

Enrollment Preferences Task Force Minutes: Meeting #3
Wednesday, January 29, 2014
6:30 pm- Cabinet Room at the at the John G. Townsend Building

Task Force members present:

- Representative Kim Williams, Delaware House of Representatives, Co-Chair
- Senator Nicole Poore, Delaware State Senate, Co-Chair
- Senator David Sokola, Delaware State Senate
- Secretary Mark Murphy, Delaware Department of Education
- Frederika Jenner, Delaware State Education Association
- Yvonne Johnson, Delaware Parent Teacher Association
- Chuck Taylor, Charter School Network
- Diane Ruth, Charter School Representative
- Susan Francis, Delaware School Board Association
- Dr. Victoria Gehrt, Superintendent from New Castle County Vo-Tech
- Dr. Deborah Zych, Superintendent from Polytech
- Dr. Kevin Fitzgerald, Kent County Superintendent
- Mark Pruitt, Magnet School Representative
- Dr. Terri Hodges, Parent Representative
- Elizabeth Lockman, Parent Representative
- Catherine Hegedus, Parent Representative

Staff present:

- Fran Fletcher, University of Delaware (facilitator)
- Mark Brainard Jr., Delaware House of Representatives
- Katrina Cowart, University of Delaware

Members Absent:

- Representative Darryl Scott, Delaware House of Representatives
- Dr. Shawn Joseph, Superintendent from Sussex County
- Randall Hughes, Delaware State Board of Education (Donna Johnson attended)
- Terri Hancharick, Governor's Advisory Council for Exceptional Citizens
- Lindsay O'Mara, Governor's Office
- Gary Stockbridge, Delaware Business Roundtable
- Julie Rumschlag, Magnet School Representative
- Donald Mell, Charter School Representative (Kendall Massett attended)
- Dr. Allen Lathbury, Superintendent from Sussex Tech
- Dr. Matthew Donovan, Delaware Association of School Administrators
- Dr. Mervin Daugherty, New Castle County Superintendent

Public attendees:

- Kristin Dwyer, DSEA
 - Kathleen MacRae, ACLU-DE
 - Suzi Harris, Parent Info Center of Delaware
 - Calyce Magee, Community Member
 - Henry Clampitt, Community Member
 - Bill Doolittle, Community Member
 - Nelia Dolan, Community Member
 - Eve Buckley, Community Member
 - Mike Matthews, President of RCEA
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Meeting was called to order at 6:33 p.m.

1. Introduction

Representative Kim Williams, co-chair, welcomed everyone and stated that public comment will be at the end of the meeting. Each person will have three minutes to speak. She asked for the public who were going to speak, to state their name when addressing the task force. Representative Williams stated that minutes from the Second Task Force Meeting will be posted on the website along with all information presented at tonight's meeting. Representative Williams stated that the task force recommendations were due by January 31, 2014. By the direction of the House attorney and leadership, the task force was going to move forward with the task force without an extension. The reason we are not requesting an extension is the code would have to be amended. The new bill would have to be brought before the House and the Senate Education Committees and then to a full vote in both the House and Senate. She noted that the legislators will not be in session for next 6 weeks because of JFC meeting; it would be at least 2 additional weeks before this would happen. A decision was made to keep the task force moving without an extension.

A request was made from an earlier task force meeting for the number of denied and accepted students at each school/district from the last school year. The numbers were to be broken down into the following cells: low income, special education, ELL, Hispanic, African American, and Caucasian. We were informed that the data request for denied applicants is not available since schools/districts can legally only collect data on a voluntary basis. If they are not their students or at least pre-registered, they may not retain the data.

Representative Williams introduced Fran Fletcher with the University of Delaware Institute for Public Administration. Ms. Fletcher will be facilitating tonight's meeting.

Representative Williams makes a motion to approve the minutes from the second meeting. Diane Ruth asked that Henry Clampitt be allowed to speak to offer suggestions to the draft minutes since he attended the previous meeting in her place. Mr. Clampitt suggested that Senator Bryan Townsend and Kendall Massett be added to list of attendees, photo copies of the emails sent to Representative Williams be attached to the final copy of the minutes, and Bill Bush's comments be clarified. [NOTE: Bill Bush's comments in the final copy of the minutes were edited and approved by Mr. Bush]. All recommendations were noted and the motion to accept the edited minutes was made by Dr. Vicki Gehrt, seconded by Frederika Jenner, and unanimously adopted by the task force.

