



**GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
7:00PM November 18, 2025
VIRTUAL MEETING**

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

OTHERS PRESENT: Chris Budesheim, Harley Doolittle, Mindi Failing, Dale Matusovich/Delaware Department of Education (DDOE), Lillian McCuen, Maricarmen Morales, Theresa Muschiatti (ASL interpreter), Cassandra Pierce, Amber Shelton, Kathleen Stephan, Peg Stewart (ASL interpreter) and Jeri Turner

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

MEMBERS ABSENT: Thomas Keeton and Meedra Surratte

ADMINISTRATIVE BUSINESS/MOTIONS:

1. Call to Order

Bill Doolittle called the November meeting of the Governor's Advisory Council for Exceptional Citizens (GACEC) to order at 6:59 PM.

Lacie Spence confirmed that a quorum was present.

2. Approval of Agenda

Bill Doolittle presented the agenda and asked for a motion to approve the agenda.

- Motion: To approve agenda.
 - Moved by: Ann Fisher
 - Seconded by: Nancy Cordrey

- Vote:
 - No objections. (*Karen Eller was not present at the time of the vote.*)
 - Result: Motion carried. The agenda was approved.
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3. Approval of Previous Meeting Minutes

a. September 16, 2025 – General Membership Meeting

Bill Doolittle asked for a motion to take these minutes off the table to be considered for approval. These minutes were tabled at the last meeting because of a concern that they did not include the full meeting due to the second part of the meeting being a workshop and not open to the public.

- Motion: To take the minutes of the September 16, 2025, meeting *from* the table in order to consider a motion to approve them.
 - Moved by: Al Cavalier
 - Seconded by: Trenee Parker
 - Vote:
 - No objections. (*Karen Eller was not present at the time of the vote.*)
 - Result: The motion was approved to take the minutes from September 16, 2025, meeting from the table in order to consider their approval.

Discussion:

- Al Cavalier noted that the minutes from the September 16, 2025 workshop contain substantial detail. He stated that, in his view, the meeting met the three requirements of an open meeting under Delaware FOIA and therefore the Council should exercise caution before deciding not to post minutes that may fall under open-meeting obligations.
- Ann Fisher also expressed concern that certain information shared during the workshop was provided with the understanding that it was “off the record” and would not be included in the minutes or made public. It was noted that while workshops are open to the public, FOIA does not require detailed minutes for workshops and including detailed content might disclose information not intended for publication
- The Council discussed the need to balance FOIA requirements with the obligation to avoid releasing information that participants reasonably believed would remain internal. Members agreed that the minutes should be reviewed to ensure they reflect only information appropriate for a public workshop.

After the Chair requested a motion three times and none was offered, the Chair re-tabled the September 16, 2025, minutes. Staff will review the minutes for appropriateness and the revised version will be brought back to the Council in January. The Council also noted that further clarification will be sought from the Office of Public Integrity regarding open-meeting requirements for workshops.

b. October 21, 2025 – Full Council Meeting

Bill Doolittle introduced the minutes from the October 21, 2025, Full Council Meeting for approval.

- Discussion: Maria Olivere asked to have her name spelled correctly in the minutes.
 - Motion: To approve the minutes of October 21, 2025, Full Council Meeting.
 - Moved by: Al Cavalier
 - Seconded by: Ann Fisher
 - Vote:
 - No objections. (*Karen Eller was not present at the time of the vote.*)
 - Result: Motion carried. October 21, 2025, Full Council Meeting minutes were approved with the spelling correction of Marie Olivere's name.
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4. Financial Reports

Bill Doolittle introduced the July 2025 corrected financial report. Bill Doolittle asked for a motion to take the report off the table and approve it in the same motion. The report was tabled due to a discrepancy in the date at the October 21, 2025 meeting.

Discussion:

- Jessica Mensack asked if the project management software was included in the July Financial Report. It is not included in the July Financial Report.
- Motion: To approve the Corrected July 2025 financial report.
 - Moved by: Ann Fisher
 - Seconded by: Maria Olivere
 - Vote:
 - No objections. (*Karen Eller was not present at the time of the vote.*)

- Result: Motion carried. The July 2025 financial report was approved
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5. Leave of Absence Request

Al Cavalier requested a leave of absence for two months starting on January 16, 2026 with the flexibility of an additional two months without reconsideration.

- Moved by: Erika Powell
 - Seconded by: Ann Fisher
 - Vote:
 - No objections.
 - Result: Motion carried. Al Cavalier's leave of absence was approved.
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6. Leadership Committee Motions

Bill Doolittle presented motions previously approved by the Leadership Committee and requested a motion from the Full Council to affirm those actions. These motions were included in the Council Meeting package in advance of the meeting.

- Motion: To affirm the motions made by the Leadership Committee that were included in the Council Meeting package shared with all Council members ahead of the meeting.
 - Moved by: Ann Fisher
 - Seconded by: Molly Merrell
 - Vote:
 - No objections. (*Karen Eller was not present at the time of the vote.*)
 - Result: Motion carried. The Leadership Committee motions were affirmed by Full Council.
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PUBLIC COMMENTS: There were no public comments tonight.

COMMITTEE REPORTS:

POLICY AND LAW COMMITTEE: The Committee met tonight and reviewed the Legal Memo dated November 17th. The Legal Memo can be found at the end of the minutes. Council approved submitting letters based on analysis provided in the Disability Rights Delaware (DRD) legal memo on 29 DE Reg 352, 29 DE Reg 357, 29 DE Reg 380, 29 DE Reg 432, and Senate Bill 198 with Molly Merrill and Trenee Parker abstaining from the vote.

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

- Regulatory letters, visit <https://gacec.delaware.gov/regulatory-letters/>.
- Legislative letters, visit <https://gacec.delaware.gov/legislative-letters/>.

INFANT AND EARLY CHILDHOOD COMMITTEE: The group met to discuss current activities in the Birth to 3 areas of support.

