate contemporaneous enforcement of rights violations when a person is not able to speak for themselves.

The explanation is for repealing 1121(40) is that devolution of rights is covered in Section 1122, that 1121(40) is redundant and because 1122 lists residents’ rights, not the rights of third parties. The amendment then removes from 1122 the criteria for being unable to communicate with others from the situations in which decision-making authority passes to third parties. Here are the two sections as currently written:

(40) If a resident is adjudicated incompetent, is determined to be incompetent by the resident’s attending physician, or is unable to communicate, the resident’s rights shall devolve to the resident’s authorized representative, as established under any of the following:

- a. An advance health-care directive.*
- b. A medical durable power of attorney for health-care decisions.*
- c. A court-appointed guardian under Chapters 39 and 39A of Title 12, in accordance with the authority granted by the appointing court.*
- d. A surrogate appointed under Chapter 25 of this title.*

e. An individual who is otherwise authorized under applicable law to make the health-care decisions being made by execution of the DMOST form on the patient's behalf under Chapter 25A of this title.

(41) Each resident must be provided care which recognizes cultural differences and preferences.

§ 1122. Devolution of rights.

Where consistent with the nature of each right in § 1121 of this title, all rights, particularly as they pertain to a resident adjudicated incompetent in accordance with state law, or a resident who is found medically incapable by the resident's own attending physician, or a resident who is unable to communicate with others, shall devolve to the resident's authorized representative, as established under any of the following:

(1) An advance health-care directive.

(2) A medical durable power of attorney for health-care decisions.

(3) A court-appointed guardian pursuant to Chapters 39 and 39A of Title 12, in accordance with the authority granted by the appointing court.

(4) A surrogate appointed under Chapter 25 of this title.

(5) An individual who is otherwise authorized under applicable law to make the health-care decisions being made by execution of the DMOST form on the patient's behalf under Chapter 25A of this title.

(6) A sponsoring agency or representative payee, except where the facility itself is the representative payee, selected under § 205(j) of the Social Security Act (42 U.S.C. § 405(j)).

You will note the first phrase can be read to qualify which rights appropriately devolve to a personal representative. The language in 1121(40) does not have this vague language that nursing facilities may use to deny a representative the ability to assert rights under 1121. The current language "particularly as they pertain to a resident adjudicated incompetent" unnecessarily limits the devolution of rights. There is no reason that the devolution should be so restricted. It is also extremely vague.

Recommendation: *Council may wish to ask that language be struck which limits which rights devolve to an authorized representative. It would be more advisable to use the 1121(40) language and move it to 1122. The proposed amendment will limit the enforcement of rights, which conflicts with the purpose of the statute.*

➤ **HOUSE BILL 79 & HOUSE AMENDMENT 1 TO HB 79, RELATED TO REPORTING OF SECLUSION AND MECHANICAL RESTRAINT IN PUBLIC SCHOOLS**

HB 79 seeks to require additional reporting and disclosure on the use of seclusion and mechanical restraint (such as handcuffs or any other device or object used to restrict a student's movement) in Delaware public schools. Specifically, it would require that the Delaware

Department of Education (“DDOE”) collect data on the use of seclusion and mechanical restraint in schools and include that data in its annual reporting. It would also require the same parental notification requirements currently required when a student is physically restrained. Finally, it would specify that a school resource officer (“SRO”) is considered a law enforcement officer exempt from the definition of “public school personnel.”

Currently, Delaware law prohibits the use of seclusion and mechanical restraint by public school personnel unless the Secretary of Education has issued a waiver for a particular student. Public school personnel is defined as “an employee or contractor of a public school district or charter school” and does not include “[a] law-enforcement officer as defined in § 9200(b) of Title 11; or [a]n employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.” 14 *Del.C.* § 4112F(a)(4)). The regulations promulgated consistent with § 4112F exempt the same categories of individuals *except* that it carves out SROs from the exemption. 14 *Del. Admin. C.* § 610 (public school personnel does not include a law enforcement officer “unless the law enforcement officer meets the definition of a School Resource Officer/SRO[.]”). Therefore, the regulations specify that an SRO has to be a sworn law enforcement officer, but that only law enforcement officers who are not SROs are not public school personnel and therefore not subject to restrictions on restraint and seclusion. HB 79 would require DDOE to revise its regulations to be consistent with the proposed legislation – that SROs are law enforcement officers exempt from the definition of public school personnel and, thus, from the restrictions on the use of seclusion and restraint.