2. Presentations

Representative Williams turned the meeting over to Fran Fletcher from the University of Delaware, who served as the facilitator of the meeting. Ms. Fletcher began with a PowerPoint presentation. The PowerPoint presented the following information:

- House Bill 90: Create a task force to consider the current landscape of all school enrollment preferences and practices to include magnet, vocational technical and charter schools and to develop recommendations as necessary.
- DAG: "[Task force] mission is primarily a collection of policy considerations."
- House Bill 90 accomplished the following: Easier for parents to navigate the choice process, Standardizing application form & deadlines across traditional and charter schools, All LEAs accept DOE standard application, Parent can submit choice applications on DDOE's website, Districts must hold public information session about choice opportunities, Required to use the same standards for choice students as they do their attendance zone students, Districts must report capacity, Creation of this task force.

- House Bill 90: Further seeks to eliminate discrimination by districts against choice students by:
 - Allowing districts to request supplemental application information from choice students only to the extent it requires the same information from attendance zone students
 - Limiting the supplemental criteria a receiving district may use to evaluate choice applications – after that, district must use a lottery system
 - Removing the provision that allows districts to reject applications of students with special needs
- House Bill 90: Districts would also be required to accept choice students until each school and/or program has reached 85% of its capacity. District would be required to hold a public information session about choice and enrollment opportunity by October 31 and report estimated capacity and projected enrollment information to the DOE by November 30; those estimates may be revised until January 30.
- Overview of the Department of Justice Report (Fontello, Paula A., December 16, 2013, "HB-90 – Enrollment Preferences Task Force – Questions Presented"):
 - Receiving Districts (RE) may require supplemental information in the application data as long as the same information is requested from all students (choice & in-district residents). (page 1)
 - In reviewing the list of questions submitted, I did not find any current legal requirements that would prohibit the list of questions, tests or auditions presented. (page 2)
 - Many of the questions appear to be gathering information used for reporting of eligibility for federal or state programs such as homeless status under the Federal McKinney-Vento Homeless Assistance Act or migrant status, or identification for English Language Learners. (page 3)
 - While it may be advisable as the best practice for a RLEA to have a two-step process separating admission and enrollment information, it is not legally mandated. (page 4)
 - Each RLEA has the legal responsibility to ensure that they are complying with state and federal law and in doing so they should review their application process and practices carefully to make sure they are consistent with the law and do not have a chilling effect on the enrollment. (page 4)
 - While a RLEA may request information, there are certain circumstances where the RLEA must advise whether the disclosure of the information is mandatory or voluntary. (page 4)
 - There is no specific prohibition on asking questions on sports programs prior to enrollment. (page 5)
 - Each of the categories of schools may have specific acceptance and enrollment criteria to determine admission based on the school programs as long as the criteria used reasonably relates to the school or program. (page 6)
 - Magnets:
 - Designed to attract students from all parts of a community. (page 6)
 - The law requires that each RD, which does not include charter schools or career and technical education schools, to adopt and make available an acceptance or rejection (admission) policy and list out the criteria for acceptance or rejection and setting priorities as required for acceptance. (page 6)
 - The law contemplates and permits admission policies that are individually tailored to the specific purpose and programs of the school as long as the policy is "reasonably related to the nature of the program or school for which the application is submitted". (page 7)
 - Thus, if a magnet school is part of a RD, they may require auditions or tests to all applicants as long as the requirement is "reasonably related to the nature of the program or school". (page 7)
 - Charters:

- A charter school may have some admission or enrollment criteria to determine whether a student meets the stated preferences as incorporated in the school's charter. (page 8)
- For example, questions regarding the student's interests or what ways the school will serve the student, auditions, or testing may be the school's process used to determine student's specific interests in the school's methods, philosophy or educational focus, or whether a student is a risk for academic failure, as long as the information is uniform to all applicants and is not used for an impermissible purpose. (page 8)
- Career and Technical:
 - Career and technical schools are governed by the vocational-technical school board in each vocational-technical district... with the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vo-tech schools within their district. (page 9)
 - Although a vo-tech school is required to accept the general application, they are currently permitted to require supplemental information. (page 9)
- Conclusion: At the heart of the Task Force's mission is to consider all aspects of the application & enrollment process and purpose from both the applicants' and the schools' perspectives and needs, and weigh the policy considerations and formulate recommendations based on the outcome. If pursued through successful legislation, those recommendations would then become legally binding restrictions.

