



**GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
7:00PM February 17, 2026
VIRTUAL MEETING**

MEMBERS PRESENT: Nancy Cordrey, Bill Doolittle, Karen Eller, Kristina Horton, Beth Mineo, Maria Olivere, Trenee Parker, Erika Powell, Jennifer Pulcinella, and Stefanie Ramirez

GUESTS PRESENT: Craig Clizbe, Matt Clizbe, Harley Doolittle, Mindi Failing, Dale Matusevich/Delaware Department of Education (DDOE), Theresa Muschiatti (ASL interpreter), Monique Saastamoinen, Lisa Savino, Hope Sanson, Kathleen Stephan, and Peg Stewart (ASL interpreter).

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

MEMBERS ABSENT: Ann Fisher, Tika Hartsock, Thomas Keeton, Jessica Mensack, Molly Merrill, Brenné Shepperson, and Meedra Surratte

MEMBERS ON LEAVE OF ABSENCE: Al Cavalier, Cory Gilden

ADMINISTRATIVE BUSINESS/MOTIONS:

1. Call to Order

Bill Doolittle called the February meeting of the Governor's Advisory Council for Exceptional Citizens (GACEC) to order at 7:00 PM.

Lacie Spence confirmed that a quorum was present.

2. Approval of Agenda

Bill Doolittle presented the agenda and asked for any comments or changes.

- No changes were made and the agenda was accepted as written.

3. Approval of Previous Meeting Minutes

a. September 16, 2025 – General Membership Meeting

- Motion: To approve the minutes of September 16, 2025, Full Council Meeting.
 - Moved by: Trenee Parker
 - Seconded by: Maria Olivere
 - Vote:
 - No objections.
 - Result: Motion carried. September 16, 2025, Full Council Meeting minutes were approved with Stefanie Ramirez abstaining.

b. January 20, 2026 – Full Council Meeting

Bill Doolittle introduced the minutes from January 20, 2026, Full Council Meeting for approval.

- Motion: To approve the minutes of January 20, 2026, Full Council Meeting.
 - Moved by: Maria Olivere
 - Seconded by: Trenee Parker
 - Vote:
 - No objections.
 - Result: Motion carried. January 20, 2026, Full Council Meeting minutes were approved with Nancy Cordrey abstaining.

4. Financial Report

Bill Doolittle introduced the December 2025 financial report.

- Motion: To approve the December 2025 financial report.
 - Moved by: Trenee Parker
 - Seconded by: Maria Olivere
 - Vote:
 - No objections

- Result: Motion carried. The December 2025 financial report was approved
-

5. Leadership Committee Motions

There were no Leadership Committee motions brought to Council for approval tonight.

PUBLIC COMMENTS: There were no public comments tonight.

SPECIAL ELECTION:

During the January General Membership Meeting, Council accepted the resignation of Stefanie Ramirez, Member-at-Large.

A special election was held during this meeting. Council accepted the nomination of Kristina Horton to fill the Member-at-Large position.

- Term expiration: June 30, 2026
- The position will be up for election during regular April 2026 elections for the July 1, 2026 – June 30, 2028 term.

GUEST SPEAKER:

Hope Sanson from the Department of Health and Social Services presented data on the Birth to Three Early Intervention Program's challenges with timely service delivery, highlighting that only 55% of services start within 30 days of parental consent. The program partnered with the University of Delaware to analyze demographic data, finding that speech therapy referrals experience the longest delays, with Easter Seals being the largest provider but also the most likely to accept referrals after 30 days. The team discussed potential solutions including integrating wait time metrics, expanding provider capacity, and exploring a consultation-first model, while noting that low Medicaid rates in Delaware make it difficult to attract and retain providers.

COMMITTEE REPORTS:

POLICY AND LAW COMMITTEE:

The committee met tonight and reviewed the Legal Memo dated February 16th. 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 662, and 29 DE Reg 664.

Recommendations to Council for letters to be sent:

The Committee reviewed two proposed regulations, both coming from the DDOE. The first addresses the use of seclusion and restraint in schools (29 DE Reg. 662 – 2/1/26). The committee endorsed all of the recommendations in the Policy & Law memo from DRD and added a recommendation that notification of the family that restraint/seclusion was used with their child should be delivered in the family’s preferred language.

The second DDOE regulation discussed by the committee concerned uniform due process procedures for alternative placement meetings and expulsion hearing (29 DE Reg. 664 – 2/1/26). The committee endorsed all six recommendations in the DRD Policy and Law memo and added two more. Regarding the timing of notification of families, the committee recommended that LEAs either use certified mail for all notifications or transmit notifications in multiple forms (e.g., mail, email and telephone). This recommendation was prompted by changes in US Postal Service procedures that result in postmarks not being affixed on the day on which an item is actually mailed. To address the apparent inconsistency in practice regarding whether manifestation determination reviews (MDRs) or alternative placement team meetings happen first, the committee recommended that the definition of “manifestation determination review” be included in the definitions section of this regulation and that reference to IDEA’s requirements regarding when MDRs should occur relative to other actions be explicitly addressed in the regulation.