1. Provider Shortages in Part C Early Intervention Services (Birth-to-Three Program)

Discussion

- Ongoing and significant shortages of qualified early intervention providers (speech-language pathologists (SLPs), occupational therapists (OTs), physical therapists (PTs), with Sussex County affected most severely.
- Numerous reports of unfilled service slots, slow provider approval processes and children missing mandated services.
- Some families are foregoing Part C services until age 4 or transitioning prematurely to Part B, raising concerns regarding compliance with least restrictive environment (LRE) principles.
- Members stressed the need to move from anecdotal reports to quantifiable data (e.g., number of unfilled hours, open cases, approval timelines).
- Proposal to collaborate with the Interagency Coordinating Council (ICC) to assess the scale of shortages and explore potential solutions.

2. Collaboration Between Committees and Councils

Discussion

- Interest in increasing collaboration among GACEC, ICC and related councils (DEC, SBC) to align priorities and avoid duplication of efforts.
- Proposal to host a joint meeting or invite ICC representatives—such as chair Pam Reuther—to share findings on provider shortages.
- Recognition that multiple committees are already investigating similar issues, presenting an opportunity for coordinated action.

3. Childcare and Daycare Access Challenges (“Childcare Deserts”)

Discussion

- Significant lack of licensed childcare in southern Delaware and other rural regions.
- Costs remain prohibitively high for many families.
- Presence of unregulated or illegal childcare providers contributes to inconsistencies in quality and safety.
- Very few facilities are equipped to serve children with disabilities or medical needs (e.g., tracheostomies).
- Broader structural issues—including workforce shortages, housing affordability, and long travel times in rural areas—further limited capacity.

4. Suspension and Expulsion in Early Childhood Settings

Discussion

- Limited progress in addressing exclusions in early childhood environments.

- Persistent difficulty defining and tracking informal expulsions, such as repeated early pick-ups requested by providers.
- The University of Delaware SPARK project is conducting research on developmental screening and supports that may help decrease expulsions through earlier identification of needs.

CHILDREN AND YOUTH COMMITTEE: The committee did not have time to discuss potential speakers for the upcoming year; this topic will be addressed at the next meeting. The majority of the meeting focused on reviewing committee goals, selecting goals for the upcoming year and assigning goal champions.

Review of Goals for the Upcoming Year

a. Continuing Goal

- Due Process Case Review
 - Carryover goal from last year.
 - Last year’s work involved finalizing rubric and piloting cases to refine the review process.
 - With the process now established, the committee will move forward with reviewing 30% of due process cases from the previous year.

b. Discontinued Goal

- The committee chose to discontinue (for now) the goal related to:
 - Reviewing state complaints connected to issues of equity and the ombudsman program.
- The committee may revisit this goal in the future.

c. New Goals Proposed

1. Special Education Teacher Shortage
 - Examine the shortage of special education teachers in the state and potential solutions.
2. Students with Disabilities in Charter Schools
 - Investigate services and supports for students with disabilities in charter schools.
 - The committee discussed whether this should be:
 - A full committee goal, *and/or*
 - A topic for a guest speaker to present to the entire Council

ADULT AND TRANSITION SERVICES COMMITTEE: The committee reviewed and approved goals for the upcoming year, discussed leadership roles and advanced a motion regarding a formal letter related to prison education services for students with disabilities.

1. Committee Goals

- The committee reviewed and approved the two goals included in the meeting packet.

2. Committee Leadership

- Erika Powell will continue to serve as Vice Chair.

- Discussion of the Chair position will be revisited in January.

3. Joint Agency Prison Education Program

- The committee revisited the three prior discussions concerning the Joint Agency Prison Education Program.
- This topic has been placed back under the Adult & Transition Services Committee for continued oversight and action.

4. Review of Draft Letter & Committee Motion

- The committee reviewed a draft letter prepared for the Delaware Department of Education (DDOE) and the Delaware Department of Correction (DDOC).
- The following motion was read, voted on, and approved by the committee:

Motion:

“The Adult and Transition Services Committee moves that the Governor's Advisory Council for Exceptional Citizens (GACEC) approve the development and issuance of a formal letter to the Delaware Department of Education and the Delaware Department of Correction, requesting specific information necessary to support the Council's statutory responsibilities related to oversight, monitoring and advocacy for students with disabilities within Delaware's prison education system. This letter will be sent to full Council for review and discussion.”

- The letter will be shared with the full Council.
- Leadership confirmed that no additional motion is needed to continue this work; the committee already has authority to proceed.

5. Next Steps

- The letter will be reviewed by the full Council, with opportunities for edits and discussion at the upcoming leadership committee meeting.

MEMBERSHIP COMMITTEE:

1. Applicant Meetings

- The Membership Committee has been actively conducting applicant meetings for individuals who have applied to join GACEC.

2. Upcoming Applicant Deliberation Meeting

- A deliberation meeting is scheduled for December 4th.

- During this meeting, the Membership Committee will review and discuss all applications and the information gathered during applicant meetings.
- Within 24 hours following the deliberation, Council leadership will be notified of the committee's recommendations.

3. Boards and Commissions Meeting

- A meeting with Boards and Commissions is scheduled for the 25th of this month.
- The purpose of this meeting is to provide updates, maintain communication and collaboratively develop a sustainable process for membership recommendations and other Council activities.

4. Overall Progress

- Jessica reported that all tasks are progressing smoothly and on schedule.

DEPARTMENT OF EDUCATION REPORT:

Federal Updates – OSEP (Office of Special Education Programs), RIFs and Interagency Agreements

1. Status of OSEP RIFs

- The federal government has reopened.
- As part of the reopening agreement, all previously announced RIFs (Reductions in Force) were to be rescinded.
- It is not yet confirmed whether those rescissions have formally occurred.
- The committee has not received communication from the OSEP liaison.
- A regular call with the liaison is scheduled for Monday morning; outreach will be made to confirm whether the call is still taking place.

2. Federal Interagency Agreements

Around 2:00 PM today, multiple federal departments released a set of six interagency agreements, including several involving the U.S. Department of Education. These partnerships aim to streamline responsibilities across agencies for improved program efficiency and outcomes.

Agreement 1: Education + Department of Labor

Focus: Elementary & Secondary Education Partnership

- Aims to empower parents, promote innovation and improve student outcomes.
- Department of Labor will take a greater role in administering federal K–12 programs, ensuring alignment with workforce and college-readiness priorities.

