



Governor's Advisory Council for Exceptional Citizens (GACEC)
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February 27, 2026

Department of Education
Office of the Secretary
Attn: Regulation Review
401 Federal Street, Suite 2
Dover, DE 19901

RE: 29 DE Reg. 664/14 DE Admin. Code 616 DDOE Proposed Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings regulation (February 1, 2026)

Dear Secretary Marten:

The Governor's Advisory Council for Exceptional Citizens (GACEC) reviewed earlier versions of the Delaware Department of Education (DDOE) proposal to amend 14 DE Admin. Code § 616, Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings in July, September and November of 2025.

Council will not reiterate all of its earlier comments but would like to thank the DDOE for addressing many of our recommendations and ask that additional consideration be given to the following continuing issues of concern.

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 Council recommendations. The district expressed concern that schools may be 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 APT. 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.

The GACEC requested that the DDOE explain the actual difference between an alternative placement and expulsion with CDAP placement. The explanation provided by the DDOE 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. Therefore, Council would like 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.

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.*

The DDOE 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 would like to again challenge the removal of the 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.

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, Council 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. We would like to reiterate that recommendation to ensure that parents have timely and accurate information.

Council would like 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. There appears to be nothing in the proposed language requiring 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. Council is concerned that the that the DDOE appears to be valuing District convenience over the due process rights of students and prompt and complete parental notification.

In view of recent changes to how mail is postmarked, Council would like to recommend that the mailing for notification of the APT meeting should be by certified mailing or if done by regular mail, it must also be done in another modality to ensure receipt in the proper timeframe.

Lastly, Council would like to recommend that DDOE collect data and publicly report it on the prevalence of district/charter use of these disciplinary placement procedures, including the outcomes of any appeals.

Thank you for this opportunity to reiterate our concerns. We look forward to a more collaborative partnership with you as we work towards processes and procedures that are most beneficial for the students of Delaware. Please contact us if you have any questions on this reiteration of some of our earlier comments. Thank you for your consideration.

Sincerely,

William H. Doolittle

William H. Doolittle
Chairperson

WHD: kpc

CC: Shawn Brittingham, State Board of Education
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