Additional Discussion: The P&L Committee also discussed the need for Council to develop explicit guidance for legislators and other policymakers who wish to engage Council in consideration of issues and/or drafting of legislative language/regulations. Such guidance would include information about the appropriate point of contact for solicitation of Council engagement. This is likely an activity for the Leadership Committee, which could draft some guidance for Council consideration.

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 (B23) areas of support.

- The committee caught up on how they are doing with their Goals and made plans for upcoming meetings.
- Progress is strongest in sustaining partnerships (Goal 1) through the Interagency Coordinating Council (ICC)/B23 talks and identifying priorities like wait time analysis.
- Challenges include systemic delays in B23 services (highlighted in the September 2025 Stepwise Regression Report, to be presented by B23 in February 2026), preschool inclusion shortfalls (Indicator 6), and outcome slippage (Indicator 7).

- No major roadblocks are documented, but acceleration is needed on invitations, data reviews, and joint sessions to meet metrics and influence the ongoing Lead Agency transfer (to 2028).

CHILDREN AND YOUTH COMMITTEE: The Committee did not meet tonight.

ADULT AND TRANSITION SERVICES COMMITTEE:

1. Review of Committee Goals

The committee reviewed its current goals and discussed next steps to better define and focus on the committee’s work moving forward.

2. Action Items & Ongoing Work

A. Collaboration & Oversight – Prison Education

- Continued focus on providing ongoing collaboration and oversight related to prison education.
 - Emphasis placed on improving communication between stakeholders.
 - The committee previously requested historical data and has now requested updated data from DOE and DOC.
 - Requested data is expected by **March 13**.
 - Status of the data request will be reviewed prior to the next meeting.
-

B. Transition Process within Local Educational Agencies (LEAs)

- The committee continues to examine the transition process within LEAs, focusing on how it functions for students in real time.
- The goal is to better understand current practices and identify opportunities for improvement.

Next Steps:

- Collaborate with Kathi Stephan, the Transition Cadre, and DOE.
- Organize and streamline existing transition information to ensure it is accessible to all stakeholders.
- Develop and distribute a survey to gather additional input and insights.

C. Indicator Alignment

- The committee began early work reviewing relevant indicators, as previously mentioned by Dale.
- Discussion focused on aligning indicators with committee responsibilities.
- The group will identify four indicators specific to adult transition for deeper analysis and discussion.

DEPARTMENT OF EDUCATION REPORT:

A report was provided regarding efforts to increase engagement between GACEC and Exceptional Children Resources, particularly through alignment of Annual Performance Report (APR) indicators with GACEC subcommittees.

Alignment of APR Indicators with GACEC Committees

The Department reviewed the 18 APR indicators (noting that Indicator 18 is a summary of the first 17 indicators and is not currently included in the alignment plan). The proposal is to group indicators into categories and assign them to relevant GACEC subcommittees for deeper review and discussion.

Proposed Indicator Groupings

1. Adult & Transition Services Committee

- Indicator 1 – Graduation
- Indicator 2 – Dropout
- Indicator 13 – Secondary Transition (Individualized Education Program (IEP) transition components)
- Indicator 14 – Post-School Outcomes

2. Infant & Early Childhood Committee

- Indicator 6 – Preschool Environments
- Indicator 7 – Preschool Outcomes
- Indicator 12 – Early Childhood Transition (Part C to Part B)

3. Children & Youth Committee

- Indicator 3 – Statewide Assessment Participation & Proficiency (including alternate assessment and proficiency gaps between all students and students with disabilities)
- Indicator 5 – Educational Environments (Least Restrictive Environment – LRE)
- Indicator 17 – State Systemic Improvement Plan (SSIP), focused on early literacy and increasing proficiency

4. Policy & Law Committee

- Indicator 9 – Disproportionate Representation (race/ethnicity in disability categories)
- Indicator 10 – Disproportionate Representation in Specific Disability Categories
- Indicator 11 – Child Find
- Indicator 15 – Resolution Sessions
- Indicator 16 – Mediation

5. Discipline (Proposed for Children & Youth Committee)

- Indicator 4 – Suspension and Expulsion

6. Full Council

- Indicator 8 – Parent Involvement/Engagement

Rationale

- Indicators were grouped based on topic alignment and relevance to each committee’s focus area.
- Research was noted connecting Least Restrictive Environment (LRE) placements with improved assessment performance outcomes.
- Discipline was acknowledged as cross-cutting but tentatively aligned with Children & Youth.
- Parent engagement was identified as a council-wide responsibility.

Proposed Process

- Indicator leads would meet with assigned subcommittees at least quarterly.
- Meetings would include updates on departmental initiatives aimed at improving performance data in each indicator area.
- Committee feedback would inform the Department’s Annual Performance Report (APR) responses.