Agreement 2: Education + Department of Labor

Focus: Post-Secondary Education Partnership

- Seeks to better coordinate higher education and workforce development programs.
- Department of Labor will take on a greater role in administering post-secondary education grants under the Higher Education Act.

Agreement 3: Education + Department of the Interior (DOI)

Focus: Indian Education Partnership

- Designed to improve education for Native American students.
- Department of the Interior will assume greater responsibility for Indian education programs in:
 - Elementary and secondary education
 - Higher education
 - Career and technical education
 - Vocational rehabilitation
- Establishes DOI as the primary point of contact for tribes and Native students.

Agreement 4: Education + Health and Human Services (HHS)

Focus: Foreign Medical Accreditation Partnership

- HHS will apply its expertise to evaluate whether foreign medical schools meet U.S. standards.
- HHS will oversee the accreditation-equivalency work.

Agreement 5: Education + HHS

Focus: Child Care Access Means Parents in School Partnership

- Seeks to improve on-campus childcare for college students who are parents.
- HHS already oversees childcare grants; partnership is expected to streamline guidance and enhance efficiency.

Agreement 6: Education + Department of State

Focus: International Education & Foreign Language Studies Partnership

- Intended to increase efficiencies in programs under the Fulbright-Hays grants.
 - The Department of State already administers the Fulbright Program and will align foreign education initiatives with national security and foreign policy priorities.
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3. DOE Contracts and Partnerships

- The Department is currently working with the University of Delaware (UD) on the Delaware IEP Training initiative.
 - This work includes components related to:
 - Special Education Administrative Leadership Program (SEAL) / Systematic Processes for Enhancing and Assessing Communication Supports (SPEACS) Programs Additional training elements that will be incorporated into the updated contract.
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4. MTSS (Multi-Tiered System of Support)

- MTSS is transitioning back into the Department with DOE assuming greater ownership of implementation.
 - Strategic planning for MTSS is actively underway.
 - More detailed information is expected to be available before the holidays, as the planning process advances.
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5. IDEA Funding Cuts and Contract Impacts

- DOE's IDEA state set-aside funds were reduced this year.
 - As a result, DOE is reviewing all current contracts and making reductions across most contracts to compensate for the funding shortfall.
 - Contract adjustments are ongoing as the Department works to address the deficit.
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6. Infinite Campus Update

- DOE continues to work closely with local education agencies (LEAs) regarding needed enhancements and updates to Infinite Campus.

- Many LEA tech leads have a full schedule of training sessions this week, especially related to system backend functions.
 - DOE will begin hosting regular office hours for special education staff starting after Thanksgiving, to support users and troubleshoot issues.
 - Several concerns raised by LEAs and educators relate primarily to tool rights / permissions, not system functionality.
 - Many issues stem from local-level configuration rather than state-level system errors.
 - Infinite Campus permissions differ significantly from PowerSchool:
 - PowerSchool often assigned access automatically by position/title.
 - Infinite Campus requires local LEA control over assigning tool rights.
 - DOE recently met with DSEA to address teacher-reported concerns.
 - Most issues were confirmed to be local configuration problems regarding access rights.
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7. OSEP Determination Update

- **Determination Status**
 - The state was rated “Needs Assistance” for the year.
 - Full determination materials are available on the DOE website under Accountability.
- **Engagement With TA Centers**
 - OSEP referred the State to multiple national TA (technical assistance) centers.
 - The State is actively engaging with these centers (Early Childhood, Fiscal, Data, Transition, Systemic Improvement).
- **Results Summary**
 - Overall results score: ~60%.
 - Total determination score: ~76%, below the 80% required to “Meet Requirements.”
- **Areas Where Points Were Missed**
 - NAEP—Grade 8:

- Participation (ELA & Math)
- Students scoring Basic or Above (ELA & Math)
- Compliance Indicators:
 - Significant discrepancy in suspensions/expulsions by race/ethnicity
 - Disproportionate representation due to inappropriate identification (lost one point)
- **Areas of Strength**
 - Received full points for timely and accurate data—a major improvement and the first time in many years.
- **Required OSEP Actions**
 - Ensure LEAs close compliance findings within one year.
 - Maintain representativeness for:
 - Indicator 8 (Parent Survey)
 - Indicator 14 (Post-School Outcomes)
 - Demonstrate engagement with all required TA centers in the APR (annual performance report).

DIRECTOR'S REPORT:

Technology & Conference Room Updates

- Contract secured with Versalign for ongoing maintenance of conference room technology.
- Versalign visited this past Tuesday; scheduled to return next Tuesday.
- A desktop computer was installed to reduce internet-related issues during meetings.
- Goal: improve functionality and reliability of meeting technology.

Committee Alignment Work Plan

- A basic committee alignment work plan was sent to members.
- Members may modify the format, but should retain the key lenses used to evaluate activities:
 - Relevant or existing legislation
 - Data needs
 - Performance metrics
 - Funding needs/issues
 - Corresponding APR indicators
 - External partnerships and engagement with other councils/task forces

- Purpose: connect committee work, identify alignment and improve cross-committee coordination.
 - Staff can assist once they have the “big picture.”
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Membership Survey

- Members are asked to complete the membership survey.
 - The link will be re-sent by Al and Jessica, and staff can distribute it as well.
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Full Council Packet

- Monthly packet will continue being sent.
 - Staff working to reduce the number of attachments and improve organization.
 - Table of Contents item #10 includes Policy & Law Committee materials.
 - Monthly packet will list legislation or draft regulations for which policy analysis has been requested from Disability Rights Delaware (DRD).
 - Additional legislation that cannot be analyzed by DRD will also be included for member review.
 - Aim: allow members to familiarize themselves with policy issues before receiving memos, reducing last-minute review pressure.
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Joint Council Collaboration

- Increased collaboration among:
 - GACEC
 - State Council for Persons with Disabilities (SCPD)
 - Delaware Developmental Disabilities Council (DDC)
 - Disability Rights Delaware
 - ARC of Delaware
- Policy staffers (Kathie Cherry, Rachel Engel, Brad Iseminger) will meet more frequently to coordinate research and advocacy.