Following the PowerPoint, Ms. Fletcher pointed out the various types of forms that appear in the report and across Delaware's education system; standard application, supplemental application/information, enrollment form, etc. The task force began to discuss the differences between the forms. Yvonne Johnson commented that the use of differing terms such as supplemental application or supplemental information can be confusing to parents. Representative Williams agreed adding that with the addition of enrollment forms, the confusion could be magnified. Kendall Massett offered clarification that some charter schools do not differentiate between the enrollment and application form. For some schools that never need a lottery, the enrollment form and application form are one in the same, which is why some of the questions appear on the application. The schools assume that if the student is applying they are, in fact, enrolling. Representative Williams added that it should be determined if there should be two separate forms, an application before acceptance followed by an enrollment form following acceptance. Representative Williams followed up that she believes that the confusion surrounding of these applications are preventing people from applying. Kendall Massett agreed and said the conversation should happen with the school because it had not been made clear that the two forms are different and should be treated as such. Diane Ruth followed up that some schools have different processes with regards to supplemental information, and care should be taken when using broader terms to describe each step of the process. Yvonne Johnson asked that if a student must register in their home school, why are enrollment forms needed. Kendall Massett said this occurs for student ID purposes and added that it can be difficult for a parent to go to the home school to register and face the administrators who realize the student will choose out of their school. Donna Johnson pointed out that it was important for the group to note that there is no enrollment form outlined in Chapter 4; it only speaks to the application. There are other state and federal regulations surrounding the collection of information, but once a child is enrolled that is where the enrollment form comes in. It is not a factor of school choice, so those two forms should be separated. This group has the opportunity to identify the distinction between what should be in the application versus what should be in the enrollment form following acceptance. Mark Pruitt pointed out that Conrad does not use a supplemental application but Cab Calloway does. This information is used to gauge programming interest at the time of applying with the understanding that there are only a select number of openings in each program. Representative Williams said that there is the common application that everyone must fill out, and asked if the group agreed that there should be separate supplemental applications and enrollment forms. Kendall pointed out that some at-risk schools are allowed to ask certain questions on the supplemental application that would technically be on an enrollment form but

they speak to the population of that school. She added that the principal would agree to separate the two forms without the need for a mandate because they did not know there was a difference. Diane Ruth asked for clarification about what information is typically on an enrollment form. Kendall answered that some of the information includes immunization records, physical, etc. Chuck Taylor added that there are two distinctions. The enrollment form is the administrative processes the school would have to go through to ensure everything is up to date: immunization, social security number, free and reduced lunch, etc. which occurs after acceptance. Prior to acceptance, issues like expulsion from another school, living out of state, etc. should be part of the supplemental application and based on the mission of the school, in his opinion. Frederika Jenner added, for clarification, that there are three separate forms; the application, the supplement to the application and the enrollment form.

3. **Small Groups**

Fran Fletcher divided the task force into four groups, and provided a 16-page document of information requested on various charter, magnet, and vo-tech applications and forms. The requested information was divided into various categories including behavior/discipline, parent/guardian questions, pre-admission requirements, special education/related services, marketing, extra-curricular activities, student questions, pre-K/child find, family information, languages, attendance, accessibility, attachments with application, teacher questions, and academics. The groups looked at each question and were asked to determine, individually, at which point, if at all, during the application process it was appropriate to ask that information. Each groups' findings will be presented at the next meeting. The groups were broken down:

Group 1: Dr. Deborah Zych, Catherine Hegedus, Dr. Vicki Gehrt, Chuck Taylor, Senator Nicole Poore

Group 2: Dr. Kevin Fitzgerald, Elizabeth Lockman, Secretary Mark Murphy, Kendall Massett

Group 3: Representative Kim Williams, Diane Ruth, Dr. Terri Hodges, Mark Pruitt, Senator Dave Sokola*

Group 4: Frederika Jenner, Yvonne Johnson, Sue Francis, Donna Johnson

*Please note that Senator Sokola had to leave early during the small group discussion.