- Council members were invited to provide feedback on the proposed distribution of indicators.
-

Parent Information Session

The Department announced a Virtual Parent Information Session scheduled for February 19 from 12:00–1:00 PM.

Purpose

- The session will focus on the special education process and related topics.
- It is being offered in response to needs expressed by parents during recent meetings.
- This session is intended as an initial step in addressing parent-identified needs and shaping future outreach efforts.

Request to Council

DDOE asked Council members to assist in promoting the event by:

- Posting the event on the website and DeIDHub
- Distributing the information to Council members
- Helping spread the word to parents and families

DIRECTOR'S REPORT:

The Director shared that a formal monthly Director's Report has been developed and will be included in future council packages. The report will provide a synopsis of staff activities and is organized by statutory duties and mandates to clearly demonstrate alignment with council responsibilities.

The report shared at this meeting will be included in next month's council package.

Advising the SEA on Unmet Needs

- Planned and convened the GACEC Reading Students with Disabilities Plan language meeting to ensure redistricting decisions reflect the needs of students with disabilities.
- Met with the Parent Information Center to gather family input and address system-level concerns.

Rules and Regulations

- Participated in the Register of Regulations meeting with partner agencies to review and discuss regulatory activity.

Task Forces and Interagency Collaboration

- Attended the SJR11 Task Force (Juvenile Justice Education Transition Task Force). Members were informed the meeting is publicly posted, and information can be shared with anyone interested.
- Developed and sent the Prison Education letter.
- Drafted questions for the Public Integrity Commission and the Deputy Attorney General based on prior council discussions.
- Developed a document for the Leadership Committee regarding council leverage and strengthening advisory responsibilities.
- Communicated and coordinated with the Governor’s Office of Boards and Commissions regarding council membership.
- Attended meetings of the State Council for Persons with Disabilities (Full Council, Policy & Law, and Brain Injury Committee).
- Attended Developmental Disabilities Council meetings.
- Participated in Medicare-related discussions.

Budget and Legislative Engagement

- Prepared for and completed the Joint Finance Committee (JFC) hearing.

Conferences and Public Events

- Served as planner, contributor, attendee, and vendor for the Life Conference.
- Hosted the annual Disability History and Awareness Month Poster Contest cookie reception, which was well attended and successful.
- Preparing for the National Disability Policy Seminar in March; the Director is serving as State Captain and coordinating preparatory meetings.

Internal Operations

- Conducted weekly staff meetings.
- Held bi-weekly meetings with Bill.
- Held monthly Leadership Committee meetings and related preparatory work.
- Participated in monthly DTI meetings.

Facilities and Administrative Oversight

- Maintained oversight of building operations, technology, and security.
- Coordinated with facilities regarding snow-related issues and parking lot incidents.
- Worked with facilities and local law enforcement to address homelessness-related concerns in the surrounding area.

Closing

The Director emphasized that the monthly report is intended to provide greater transparency and visibility into staff work. Council members were invited to share feedback or suggest additional information they would like included in future reports.

CHAIR REPORT:

Redding Plan Language Committee Update

The Chair provided an update on the Redding Plan Language Committee's progress.

- The committee is meeting again tomorrow from **6:00–7:30 PM**.
- The goal is to finalize a solid working draft to submit to the Redding group for integration into their process.
- While the draft will not represent the final version, it is intended to be sufficiently developed for review and incorporation.
- Appreciation was expressed to all members who have contributed to the work thus far. Members with additional input are encouraged to attend the upcoming meeting.

Framework Review & Implementation Planning

- The committee is reviewing the framework for a second time.
- Following this review, the group will begin developing an implementation plan for the framework.
- The committee will continue accepting comments, questions, and feedback throughout the process.

Scope & Ongoing Engagement

- The framework is structured around the public bodies it recommends.
- The committee's role is expected to continue beyond delivery of the document, with ongoing engagement throughout the implementation timeline.
- The Chair emphasized that the framework was intentionally crafted to be applicable statewide, not limited to specific circumstances.
- There is hope that the framework may serve as a model for broader reviews and updates in the future.

Joint Finance Committee (JFC) Hearing

The Chair reported on the recent Joint Finance Committee (JFC) hearing.

- Staff prepared and presented a statement during a scheduled 15-minute presentation window, which extended to approximately 45 minutes due to significant legislative engagement and questions.
- The extended discussion was viewed positively, reflecting strong interest from committee members.

Although no additional funding was requested this year, the council was still required to present. The presentation focused on:

- Barriers impacting the council's ability to fully carry out its mission.

- The return on investment of council involvement, particularly in preventing systemic issues.
- The value of early engagement in legislative drafting to mitigate downstream costs, including potential litigation.

The council emphasized that:

- It does not provide direct services but serves as an advisory and systemic resource.
- Being involved in legislation during the drafting phase would allow for more proactive, effective input.
- Reviewing legislation after introduction remains important, but earlier inclusion would strengthen outcomes and reduce urgency pressures.