CHAIR REPORT:

Potential Joint Committee Meetings

- Leaders exploring the idea of joint committee meetings with other councils.
 - Would not add meetings—just replace one regular meeting occasionally with a joint one.
 - Purpose: increase coordination across councils on shared topic areas.
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Wilmington Redistricting Workshop

- Workshop scheduled for December 2 in New Castle County.
- Broad stakeholders and decision-makers invited.
- First hours will be a true workshop format: participants will discuss potential impacts of redistricting plans on students with disabilities and strategies for mitigation.
- The council may consider similar workshops during the legislative session to encourage cross-stakeholder dialogue.

Nominating Committee

- Need volunteers for the Nominating Committee; interested members should email Pam.
- Goal is to have the Nominating Committee formed and ready to begin work in January.
- Last year's guidance materials for the committee may need review and updates.
- Trenee Parker and Tika Hartsock may be contacted for feedback on their experience with the process.
- Aim to finalize the nominating process document and move it out of draft status, with future updates made as needed.

ADJOURNMENT: Maria Olivere made a motion that was seconded by Trenee Parker to adjourn the meeting. The motion passed and Bill Doolittle adjourned the meeting at 9:30PM.

POLICY AND LAW MEMO

Nov. 2025 Policy and Law Memo

Please find below, per your request, analysis of a pertinent proposed rulemaking identified by councils as being of interest.

I. PROPOSED REGULATIONS

- **PROPOSED Department of Education (DOE) Amendment Federal Program General Complaint Procedures, 14 Del. Admin. C. § 258, 29 DE Reg. 352 (11/01/25).**

This rulemaking proposes to amend DOE regulations concerning the complaint procedures for alleged violations of federal laws. The complaint procedures apply to the following federally mandated programs: Title I, Migrant Education Program, Prevention and Intervention for Programs for Children and Youth who are Neglected, Delinquent or At Risk, Title II, Enhancing Education Through Technology, Title III, English Language Acquisition, and Title IV, Community Learning Centers and Rural and Low-income School Program.

The Proposed Regulation adds additional requirements for DOE's written response to a complaint, now called a resolution, and requires that the written resolution include a description of the statutory and regulatory requirements at issue, a description of the procedural history, findings of fact with citations to supporting documents, analysis and conclusions regarding the requirements, correction actions if necessary, a statement of appealable rights, a statement regarding DOE's determination about whether it will provide services, and all documents that DOE relied upon in reaching its decision.

The Proposed Regulation also adds requirements for an appeal of a written resolution. The appeal to the U.S. Secretary of Education must include a clear and concise statement of the portions of the resolution that are being appealed, the legal and factual basis for the appeal, copies of the initial complaint and the written resolution, and any supporting documentation not included in the resolution.

The Proposed Regulation shortens the time to file an appeal with the U.S. Secretary of Education from 60 days to 30 days.

There are other style edits that are non-substantive, including renaming of the programs covered by the regulation to align with current names.

The complaint procedures at issue do not impact the remedies and procedural safeguards specified in the IDEA which are addressed in a separate regulatory section.

DRD notes that the appeal to the Secretary of the U.S. Department of Education may not be useful if the President's goal of closing the Department of Education¹ is realized.

Recommendation:

- 1) ***Council may wish to challenge the shortening of the time to file an appeal from 30 to 60 days.***
- 2) ***Council may wish to otherwise support the proposed regulatory amendment as these changes require DOE to fully document responses to complaints, including the relevant laws, facts, and reasoning for the decision which will provide clearer understanding of decisions and better enable parents to know if they wish to pursue an appeal to the U.S. Secretary of Education.***
- 3) ***Council may also wish to suggest to DOE that DOE explore appeal alternatives within Delaware, such as to Superior Court, as an alternative to appealing to the U.S. Secretary of Education, given the current federal administration's interest in closing the U.S. Department of Education.***

➔ Proposed DDOE Regulation on Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings, 29 DE Reg. 357 (11/01/25).

With this notice, the Delaware Department of Education (“DDOE”) is proposing to amend 14 Del. Admin. C. § 616 which concerns procedures for implementing alternative placement or expulsion as discipline for violations of the student code of conduct. This is a second republication with amendments following public comment.² Because Councils have previously submitted comments concerning these proposed regulations, this review will focus on any new or existing problematic proposed provisions. The proposed amendments do five major things: (1) clarifies that the regulation applies to suspensions; (2) updates definitions in Section 2.0; (3) adds reporting requirements; (4) clarifies parental notification procedures; and (5) aligns the alternative placement procedures with the expulsion procedures and aligns expulsion hearing procedures with that of the Professional Standards Board regulation. DDOE's authority derives from 14 Del.C. 122(b)(26) which states that DDOE shall prescribe rules and regulations

[e]stablishing, for purposes of student discipline, uniform definitions for student conduct which may result in alternative placement or expulsion, uniform due process procedures for alternative placement meetings and expulsion hearings, and uniform procedures for processing Attorney General's reports. Such regulations shall apply to all districts and charter schools. This paragraph shall not be interpreted to restrict the ability of district and charter schools to determine which student conduct shall result in expulsion or an alternative placement[.]

Section 1.0

¹ The White House, Improving Education Outcomes by Empowering Parents, States, and Communities, Executive Order (March 20, 2025), at <https://www.whitehouse.gov/presidential-actions/2025/03/improving-education-outcomes-by-empowering-parents-states-and-communities/>

² The first two publications were in the July 1, 2025 Register and September 1, 2025 Register.

DDOE proposes to clarify that the 616 regulation applies to suspensions imposed, as well as alternative placements and expulsions. In doing so, DDOE is essentially adding suspensions as an action covered by the 616 regulations (outside of including suspensions as a preliminary step toward alternative placement or expulsion).

Section 2.0

There are some inconsistencies between the definitions proposed and how those terms are used in other parts of this 600 series of regulations. The definition for alternative placement provides that it begins on the “date of approval by the district or charter school level coordinator.” However, the 611 regulations provide that the district board is who makes the determination to place a student within a Consortium Discipline Alternative Program (“CDAP”). *See* 14 Del. Admin. C. § 611.1.2. Council may wish to recommend that DDOE amend the proposed definition to make clear that it is the determination of the school district board which triggers the date of alternative placement.