The groups were not able to finish looking through all pages of the document and will finish at the next task force meeting.

Note: Digital copies of all documents discussed at this meeting can be found on:

<http://legis.delaware.gov/LIS/TaskForces.nsf/113411bdd5de74d385257b3b005e343c/49b267f532b422d185257b6c0061a658?OpenDocument>

4. **Public Comment**

The small groups stopped working on their packet at 8:15pm to allow for public comment.

Bill Doolittle: Mr. Doolittle commented that the work the task force is doing was really important, making moral and legal decisions regarding how much discrimination is going to be allowed to happen. There is clear guidance at the federal level for higher education; what they cannot ask. They can't ask about disability and medical history. There is no similar guidance for secondary and elementary schools so far. Personally, he feels it is a moral decision. There is discrimination that is beneficial to the population. He used the example of a charter school serving special needs children. That is beneficial for serving that specific, at-risk population. A large problem surrounding Delaware's charter school system is the interest preference, and its use to measure a student's ability. As soon as ability is being measure, discrimination sets in.

Nelia Dolan: Ms. Dolan is a parent from the Cape Henlopen district. She commented that in her own independent research into the subject, she noticed the trend where Delaware charter schools with the highest number of low income students have few or no white students and the charter schools with the

highest number of non-low income students have few black students. These schools are eligible for the same recognition and monetary awards that schools that have the least resources cannot possibly compete with the schools that manage to exclude low-income minorities. She went on to say her local charter school's lottery seemed to pull a disproportionately number of students from very small pools of eligible candidates. She asked DOE to look into it, and felt the Department was reluctant to hold schools accountable for breaking rules. The lottery that took place is only exacerbating the segregation that already exists in this particular charter school. In addition, the district lost out on a disproportionate number of high performing, non-low income students to this charter school. She urges that task force to make recommendations that would do three things: make integration a top priority, make the admissions process transparent, and conduct research on what the proper number of charter spots per student should be. She also hopes the task force will give consideration to the districts and non-chartered districts schools who educate the vast majority of Delaware students and do not turn any student away. Having a community school, which may not be right for every student, is a good thing for everyone. She submitted an article, "A New Round of Segregation Plays Out in Charter Schools" where Delaware is used as an example. She also submitted the demographics of the charter school in Sussex County compared to the demographics of the entire county.

Eve Buckley: Ms. Buckley resides in Newark and the Christina School District. She is a member of a parents group, Friends of Christina School District, who are concerned with the expansion of charter schools across Delaware and the effect it will have on the surrounding communities and the schools which admit all students, no questions asked. If Delaware is going to use a competition model, the state should make the competition fair and should play by the same rules. If a district school cannot exclude a child based on academic performance, discipline, etc., then a charter should not be able to either. The Delaware law does not seem to be very helpful in that regard based on the memo from the Department of Justice. If the state allows charter schools to play by different rules, Delaware is setting a dangerous legal precedent and a frustrating landscape for parents and teachers.

Mike Matthews: Mr. Matthews is a teacher in Red Clay. He thanked the task force for putting together the document of all the information and questions on various applications. As a special education teacher, Mr. Matthews works solely with children with special needs and was disturbed that information regarding IEPs, counseling, therapies, reading support, etc. would be asked by a public school prior to admission. Mr. Matthews also wanted to know how this data is being tracked by DOE or the schools as well as what data is currently available to show whether these students have been accepted or denied into the schools that asked these questions. He is of the belief that if a family is disclosing this kind of information to certain magnet and charter schools in the state, that school is excluding that child based on his or her special needs. He hopes that if this data is not currently tracked, then a mechanism through the Department be established to do so.

The meeting adjourned at 8:31 pm.

Next meeting: March 4th, 2014 at the Buena Vista Conference Center from 6:30pm-8:30pm.

**For an mp3 recording of this meeting please visit
insert new link**