Legislators asked how they could be more engaged and supportive. The council's primary request was to review legislation in the drafting phase. While not universally supported, several legislators expressed openness to more proactive engagement.

Additional discussion topics included:

- Burden of proof issues.
- The Council's historic position on related policy matters (Policy & Law Committee reviewed this and will share documentation with legislators).

Overall, the discussion included thoughtful questions and expressions of genuine support.

Materials from the presentation are available upon request.

Upcoming Meeting with Department of Education

The Chair and staff will meet on the 25th with:

- DOE Chief of Staff
- Assistant Secretary
- Dale

The purpose of the meeting is to discuss removal of barriers preventing the council from fully carrying out its responsibilities. Topics may include:

- Memoranda of Understanding (MOUs)
- Agreements
- Areas of focus
- Broader systemic concerns

The Chair anticipates a broad-ranging discussion that will help clarify the council's working relationship with the department moving forward.

Redding Initiative Update

- The council received thanks for its work related to the Redding initiative.
- Members attended a recent Redding Full Body meeting (scheduled for two hours but concluded in approximately one hour).
- No timeline was provided during that meeting, which remains an area of interest.
- Additional informational links from that meeting are available to share with the full council.

Council Nominations and Elections

A reminder was provided that council nominations and elections will take place in April.

ADJOURNMENT: Kristina Horton made a motion that was seconded by Trenee Parker to adjourn the meeting. The motion passed and Bill Doolittle adjourned the meeting at 8:28 PM.

POLICY AND LAW MEMO

Date: 2/16/2026

Re: February 2026 Policy and Law Memo

I. Proposed Regulations

➔ Proposed DDOE Reg. on Use of Seclusion & Restraint, 29 DE Reg. 662 (2/01/26).

With this proposed rulemaking, the Delaware Department of Education (“DDOE”) developed amendments to 14 DE Admin. Code § 610 Limitation on Use of Seclusion and Restraint. The DDOE made several changes to align the regulation with most recent changes to Delaware Code.

1.0 Purpose and Authority: Technical edits were made. The DDOE also added: “The regulation also implements the Delaware Department of Education’s responsibilities for data collection, coordination with law enforcement agencies, annual public reporting, and school resource officer training and oversight as required by 14 Del. C. §4112F. Section 4112F was amended this summer via House Bill 79 with House Amendment 2, which passed the General Assembly in the spring and was signed by the Governor in July 2025.

2.0 Definitions. Modified and additional cross references with the statutory authority were added, many definitions are now merely references to the definitions in 14 Del. C. §4112F, including for seclusion, mechanical restraint, and public school personnel.

3.0 Use of Restraints. The changes were primarily technical but did clarify in section 3.2.3 that physical restraints cannot do either of the following: 1) interfere with breathing; or 2) place weight or pressure on the student’s head, throat, or neck. Section 3.2.8 also includes an important clarification that physical restraint ends when a medical condition occurs putting the student at risk or the student’s behavior “no longer presents a significant and imminent risk of bodily harm to the student or others.” This clarification is important as it makes it clear that restraints should not be continued if only minor risk of harm is ongoing. **Council may wish to thank DDOE for making these two changes as they are important to keep students safe, as physical restraints that are improperly done expose students to risk of adverse medical outcomes, or even death¹.**

¹ See: <https://www.ctinsider.com/projects/2022/child-deaths-school-restraint-seclusion/> and <https://www.npr.org/sections/health-shots/2024/01/16/1224837120/im-not-safe-here-schools-ignore-federal-rules-on-restraint-and-seclusion> and <https://www.propublica.org/article/i-cant-breathe-it-happens-at-schools-too>

4.0 Authorized Personnel and Required Training for the Use of Restraint. Substantive changes in this section include that public schools, private programs and alternative programs must provide required training internally, in addition to maintaining written or electronic documentation of training provided, including a list of staff who participated. This is important because it clarifies responsibility for the provision of training.

This section provides that only staff trained in physical restraint procedures may restrain a student. Councils may wish to encourage a broader range of staff undergoing such training, as more staff trained in prevention and de-escalation may reduce the incidents of physical restraint. We do note that the content of the training is the same as before, including prevention techniques, de-escalation techniques, positive behavioral intervention strategies/supports, and will be designed to meet the needs of personnel “consistent with their duties and the potential need for emergency safety interventions.” **However, the regulation does not explicitly require that staff be trained in safe restraint techniques that minimize the risk for injuries. Council may wish to recommend that be added to the regulation.**

This subsection also requires that staff required for reporting the use of restraint, mechanical restraint, and seclusion, complete training on the reporting process, and other training as required by DDOE. However, this training is required to be completed every three years, or as required by DDOE if their reporting is not in compliance with requirements. **Council may wish to recommend that the frequency of training for staff responsible for reporting be increased to annually for these staff.**

Lastly, this section clarifies that it does not apply School Resource Officers, and only applies to “public school personnel”, which based on HB 78 does not include employees or contractors providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility, which is a significant concern.

