

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(2) (14 **Del.C.** §122(b)(2))  
14 **DE Admin. Code** 603

### PROPOSED

### PUBLIC NOTICE

#### Educational Impact Analysis Pursuant to 14 **Del.C.** §122(d)

#### 603 Compliance with the Gun-Free Schools Act

#### A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(b)(2), the Delaware Department of Education ("Department") developed amendments to 14 **DE Admin. Code** 603 Compliance with the Gun-Free Schools Act. The regulation concerns the written policy requirements to implement the Gun-Free Schools Act (20 U.S.C. §7961) and the reporting requirements for districts and charter schools in Delaware. The regulation was reviewed in accordance with 29 **Del.C.** §10407. The proposed amendments include adding Section 1.0, which concerns the content of the regulation; adding Section 2.0, which provides defined terms; and changes to Sections 3.0 and 4.0 to align the proposed regulation with 20 U.S.C. §7961 and 11 **Del.C.** §1457A.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before May 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

#### C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation concerns the policy and reporting requirements under the Gun-Free Schools Act and is not designed to help improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation concerns the policy and reporting requirements under the Gun-Free Schools Act and is not designed to help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation will help to ensure all students' health and safety are adequately protected by providing policy and reporting requirements to help ensure gun-free schools.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation concerns the policy and reporting requirements under the Gun-Free Schools Act and is not designed to help ensure all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The reporting requirements in Section 4.0 align with the requirements under the Gun-Free Schools Act.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? By statute (14 **Del.C.** §122(b)(2)), the Department promulgates regulations governing the protection of the health and physical welfare of public school students in Delaware. The amended regulation does not change the Department's decision making authority and accountability for addressing the subject regulated.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The amended regulation is consistent with, and not an

impediment to, the implementation of other state educational policies, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

## 603 Compliance with the Gun-Free Schools Act

### 1.0 Content

Pursuant to 14 **Del.C.** §122(b)(2), this regulation provides the written policy requirements to implement the Gun-Free Schools Act (20 U.S.C. §7961) and the reporting requirements for Delaware public schools.

### 2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

**"Department"** means the Delaware Department of Education established pursuant to 14 **Del.C.** §101.

**"Firearm"** has the same meaning given such term in the Gun-Free Schools Act (20 U.S.C. §7961(b)(3)).

### 4.0 3.0 Written Policy Required

4.4 3.1 Each school district and charter school shall have a written policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 **Del.C.** §1457(j) §1457A or its successor statute. At a minimum, the policy must contain the following elements:

4.1.4 3.1.1A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than ~~one~~ 1 school year.

4.1.2 3.1.2 ~~Modification Pursuant to 11 Del.C. §1457A(f), modification to the expulsion requirement may be made on a case by case basis by the chief school officer local school board or charter school board of directors. Any modification to the expulsion requirement must be made in writing reported to the Department.~~

4.1.3 ~~The definition of "Firearm" shall be the same as the meaning given to the term in the federal Gun-Free Schools Act.~~

3.2 A copy of the school district's or charter school's current policy shall be in the school district or charter school's Student Handbook or Code of Conduct.

12 DE Reg. 325 (09/01/08)

23 DE Reg. 368 (11/01/19)

### 2.0 4.0 Submission of the Policy Information to the State Department of Education

2.4 4.1 Each school district and charter school shall submit the following to the Delaware Department of Education annually, in such form as the Department requires:

2.1.4 4.1.1 An electronic copy of its policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 **Del.C.** §1457(j) §1457A or its successor statute; and

2.1.2 4.1.2 An electronic copy of any revised policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 **Del.C.** §1457(j) §1457A or its successor statute ~~under the policy implemented in accord with this regulation~~ within ninety (90) 90 days of such revision regardless of whether revisions were made as a result of changes to federal, state or local law, regulations, guidance or policies; and

2.1.3 4.1.3 ~~Descriptions of the~~ Description of the circumstances surrounding expulsions imposed under 11 **Del.C.** §1457(j) §1457A or its successor statute ~~and under the policy implemented in accord with this regulation.~~ The description must include all of the following:

4.1.3.1 The name of the school;

4.1.3.2 The number of students expelled from the school; and

4.1.3.3 The type of firearms.

23 DE Reg. 368 (11/01/19)

### 3.0 5.0 Individuals with Disabilities Act

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.

1 DE Reg. 1976 (06/01/98)

7 DE Reg. 333 (09/01/03)  
12 DE Reg. 325 (09/01/08)  
23 DE Reg. 368 (11/01/19)  
27 DE Reg. 730 (04/01/24) (Prop.)