

NEWS:

Revised Transgender Student Regulation Surfaces



JUNE 1, 2018 -- The Delaware Department of Education (DOE) has filed a revised version of the controversial regulation it unveiled last year seeking to protect transgender students from discrimination.

The push for the new rule began last July when Gov. John Carney sent a memo to Sec. of Education Susan Bunting directing her agency to craft it.

The resulting Rule 225 that was published in November drew more than 11,000 public comments, which were posted online. Remarks opposing some aspect of the proposed regulation outpaced supportive comments by a ratio of approximately seven-to-one.

A Department of Education press release issued earlier today noted that Sec. Bunting "made responsive changes" to the proposal after reviewing the comments and the input from public meetings, the last of which was held in Dover in late January.

The [new Rule 225](#) published in the [June Register of Regulations](#) differs significantly from the earlier draft, making concessions in several areas that had previously been the subject of widespread criticism.

One of the most striking contrasts is that the new proposal eliminates a provision that had sought to allow children of any age to self-identify their race or gender, without parental notification, input, or consent.

The lack of parental notification was one of the major bones of contention in the original draft. The Delaware Chief School Officers Association had criticized that aspect of the proposal saying it would place school districts in an untenable position.

Under the new rule, such identity changes would only be approved if students agreed to notify their parents and their parents approved the request.

The revised regulation also abolishes the state's suggested model policy in favor of assisting local districts and charter schools with creating their own policies.

Transgender students would no longer have the unfettered opportunity to participate on the sports team consistent with their gender identity. The pending revision specifies that local schools would need to comply with existing Delaware Interscholastic Athletic Association regulations covering the issue.

While local school officials would still be required to work with transgender students and their families to provide access to locker rooms and bathrooms that correspond to the students' gender identity, the new rule makes clear that "non-stigmatizing alternatives" such as a private area within a locker room, the scheduling of exclusive access to a locker room, or the provision of a private gender-neutral facility would be acceptable.

Today's publication in the Register of Regulations begins a month-long public comment period on the proposed regulation. All comments received will be posted online after the public comment period ends.

To be considered as part of the public record, comments must either be submitted via e-mail to DOEregulations.comment@doe.k12.de.us or via mail to the attention of Tina Shockley, Department of Education, 401 Federal Street, Suite 2, Dover, Delaware 19901. Comments submitted to other e-mail addresses will not be accepted. All comments must be received by **July 6**.