5.0 Parental Notification of Use of Restraint and Seclusion. This section was modified to clarify that parental notification should occur when, in addition to when students are physically restrained, when they are mechanically restrained, or secluded, and that this should occur on the day of the incident after the use of these procedures. It also clarifies the means for notification that can be used, and that the school must enter documentation of both successful and unsuccessful notification attempts within DDOE’s student information system.

This section also expands that in addition to physical restraint, if the use of mechanical restraint or seclusion is in the students IEP or 504 plan, the team should determine a timeframe and manner of notification of each incident of restraint or seclusion.

The subsection also clarifies that the final copy of the report is required to be submitted to the Department and shared with the parent.

6.0 Uniform Data Collection and Reporting. This section header was modified to add “and Reporting”, and clarifies that reporting applies to physical restraint, mechanical restraint and seclusion. It clarifies the timing as “as soon as practicable after the use of” these practices and that witness shall also be interviewed. The rulemaking strikes most of the procedures and replaces them with a new subsection 6.2 entitled “Reporting Requirement to the Department.” Here the public-school personnel must report the use of these practices to the Department using the Department student information system within 72 hours of the incident if it occurs onsite at a public school, or within 72 hours if it occurs elsewhere. The reporting requirements also detail minimum content requirements, which are fairly similar to what was previously required, including a description of the events leading to the practice, response used -before the restraint or seclusion- by personnel including de-escalation techniques, a description of the student’s behavior before, during and after the restraint or seclusion, summary of witness interviews, any injuries,

demographic information of the student, and a description of any changes stemming from the incident (staff training, change to IEP, etc.)

There is a new subsection 6.3: “Department Request for Police Officer Standards and Training Commission Data.” This subsection directs DDOE to request from the Police Officer Standards and Training Commission (POST), and directs POST to provide, any data POST collects on law enforcement use of restraint or seclusion on a student in a public school. There is a specific requirement that for mechanical restraints, POST will report the total number disaggregated by whether the restraint was required and, the reason it was required.

7.0 Annual Reporting Requirement. Here, DDOE proposes to revise this previously existing section to provide a date by which the DDOE will issue an annual report on the use of physical restraint (November 30 of each year), and extends it to also cover mechanical restraint and seclusion. DDOE further identifies what will be addressed in the report: rates of usage by school and by subcategory, identify and analyze trends, and incorporate data received from POST. A copy of the report will be submitted to the Secretary of the Senate, Chief Clerk of the House, President of the Delaware School Boards Association, president of each board of education/charter school, and the Division of Legislative Services.

8.0 Waiver. This subsection contains a number of technical changes but also adds that the request for waiver of the prohibition to the use of mechanical restraints or seclusion must “clearly state the grounds for the waiver”, which is supported by compelling justification and documentation.

Councils may wish to suggest that DDOE include information on what districts/schools fail to comply with the reporting requirements. Councils may wish to suggest that DDOE include data on waiver requests in their annual reporting under subsection 7.0. Councils may also wish to question the rationale for continuing to include a waiver process for these practices that are widely accepted as inhumane.²

As a reminder, the following are Delaware’s definitions of mechanical restraint and seclusion (which are comparable to guidance from the U.S. Department of Education):

“Mechanical restraint” means the application of any device or object that restricts a student’s freedom of movement or normal access to a portion of the body that the student cannot easily remove. “Mechanical restraint” does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including any of the following:

- a. Restraints for medical immobilization; immobilization.*
- b. Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical supports; supports.*
- c. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; vehicle.*
- d. Instruction and use of restraints as part of a criminal justice or other course; or course.*
- e. Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury. (emphasis added)*

“Seclusion” means the involuntary confinement of a student alone in a room, enclosure, or space that is either locked or, while unlocked, physically disallows egress. The use of a “timeout”

² See <https://www.nami.org/Advocacy/Policy-Priorities/Stopping-Harmful-Practices/Restraints-and-Seclusion-Schools>; and <https://www.brookings.edu/articles/restraint-and-seclusion-how-policy-has-failed-to-curtail-the-use-of-dangerous-practices-in-us-public-schools/>

procedure during which a staff member remains accessible to the student shall not be considered “seclusion.”