Current Delaware law does not require parental notification following the use of seclusion or mechanical restraint. Similarly, it does not require that schools notify DDOE of incidents of seclusion or mechanical restraint and does not require that DDOE report on the use of seclusion or mechanical restraint in its annual reporting. Parental notification requirements as well as reporting to DDOE and annual reporting is only required where physical restraint is used. HB 79 would require such reporting for any instance of seclusion or restraint, physical or mechanical.

HA 1 to HB 79 was introduced to clarify that although public schools may not use law enforcement as SROs who are not trained as SROs, public schools may use law enforcement officers who are not trained as an SRO to fill in for an SRO who is temporarily absent.

Members of the GACEC restraint and seclusion/SRO ad hoc committee and members of SCPD met with Rep. Morrison to discuss the contents of the bill. Rep. Morrison indicated his hesitancy with and reticence to making any substantive changes to the bill. It should be noted that the bill, along with its amendment, passed the House Education Committee on April 10, 2025 with 6 favorable and 3 on its merits votes.² GACEC as well as DASA provided public comment in support of the bill. It will now be voted on by the House before moving to the Senate for consideration.

Recommendation: While Council may wish to generally support the enhanced reporting requirements for instances of seclusion and mechanical restraint, Councils may wish to further engage with the bill’s sponsors to see whether revisions could be made to remove the

² <https://legis.delaware.gov/BillDetail/141954>

language exempting SROs from following requirements around the use of seclusion and mechanical restraint.

Some questions to ask of the sponsors may be:

1. What is the basis for saying that SROs can apply mechanical restraints? The regulation says that SROs are public school personnel and are subject to restrictions.
2. Why is it necessary to indicate that SROs are law enforcement personnel and not public school personnel? What is the plus side of doing that?
3. Why not make it clear that SROs are subject to restrictions, rather than actually make it clear that they are not subject to restrictions as the bill does?
4. It is a good goal to get data, but why not just ask for a report on the use of restraint and seclusion of any kind by anybody?

Date: 4/15/2025

Re: Addendum to April 2025 Policy and Law Memo

Proposed Department of State Regulation on 24 Delaware Code, Section 3706(a)(1) (04/01/2025).

The Delaware Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers (“Board”), pursuant to 24 Del. C § 3706(a)(1), proposes to amend its regulation to clarify licensure requirements. Changes include requiring hearing aid dispenser applicants to complete the International Hearing Society’s “Distance Learning for Professionals in Hearing Health Sciences” curriculum, removing the limit on exam attempts for licensure, and adding a two-hour ethics requirement for continuing education. Sections related to audiology and speech/language pathology aides were removed since these roles are not licensed by the Board. After a public hearing and further deliberation, the Board has withdrawn the original proposed regulation published in October 2024 and issued a revised version. A new public hearing will be held on May 20, 2025, and written comments will be accepted through June 4, 2025.

The Board reviewed public comments on proposed regulatory changes, primarily focused on Section 2.0 regarding licensure for speech/language pathologists (SLPs). It upheld the removal of detailed practicum, fellowship, and exam requirements, as these are now covered by the statutory requirement for current ASHA certification under SB 141 (2023). In response to concerns, the Board clarified that ongoing ASHA certification is not required to maintain licensure and updated the regulation accordingly. It also found no conflicts with the Interstate Compact or reciprocity provisions. After identifying and correcting the unintentional removal of temporary SLP licensure provisions, the Board reinstated requirements for practicum documentation and a CF plan. For hearing aid dispensers, it maintained an extended exam window, noting no risk to the public. The original proposal was withdrawn, and a revised version submitted.

Recommendations: Council may wish to generally provide support for these proposed changes but recommend that the Board specifically include provisions and safeguards related to accommodations for individuals with disabilities.

The International Hearing Society's distance learning program is now a mandatory training requirement for hearing aid dispensers, but its accessibility is not addressed. Adding a provision that requires all mandated training programs to meet accessibility requirements is recommended, like document accessibility features (e.g., screen reader compatibility, captions, keyboard navigation).

Although the removal of the exam attempt caps is positive, the regulation does not explicitly address testing or process accommodations. Specification that applicants with disabilities are entitled to reasonable accommodations as part of the licensure process per the Americans with Disabilities Act, the Rehabilitation Act, and the Delaware Equal Accommodations Law is recommended.

Additionally, the proposal includes that temporary licensure now requires documentation of practicum hours and a CF plan – this could be difficult for individuals with disabilities to complete without appropriate support.