The definitions for alternative placement and expulsion are almost identical with the exception of who starts the time period (district or charter school level coordinator vs board of education) and that the definition for expulsion does not explicitly include alternative placement. In both instances, the student is removed from their regular school program for a time not to exceed the total number of student days in a school year. Since students who are expelled may also be eligible for alternative placement, most Districts choose to move forward with alternative placement rather than expulsion because the appeal rights for students are less and the District does not actually need to *prove* to anybody that the student was provided with due process. This can easily be seen by the discipline data and the number of students who are expelled vs alternatively placed in a CDAP (and the code of conduct violations for which the student is alleged to have violated).³ In addition, DDOE captures alternative placement as “out-of-school suspension with CDAP placement.” **Therefore, Council may wish to ask DDOE to explain the actual difference between an alternative placement and expulsion with CDAP placement** because it seems as though the only difference between the two is that a student is entitled to additional rights and protections just based on how the District decides to pursue discipline. The same issue exists for the application of long-term suspensions (proposed 5.1.2.1.2), which allow a District to suspend a student in-school or out-of-school for a single incident for no more than the number of student days in a school year; what then is the difference between a long-term suspension, an alternative placement, and an expulsion? To alleviate this concern, **Councils may wish to recommend that DDOE amend the 616 regulations to provide the same appeal rights for students facing alternative placement and long-term suspension as those facing expulsion, including appeal rights up to and including the State Board of Education.**

Section 3.0 and 4.0

DDOE proposes to remove current 3.1.1.3 which provides that a principal conducting the initial investigation must make reasonable efforts to “include the allegedly offending student or Parent in the preliminary investigation.” **Council may wish to inquire as to why DDOE removed this provision and recommend that the language be readded as it is action necessary to determine what occurred and whether discipline is warranted.**

³ *See e.g.*, 2024-25 Annual Report on School Discipline Improvement, <https://education.delaware.gov/wp-content/uploads/2025/10/24-25-sdip-report-appendices.pdf> (showing 44 students alternatively placed in a CDAP for school crimes in 2024-25 whereas less than 15 students were expelled in the same school year for school crimes). Please note that this report is specific to the four CDAP placements (YEARNNN, Parkway North and South, and SCOPE) and **does not include data** on other alternative placement programs. A review of the data for alternative placements that are **not** CDAP would likely yield even more concerning data.

DDOE proposes to amend the timeline for when a student must be provided with an explanation of the evidence supporting the allegation(s) against them. Specifically, proposed 4.1.1.2 requires that the principal provide this evidence within three days of notifying the student of the allegations and the student code of conduct or rule violated. However, the principal should already have this information as of the date the principal notifies the student/parent of the allegations and what provisions of the student code of conduct the student is alleged to have violated. **Council may wish to request DDOE explain why these additional three days are necessary or otherwise recommend that DDOE remove the additional three days for the principal to provide an explanation of the evidence.**

In most experiences, parents are notified of a suspension the day before it is set to be served and are provided no explanation of the evidence or otherwise given information about the process for appeals or grievances. Because the proposed 4.0 regulations only require notification by “electronic means” – meaning email *or* phone – parents often do not receive written notification of proposed disciplinary action. **Council may wish to recommend that DDOE require that written notification of disciplinary action, basis for such action, and appeal/grievance process be provided prior to the student being required to serve the suspension.** In addition, **Council may wish to recommend that the regulations specify that the written notification (or any written notification regarding disciplinary action) be provided to the parent in the language in which they are most comfortable speaking or reading.**

DDOE proposes non-substantive changes to current 4.2.1 (proposed 4.2), which allows the District to immediately remove a student from the school environment if it believes the student “poses a threat to the health, safety, or welfare to persons or property within the school environment[.]” Districts have historically used this provision to remove students regardless of whether the student has been identified as a student with disabilities. The Individuals with Disabilities Education Act, and cases interpreting the law, have outlined what a school may do when disciplining a student with disabilities. As the Court stated in *Honig v. Doe*, “[w]e think it clear, however, that Congress very much meant to strip schools of the *unilateral* authority they had traditionally employed to exclude disabled students, particularly emotionally disturbed students, from school.” 484 U.S. 305, 323 (1988) (emphasis in original). It further noted that the removal of such students could only be accomplished “with the permission of the parents or, as a last resort, the courts.” *Id.* at 324.

Districts in Delaware have routinely removed students with disabilities from the school environment in excess of 10 school days when the student is pending alternative placement or other long-term removal. This is in direct conflict with federal and state law concerning changes of placement for students with disabilities. Although the regulations include Proposed Section 9.0, which provides that a school must still comply with its obligations under the IDEA and Section 504, this provision has consistently been ignored. **Council may wish to recommend that DDOE explicitly include in proposed 4.2 (current 4.2.1) that the provision related to the immediate removal of students due to alleged threats to health or safety not apply to students with disabilities if it would result in a disciplinary change of placement.**

Section 5.0

Proposed Section 5.4 provides that the grievance process be provided to the student and parent no later than three business days “from day 1 of the suspension.” Because the word “from” can be read to either mean 3 days before or 3 days after, **Council may wish to recommend that DDOE replace “from” with “before” to ensure that the grievance procedure, and ability to appeal, is provided prior to the student serving the first day of the suspension.**

Proposed Section 5.5 allows districts to restrict the ability for a student to grieve or appeal a suspension if the duration is two days or less. **Council may wish to inquire as to why DDOE added this restriction on a student’s rights to appeal.**

New Section 6.0

Proposed 6.1.2 provides that “[v]irtual services may be provided if deemed necessary by the district or charter school.” The Delaware Department of Services for Children, Youth and Their Families previously provided comments to DDOE concerning this language and requesting that the language be removed or otherwise limited to those instances where it is “clearly more beneficial to the student’s academic progress and return to regular school programming than in-person alternatives.” DDOE, in its response to DSCYF’s comment, elected not to change the language but instead stated it would “emphasize[] that districts and charter schools should prioritize in-person alternatives unless virtual programming clearly better supports the student’s academic progress and successful transition back to regular school programming.” **Council may wish to support and re-emphasize the comments from DSCYF and request that the language be struck or otherwise be amended to include the emphasis stated by DDOE in its response to DSCYF’s comment.**