Recommendations:

1. *Council may wish to thank DDOE for making the changes in subsection 3.0 as they are important to keep students safe, as physical restraints that are improperly done expose students to risk of adverse medical outcomes, or even death.*
 2. *Council may wish to note that the regulation does not explicitly require that staff be trained in safe restraint techniques that minimize the risk for injuries. Councils may wish to recommend that be added to the regulation in subsection 4.1.1.*
 3. *Subsection 4 also requires that staff required for reporting the use of restraint, mechanical restraint, and seclusion, complete training on the reporting process, and other training as required by DDOE. However, this training is required to be completed every three years, or as required by DDOE if their reporting is not in compliance with requirements. Councils may wish to recommend that the frequency of training for staff responsible for reporting be increased to annually for these staff.*
 4. *Council may wish to support the strengthening of notifications to parents and DDOE.*
 5. *Council may wish to suggest that DDOE include data on which districts/schools are found to have failed to comply with the reporting requirements, as well as including data on waiver requests in their annual reporting under subsection 7.0.*
 6. *Council may also wish to question the rationale for continuing to include a waiver process for these practices that are widely accepted as inhumane.*
 7. *Council may wish to generally support the increased data reporting and request whether DDOE will be making those reports available to the public.*
 8. *Council may wish to restate their opposition to the use of seclusion and restraint on children with disabilities.*
- ➔ **Proposed DDOE Reg. on Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings, 29 DE Reg. 664 (2/01/26).**

With this proposed rulemaking, the Delaware Department of Education (“DDOE”) developed amendments to 14 DE Admin. Code § 616, Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings. The DDOE previously published a version of this regulation July 1, 2025, September 1, 2025 and November 1, 2025³, and Councils commented upon it.

The following analysis, below is a summary of the responses to the public comments from the November 2025 publication and is not a full re-analysis of the rulemaking.

Timeframe for alternative placement team (APT) meeting: Two districts recommended extending the timeframe for convening an alternative placement team (APT) meeting, noting that the initial 20-day requirement had been reduced to 14 days when the proposed regulation was re-released in November, which was done based on Councils recommendation. The district expressed concern that schools may be

³ Reproduced at the end of this memorandum as Attachment A.

unable to schedule and complete the manifestation determination review (MDR) before the APT meeting, which could create confusion for the student, parent, and school. Based on this and that several initiatives are currently analyzing student behavior and alternative placements, for which the DDOE expects to be receiving related recommendations, the DDOE decided to wait to make these changes. Both commenting districts appear to have the discipline process for APT and MDRs reversed, believing that the MDR happens first, then the MDR. However, this would not comport with IDEA, under which the MDR is triggered “within 10 school days **of any decision to change the placement** of a child with a disability because of a violation of a code of student conduct...” 34 C.F.R. § 300.530 (e)(emphasis added). Based on the plain reading of IDEA and its implementing regulations, the decision to change placement to an alternative placement is the “decision to change placement”, following which the MDR would be held to examine if the district could in fact proceed with the APT’s decision to alternatively place a student. By doing the MDR first, it indicates that the district already made the decision to alternatively place a student without the student benefiting from the due process and appeals procedures built into the APT process.

Reconciliation of inconsistencies between the proposed definition of alternative placement in Regulation 616 and the definition provided in Regulation 611: Council flagged this for DDOE and DDOE thanked SCPD and the GACEC for this recommendation and state DDOE will consider aligning the definition of alternative placement in Regulation 611 when it is amended.

The SCPD and GACEC requested that the Department explain the actual difference between an alternative placement and expulsion with CDAP placement. The DDOE responded:

Alternative placement and expulsion are both disciplinary consequences for violating a district or charter school’s student code of conduct. However, alternative placement is a less severe action than expulsion and allows the student to continue receiving educational services in a different setting. Regulation 611 outlines eligibility criteria for alternative placement, which include students who have been expelled by a local school district or charter school, students who are subject to expulsion, or students who have otherwise seriously violated the district or charter school’s discipline code. The regulation also requires districts and charter schools to provide an explanation when a student is expelled but not referred for consideration for an alternative placement.

This explanation does not fully explain the different treatment between CDAP and district run alternative schools. Presently, there are fewer rights and levels of appeal for district run discipline alternatives and it is not clear what the purpose of that is. Councils may wish to recommend that students facing involuntary transfer to a district run disciplinary placement have the same rights and levels of appeal as students facing a transfer to CDAPs.

Aligning alternative placement and long-term suspension appeal rights: The Council had previously recommended 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. The DDOE responded that several initiatives are currently analyzing student behavior and alternative placements, and so DDOE is deferring making new substantive changes to the process until all recommendations are received. DDOE noted that the submitted comments will be considered alongside these forthcoming recommendations.

Removal of phrase “include the allegedly offending student or Parent in the preliminary investigation”: Council recommended that the language be restored. DDOE explained it was removed *to provide districts and charter schools with flexibility in determining the most appropriate and timely investigative steps, consistent with their local procedures and due process requirements. The original language was also vague regarding the role of the student or parent and was not consistently implemented. Although the specific language has been removed, nothing in the*

regulation prohibits districts or charter schools from including the student or parent in the preliminary investigation when appropriate, and parents continue to be included in meetings and in the review that occurs after the LEA investigation is completed.

DDOE's rationale for changing does not afford parents and students the ability to share their side of the story or facts that dispute the allegations against the student, until farther in the discipline process. This deprives students and parents of due process rights, and delays the ability of students who are wrongly accused, from getting back to school.

Council requested that the Department explain why three additional days to provide notice under 4.1.1.2 are necessary or otherwise recommend that the Department remove the additional three days for the principal to provide an explanation of the evidence. DDOE responded that

The current language "as soon as practicable, but no later than 3 business days from notification by the principal" is intended to ensure that the student receives an explanation of the evidence as promptly as possible after the preliminary investigation has begun. Evidence is not always available immediately at the time of the initial notification, as interviews and other investigative steps constitute evidence and may require additional time to complete. The 3-day window provides districts and charter schools with flexibility necessary to gather and review preliminary evidence while still ensuring that students receive timely notice.

Council recommended that the Department 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, SCPD and GACEC recommended 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 responded that written and verbal notifications are addressed in subsection 5.4. Under this provision, verbal notification of the disciplinary action is required prior to the student serving the suspension, and written notification must be provided "as soon as practicable, but no later than 3 business days from day 1 of the suspension." DDOE also noted occurs via the student code of conduct. Frequently DRD encounters students subject to discipline, for which parents receive conflicting information regarding the behavior and length of suspension. Indeed, at times students are threatened with arrest if they return to campus, without the parent having any written notification that the student has been suspended. It seems to be a small but necessary ask for parents to get written notification and ensures that parents have written documentation to verify what they have been told by the school and their child. Additionally, navigating a code of conduct document is not accessible to all parents.

Lastly DDOE noted that districts and charter schools must continue to follow applicable language-access requirements.

Council request 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. DDOE acknowledged that while the regulation does not explicitly state this exemption, the DDOE acknowledges that students with disabilities cannot be removed in a manner that results in a disciplinary change of placement without following the required procedural safeguards and pointed to section 9.0 which states that nothing in this provision impacts the rights of students under IDEA.

Council recommended that the DDOE rephrase to ensure that the grievance procedure, and ability to appeal, is provided prior to the student serving the first day of the suspension. DDOE declined to make changes and instead stated that the language requires that written notification of the suspension and

the grievance process be provided to the student and parent, if under 18, as soon as practicable, but no later than 3 business days from day 1 of the suspension.

DDOE restricts a student's rights to appeal suspensions of two days or less. DDOE explained that it intended to focus appeal rights on suspensions of more than two days, which are more likely to significantly impact a student's education, while still ensuring that all suspensions are addressed through existing grievance procedures.

Council concerns regarding virtual services: DDOE stated that the regulation will retain language allowing virtual services when necessary, which DDOE says benefits students who are restricted from in-person placement under Regulation 611. DDOE added 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. This emphasis will be reinforced through guidance and training rather than included in the regulation text."

MOU being publicly available: Councils recommended that the DDOE ensure that the Memorandum of Understanding (MOU) is available to and easily accessible by the public, DDOE agreed with this recommendation.

Timing of notification: Councils recommended that the 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. DDOE responded that the:

proposed language in 6.2.6.1 requires that notification of the alternative placement meeting be provided at least five business days before the meeting, while 6.2.6.1.2 clarifies that written notice is deemed received on the fourth business day after mailing. Together, these provisions ensure that the student effectively receives notice with sufficient time before the meeting, and there is no conflict between the two requirements.

Alternative means of participation and rescheduling of APTs: Councils recommended that language be added to allow schools to provide an alternative means of participation, such as by phone or virtual meeting platform, for students who the school considers a threat; and provisions to reschedule based on parent availability since the Department may have unintentionally removed the language. DDOE responded that the proposed 6.2.6 already allows for student participation by alternative means and for rescheduling if needed; in-person attendance is not required. The purpose of 6.2.6.3.2 is to provide guidance when parents are not cooperative with the APT process. Below

6.2 Alternative Placement Procedures

6.2.6 An alternative placement meeting shall take place to determine if an alternative setting placement is appropriate for a referred the student.

6.2.6.1 The Parent and student and parent, if the student is under 18, shall receive verbal and written notification of the district/charter school's Alternative Placement Meeting. Parents and student may, but are not required to, attend the meeting. notification of the district or charter school's alternative placement meeting. The notification shall be provided via an electronic means, such as by phone or email, and in writing by U.S. regular and certified mail at least 5 business days before the meeting is scheduled to occur.

6.2.6.2 The student and parent, if the student is under 18, may sign a waiver acknowledging that they have a right to receive written notice no less than 5 business days before the meeting occurs, but are waiving that right in order to schedule a meeting on a date and time that is mutually agreed upon by the district or charter school and student and parent, if the student is under 18.

6.2.6.3 Other individuals may be invited as determined by the APT, including a representative from the DSCYF with knowledge of the student and family's need.