Consistent with comments received from DSCYF and Councils, DDOE removed previously proposed 6.1.5 which would have provided principals with the authority to refer a student for alternative placement upon release from a facility operated by DSCYF. **Council may wish to thank DDOE for making this change.**

New proposed 6.2.3.2 refers to a Memorandum of Understanding between DDOE, LEAs, and DSCYF that concerns students entering secure care facilities and their reentry into their home schools. This was the result of a comment submitted by DSCYF. **Council may wish to recommend that DDOE ensure that the MOU is available to and easily accessible by the public.** A search of DDOE’s website and DSCYF’s website does not yield the document referenced. Thus, it is impossible to provide thoughtful and thorough comments on the proposed regulation.⁴

Proposed 6.2.6.1 provides that notification of the school’s alternative placement meeting must be provided at least five business days before the meeting is scheduled to occur. Proposed 6.2.6.1.2 explains that the written notice is deemed received on the fourth business day following the date of mailing. If proposed 6.2.6.1 were to mean that notice must be mailed at least five days before the meeting, the student would then have only a single day’s notice which would conflict with proposed 6.2.6.1.2. **Council may wish to recommend that DDOE clarify that the language in proposed 6.2.6.1 means that the notification must be received by the student at least five business days before the meeting. Council may also wish to thank DDOE for reducing the number of days from 20 to 14 for holding the alternative placement meeting following receipt of the notification, which Councils had previously suggested.**

Amended section 6.2.6.3.2 allows for an APT meeting to be held without the student and/or the student’s parent being in attendance if the student is a threat to the health, safety or welfare of others and the student, or student’s parents, received notice of the APT meeting occurring. Councils previously recommended that schools provide an alternative means of participation for students who the school considers a threat such as by phone, or virtual meeting platform; and provisions to reschedule based on parent availability. DDOE declined to make this change stating that “the current language already allows for student participation by alternative means and for rescheduling

⁴ There may also be a concern that the document being unavailable for review means DDOE has not provided adequate ability for the public to provide public comment on the proposed regulations.

as needed.” **Council may wish to, again, recommend that this language be added since DDOE may have unintentionally removed the language** (*see e.g.*, current 7.2.1.7.2 which is struck through). The only other mentions of phone conferences is in relation to a student’s return from an out-of-school suspension of three days or more (proposed 5.6), a review meeting when a student has been in an alternative placement (proposed 6.4.5), and electronic communications related to grievances (proposed 8.2.7).

Proposed 6.3.2.4.2 describes what should occur where a student transfers from one district to another prior to the alternative school placement. It requires that the original district must send the alternative placement packet to the new district as part of the student’s record and that an Attorney General’s Report must be separately requested from DELJIS. **Council may wish to recommend that DDOE remove the provision related to Attorney General Reports as inconsistent with the provisions outlined in 14 Del. Admin. C. § 614, which governs the processing and handling of Attorney General reports.** Regulation 614 requires that the district destroy the Attorney General report if the District does not intend to pursue disciplinary action or, if it does, that it be destroyed following any applicable appeal periods. Therefore, there should be no reason why a receiving district would need access to the Attorney General report, especially where a District did not pursue disciplinary action based on such report.

Proposed 6.4 governs the review process for a student in alternative placement. DDOE proposes to amend the current timeframe (required semi-annual, recommended quarterly) to require a review at least each marking period for students in elementary and middle school and a review at least each semester for students in high school. Given that the alternative placements are supposed to be temporary in nature, **Council may wish to recommend that DDOE require a review at least each marking period for all students regardless of grade level.**

Proposed 6.5 provides for when the alternative placement review results in a recommendation for the student to return to their home school yet there is no provision for when the review results in the opposite. Some students have been in alternative placements even after meeting all required criteria because the home district declines to agree with the alternative placement that the student should return. **Council may wish to recommend that DDOE include a grievance or appeal process that would allow the student to challenge the decision for a student to remain in alternative placement.** This is especially important for high school students when a determination is made that the student not return and the next review, if the current proposed regulations stand, would put the student at enrollment for an entire year at the alternative placement (which is inconsistent with the intent of alternative placement to be temporary in nature).

Section 7.0

Councils previously recommended that DDOE include a fee schedule and fee waiver provision for transcripts related to expulsion hearings. DDOE declined to include such a fee waiver but added proposed language to 7.4.10.4 which provides that “[t]he local education agency may charge a reasonable fee for the transcript, so long as the fee does not interfere with the other rights afforded to students outlined in this section.”

Miscellaneous

Currently, Districts receive Attorney General’s reports for incidents which occurred within the school environment, which is inconsistent with when these reports should be provided (which is only for off-campus conduct). There have been instances where students are then subject to additional discipline based on the same Attorney General’s Report despite the conduct occurring on school grounds. **Council may wish to request that DDOE meet with the staff at DELJIS to ensure Attorney General’s Reports are only sent for incidents occurring off school grounds**

and to include a provision explicitly prohibiting a District from using an Attorney General's Report for on-campus conduct as the basis for disciplining a student.

- **PROPOSED Department of Safety and Homeland Security, 24 Del. Admin. C. § 2400, 29 DE Reg. 380 (11/01/25).**

This rulemaking proposes to amend Department of Safety and Homeland Security (DSHS) regulations concerning examination, training and licensing of constables. DSHS proposes to re-designate this regulation number from 2400 to 5600 to reflect the move of the enabling legislation from 10 Del.C. Ch. 27 to 24 Del.C. Ch. 56, and corresponding changes to the Delaware Code references throughout the regulation. The rulemaking makes other non-substantive changes to the remaining sections of the regulation for clarity.

The rulemaking makes a number of substantive changes, notably for Councils, DSHS proposes to change the minimum training standards and in-service training provisions of the regulations in section 9.0. The Academy continues to be required to include a minimum of 180.5 hours, and to include specific subjects. However, the proposed rulemaking strikes, in full, the following:

Introduction to law enforcement and constables; constitution and bill of rights; other police agencies/fire departments/ambulance jurisdictions; basic defensive driving; traffic investigations; criminal investigations; sex crimes; criminal code; **handling person with disabilities; interventions with people suffering with mental health and substance abuse**; civil disobedience; labor disputes (crowd control); active shooter; courtroom procedure and demeanor; **cultural diversity and community relations**; domestic violence; basic first aid; CPR; AED; NIMS 700; ICS 100; information systems – communications, report writing, DELJIS; interview/interrogation techniques; manual traffic control; juvenile procedures; laws of evidence and search and seizure; laws of arrest; police communication and crisis intervention; police discipline and ethics; baton/nightstick/pr24/chemical spray/handcuffing; officer survival/defensive techniques; patrol procedures; drug identification and controlled substances; canine; and 4th amendment (emphasis added in bold).

The proposal is to replace the above paragraph with the following list:

- 9.1.1 Constitution and Bill of Rights;
- 9.1.2 Courtroom Procedure and Demeanor;
- 9.1.3 Criminal Investigation for Constables;
- 9.1.4 Basic Evidence Detection & Collection;
- 9.1.5 Cultural Diversity and Community Relations;**
- 9.1.6 Delaware Criminal Code;
- 9.1.7 Domestic Violence;
- 9.1.8 Drug Identification and Controlled Substances;
- 9.1.9 Basic First Aid / CPR / AED;
- 9.1.10 Fitness and Wellness;
- 9.1.11 National Incident Management System;
- 9.1.12 Incident Command System;
- 9.1.13 Report Writing;
- 9.1.14 Interview and Interrogation;
- 9.1.15 Introduction to Delaware Constables;
- 9.1.16 Juvenile Procedures;
- 9.1.17 Laws of Arrest, Laws of Evidence and Search & Seizure;
- 9.1.18 Manual Traffic Control;

9.1.19 Other Police Agencies Jurisdiction;
9.1.20 Police Communication and Crisis Intervention;
9.1.21 Patrol Procedures and Officer Survival;
9.1.22 Constable Discipline and Ethics;
9.1.23 Use of Force and Critical Decision Making;
9.1.24 Defensive Tactics;
9.1.25 Handcuffing Certification;
9.1.26 Baton Certification;
9.1.27 Oleoresin Capsicum (OC Spray) Certification;
9.1.28 Gangs, Sovereign Citizens, and the Delaware Intelligence Analysis Center;
9.1.29 Homegrown Violent Extremists and Terrorism;
9.1.30 De-escalation Tactics for Special Populations;
9.1.31 Behavioral Mental Health Awareness;
9.1.32 United States Veteran Affairs Overview;
9.1.33 Delaware Code - Title 24 and Rules and Regulations Regarding Constables;
9.1.34 Delaware Active Threat Response Training;
9.1.35 Basic Firearms Safety;
9.1.36 Review for Final Examination; and,
9.1.37 Final Examination.
(emphasis added in bold).

In other words, “handling person[s] with disabilities”; “interventions with people suffering with mental health and substance abuse”; and “cultural diversity and community relations” have been replaced with “Cultural Diversity and Community Relations”; “De-escalation Tactics for Special Populations”; “ and “Behavioral Mental Health Awareness.” It is unclear whether or not the content would be the same between “Behavioral Mental Health Awareness” and “interventions with people suffering with mental health and substance abuse.” Likewise, it is not clear if some of the “interventions with people suffering with mental health and substance abuse” may be shifting to “de-escalation tactics for special populations.” **Regardless, it is not clear that working with people with disabilities beyond those with behavioral health disabilities (previously “handling person[s] with disabilities”) will continue to be offered as part of one of the other categories.** This is of concern as despite making up only 20% of the population, it is estimated that people with disabilities make up between 30 to 50% of individuals subject to police use of force.⁵

It is commendable that DSHS have adopted this crucial training to enable constables to identify the signs that indicate a person may have a behavioral health disability, or be in a mental health crisis, but it is worrying that this training focuses entirely on the *behavior* of persons with disabilities. Not every disability affects behavior. Additionally, not every disability is readily visible. This is particularly true of hearing and visual disabilities, many medical disabilities, as well as cognitive disabilities.

Upon review of the regulation, there is no training on compliance with the Americans with Disabilities Act of 1990 (“ADA”), Section 504 of the Rehabilitation Act (“504”), or the Delaware Equal Accommodations Law (“DEAL. These are fundamental laws that protect people with disabilities from discrimination when attempting to access public accommodations, employment, education, and housing, and require state and local governments to provide effective communication to people with disabilities. These statutes require individuals with disabilities to be offered reasonable accommodations or

⁵ https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/RES_43_1/NGOsAndOthers/disability-rights-ohio.pdf

modifications to promote equitable treatment. The ADA applies to nearly every action a constable may take, including receiving citizen complaints; interrogating witnesses; arresting, booking, and holding suspects; operating telephone (9-1-1) emergency centers; providing emergency medical services; and enforcing laws.⁶

Even when a constable can identify a person with a disability, this regulation does not address training to prevent discrimination based on that disability. For instance, a constable might be able to identify that a person is deaf from their speech, but that constable should also know how to utilize interpretation services to communicate with that person effectively. Or that an individual with an intellectual disability may need additional time to process and comprehend an officer's instructions. Councils should consider recommending DSHS add training that informs constables on when and how to offer effective communications, as well as reasonable accommodations and modifications when interacting with the public.

Additional training is necessary to prevent future incidents of police misconduct against people with disabilities. Police misconduct creates distrust in law enforcement and makes it much harder for police to do their jobs effectively. It is difficult to quantify the frequency of police force or discrimination used against civilians because there is no legal requirement for local, state or federal law enforcement agencies to aggregate or collect the number, type, and result of violent incidents that occur between constables and disabled people.⁷ However, there have been several high-profile instances of this conduct in Delaware in recent years.

One such example occurred in 2022, New Castle County Police responded to a 9-1-1 call made by a thirty-seven (37) year old man with an intellectual disability. When police discovered that the man was in violation of a protective order, they approached him on the street and ordered immediate compliance. When the man hesitated to comply with the officer's orders, an officer leg-swept him to the ground, pinned him down, and broke the man's arm.⁸ Had de-escalation tactics been used – or even just slower, calmer communication to facilitate comprehension - prior to resorting immediately to use of force, this incident, and the negative press attention associated with it, could have been avoided.