The language in the regulations requires that a meeting take place (“An alternative placement meeting shall take place”) and the regulation requires parent/student notification. However, parents and students “may, but are not required to,” attend the meeting. Therefore, a plain reading of the regulation allows the Districts to proceed without the student/parent, even if they want to attend. This is because nothing in the proposed language, above, requires the District to reschedule if the parent/student wants to attend but cannot at the scheduled time. Nor does it require the District to offer remote participation. Disability Rights Delaware is aware of at least one instance where the District refused to re-schedule or provide a remote means of attending the APT so that the parent could attend.

Attorney General reports handling: Councils recommended that the Department remove the provision related to Attorney General Reports as inconsistent with the provisions outlined in 14 Del. Admin. C. § 614. DDOE disputed this and wrote:

that this provision conflicts with Regulation 613 - Uniform Procedures for Processing Attorney General's Reports. In situations where the student withdraws before serving disciplinary action, the original district or charter school may request information directly from the Attorney General's Office. The Delaware Criminal Justice Information System (DELJIS) MOU permits sharing this information between superintendents and heads of schools for such cases. This provision applies specifically to circumstances where the original district was pursuing disciplinary action, but the student left the district before it was completed.

Placement reviews: Councils recommended that DDOE require review of alternative placements at least each marking period for all students regardless of grade level. The DDOE deferred responding do this recommendation based on the other initiatives for which DDOE is waiting for recommendations.

Grievance/appeal to challenge a decision to continue to place a student in alternative placement: Councils recommended that the DDOE include a grievance or appeal process that would allow the student to challenge the student to remain in alternative placement. The DDOE deferred responding do this recommendation based on the other initiatives for which DDOE is waiting for recommendations.

Attorney General reports: Councils questioned the use of Attorney General reports. DDOE explained that Attorney General's Reports for on-campus activities relate to incidents that are already known to the school and that schools have the authority to discipline students for such incidents based on their student codes of conduct.

Recommendations:

- 1. Council may wish to comment that some districts appear have the discipline process for APT and MDRs reversed, believing that the MDR happens first, then the MDR. However, because this would not comport with IDEA, under which the MDR is triggered “within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct...” the DDOE should not be persuaded by these arguments, and the councils may wish to encourage DDOE to develop guidance and/or training on this point.*
- 2. Council may wish to ask for an explanation of the different treatment between CDAP and district run alternative schools. Presently, there are fewer rights and levels of appeal for district run discipline alternatives. What is the purpose of that? Councils may wish to recommend that students facing involuntary transfer to a district run disciplinary placement have the same rights and levels of appeal as students facing a transfer to CDAPs.*

3. *Council may wish to contest again the removal of phrase “include the allegedly offending student or Parent in the preliminary investigation” as it reduces parent and student involvement in disputing claims, and delays return to school for students who can establish they should not be disciplined.*
4. *Council may wish to re-recommended that the Department 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 to ensure that parents have timely and accurate information.*
5. *Council may wish to restate our prior recommendation with respect to making it explicit in 6.2.6 that Districts should reschedule and/or provide remote means of participation for parents/students who want to attend the meeting but cannot attend in person or at the scheduled time. Language in the regulations requires that a meeting take place (“An alternative placement meeting shall take place”) and the regulation requires parent/student notification. However, parents and students “may, but are not required to,” attend the meeting. Therefore, a plain reading of the regulation allows the Districts to proceed without the student/parent, even if they want to attend, since they “may” attend but the meeting may proceed without them. This is because nothing in the proposed language, requires the District to reschedule if the parent/student wants to attend but cannot at the scheduled time. Nor does it require the District to offer remote participation. Disability Rights Delaware is aware of at least one instance where the District refused to re-schedule or provide a remote means of attending the APT so that the parent could attend.*
6. *Council may wish to collectively express concern that DDOE appears to be valuing District convenience over students due process rights and prompt and complete parental notification. This was an overarching theme in a number of the responses to Councils concerns.*

Attachment A: Excerpt of November 2025 P&L

➔ **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.⁴ 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

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. Councils 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

⁴ The first two publications were in the July 1, 2025 Register and September 1, 2025 Register.

of conduct violations for which the student is alleged to have violated).⁵ 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, **Council 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.**

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[.]”

⁵ 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.

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.⁶

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 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.**

⁶ 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.

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.**

Recommendations:

- **Therefore, Council may wish to ask DDOE to explain the actual difference between an alternative placement and expulsion with CDAP placement**
- **Council 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**
- **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.**
- **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.**
- **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, Councils 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.

- 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.
- 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.
- Council may wish to inquire as to why DDOE added this restriction on a student’s rights to appeal.
- 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.
- Council may wish to thank DDOE for making this change – re 6.1.5.
- Council may wish to recommend that DDOE ensure that the MOU is available to and easily accessible by the public.
- 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. Councils 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.
- Council may wish to, again, recommend that this language be added since DDOE may have unintentionally removed the language
- 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.
- Council may wish to recommend that DDOE require a review at least each marking period for all students regardless of grade level.
- 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.
- 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.