Or consider the Oklahoma case of Pearl Pearson, a 64 year-old deaf man, who was attempting to show police a placard saying "I am deaf" when they pulled him from his car, assaulted him, dislocating his shoulder and swelling his eyes. Immediately following Pearson's assault, the officers' dashboard camera reveals officers cursing after they run a quick check of his license and find out that he is deaf.⁹

Recommendation: Council may wish to recommend DSHS add requirements around general disability training, including ADA and 504 compliance training to prevent police discrimination and unnecessary force against people with disabilities Council may wish to note that the Mid Atlantic ADA Center is a resource available to states and local governments.

II. General Notices

⁶ https://archive.ada.gov/q&a_law.htm

⁷ https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf

⁸ <https://www.delawareonline.com/story/news/2022/08/16/delaware-arrest-of-man-with-disability-prompts-questions-over-training/9961627002/>

⁹ https://www.huffpost.com/entry/pearl-pearson-police-brutality_n_4603445

➤ **NOTICE, Public Service Commission, X Del. Admin. C. § 3007, Electric Service Reliability and Quality Standards, 26 DE Reg. 432 (11/01/25).**

The Delaware Public Service Commission (“PSC”) has proposed revisions to 26 DE Admin. Code 3007 Electric Service Reliability and Quality Standards; the regulation requires electric distribution companies (“EDCs”) subject to the Commission’s jurisdiction to engage in distribution planning and to submit annual reports prepared with the input of Commission Staff and the Delaware Division of the Public Advocate (“DPA”). EDCs, Staff, and the DPA have engaged in five annual distribution planning cycles. Staff and the DPA have identified several improvements to the distribution planning process to make it more meaningful to Staff, the DPA, the Commission and customers, and Staff has drafted the proposed amendments to this Regulation to address these concerns. These amendments were originally published in the September 1, 2025 issue of the Delaware Register of Regulations (29 DE Reg. 205 (09/01/25)). The Commission planned to hold a hearing on October 15, 2025 but it was cancelled and is rescheduling it for December 3, 2025 in the hearing room located at 861 Silver Lake Blvd., Suite 100, Dover, DE 19904; comments have been extended through December 18, 2025. The changes do not relate to continued service due to medical necessity so no further comments are necessary.

III. Bills

➤ **Senate Bill 198.**

This Act would amend the Delaware Equal Accommodations Law to adopt the protections of the federal Rehabilitation Act of 1973’s Section 504 (“Section 504”), and its implementing regulations as those regulations existed on January 1, 2025. This bill aims to ensure that Delawareans with disabilities get broad and full protection within Delaware. The bill also adds that references to Section 504 in other parts of Delaware law or regulation will be considered a reference to the Delaware Equal Accommodations Law. Senator Poore introduced this bill in response to concerns brought to her by the Delaware Developmental Disabilities Council. It is currently in committee in the Senate.

Section 504 of the Rehabilitation Act, found in U.S. Code at 29 USC § 794, provides as follows:

§ 794. Nondiscrimination under Federal grants and programs

(a) Promulgation of rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978.¹⁰

¹⁰ The remainder of the statute reads:

Subsequent sections of this chapter detail remedies and attorney fees, removal of architectural, transportation or communication barriers; State vocational rehabilitation; Protection & Advocacy services and other disability related programs.

Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(b) "Program or activity" defined

For the purposes of this section, the term "program or activity" means all of the operations of--

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of Title 20), system of career and technical education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship--

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

(c) Significant structural alterations by small providers

Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

(d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201 to 12204 and 12210), as such sections relate to employment.

The text of Section 504 itself is quite brief, and explains that Executive agencies must issue regulations to carry out the Act. This is where the meat of Section 504 really is: in the regulations. For example, for entities within the Department of Health & Human Services' jurisdiction, the implementing regulations can be found at 45 C.F.R. Part 84. Within Part 84 we find a number of specific guiding regulations, such as § 84.23 New construction and alterations. Here, we find guidance on what buildings must be accessible and how they must be accessible (excerpted in part):

(a) Design and construction. Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after June 3, 1977.

(b) Alterations. Each facility or part of a facility altered by, on behalf of, or for the use of a recipient in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after June 3, 1977.

(c) Accessibility standards and compliance dates for recipients that are public entities.

(1) The accessibility standards and compliance dates in this paragraph (c) apply to recipients that are public entities. Public entities are any State or local government; any department, agency, special purpose district, or other instrumentality of a State or States or local government; and the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act). ([45 U.S.C. 541](#))

(2) If physical construction or alterations commenced after June 3, 1977, but before January 18, 1991, then construction and alterations subject to this section shall be deemed in compliance with this section if they meet the requirements of the ANSI Standards (ANSI A117.1–1961(R1971)) (ANSI). Departures from particular requirements of ANSI by the use of other methods are permitted when it is clearly evident that equivalent access to the facility or part of the facility is provided.

(3) If physical construction or alterations commence on or after January 18, 1991, but before July 8, 2024, then new construction and alterations subject to this section shall be deemed in compliance with this section if they meet the requirements of the Uniform Federal Accessibility Standards (UFAS), appendix A to 41 CFR part 101–19, subpart 101–19.6 (revised as of July 1, 2002). Departures from particular requirements of UFAS by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(4) For physical construction or alterations that commence on or after July 8, 2024, but before May 9, 2025, then new construction and alterations subject to this section may comply with either UFAS or the 2010 Standards. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(5) If physical construction or alterations commence on or after May 9, 2025, then new construction and alterations subject to this section shall comply with the 2010 Standards.

....

45 C.F.R. § 84.23.

Likewise, the U.S. Department of Education has promulgated its own regulations at 34 C.F.R. Part 104, which provides more detailed guidance to schools like:

§ 104.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

Or the requirement to provide students with disabilities access to extracurriculars:

§ 104.37 Nonacademic services.

(a) General.

(1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) Counseling services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) Physical education and athletics.

(1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of [§ 104.34](#) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

In short, this bill would protect, locally, the guidance memorialized in the regulations, in the event there were changes federally to deregulate.

Recommendation: Council may wish to support SB 198.

