

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b) and 154(e)
(14 Del.C. §122(b) and §154(e))
14 DE Admin. Code 716

PROPOSED

Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)

716 Maintenance of Local School District and Charter School Personnel Records

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 DE Admin. Code 716 Maintenance of Local School District Personnel Records in order to align it with the new rules of the Delaware Public Archives concerning the retention of the personnel records of inactive employees. The retention period has been increased from 30 years to 50 years by the Delaware Public Archives. In addition, there is clarification related to the number of summative appraisals that are to be kept in personnel files.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before September 5, 2008 to Susan Haberstroh, Education Associate, Regulation Review, Department of Education, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation is available from the above address or may be viewed at the Department of Education business office.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses the maintenance of personnel records not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses the maintenance of personnel records not equitable education issues.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses the maintenance of personnel records not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses the maintenance of personnel records not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making 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 will not place any unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

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 will 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.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no additional cost to the State and to the local school boards of compliance with the regulation.

716 Maintenance of Local School District and Charter School Personnel Records

1.0 Definitions

“Delaware Public Archives (DPA)” means the division within the Department of State that is charged with administering, implementing and enforcing all provisions of the Delaware Public Records Law.

"Employee" shall in this case mean any person whose terms of employment are adequate to qualify the employee for the earning of credit toward pension.

"Termination" in this case does not refer only to retirement but to any reason for the employee to leave the district.

2.0 Records Retention

Records for all school district and charter school employees shall be kept up to date including:

- 2.1 Salary data records for each year of employment in the school district or charter school. (Total salary paid identified as fiscal or calendar year); and
- 2.2 Records that show sick leave days earned and used and the number of days available at any time; and
- 2.3 The record of vacation time for those employees whose terms of employment provide for earned vacation.
- 2.4 All forms and documents that become part of the Delaware Performance Appraisal System II (DPAS II) shall be retained in the individual's personnel file until there are at least five (5) complete summatives. The oldest complete set of evaluation forms and documents may be purged from the personnel file once the sixth set is complete.

9 DE Reg. 395 (9/1/05)

3.0 Records Retention

Each school district and charter school shall keep the records referred to in section 2.0 above for all employees' inactive personnel files for at least ~~thirty~~ fifty (50) years following termination of employment.

- 3.1 For the security of records and the protection of the personnel for whom the information is recorded, it is recommended that original records are to be maintained at the school district or charter school for three (3) years after termination of an employee and a successful audit of such records. Records shall be purged in accordance with the *Delaware Public Archives School Districts General Records Retention Schedule* and prepared for storage according to the *“Delaware Public Archives Records Management Handbook Preparation of Records for Short-Term Storage”*. Records shall remain in their original format and shall then be transferred to DPA and retained in storage for the balance of the ~~thirty (30)~~ fifty (50) required years. Local District and charter school records officers and authorized agents may request files from storage in accordance with DPA's procedures for requesting files. At the end of the retention period, the documents will be destroyed in accordance with DPA's destruction procedures.
- 3.2 The style and form of the records shall be at the discretion of the local school districts or charter schools, except that records transferred to the Delaware Public Archives for storage shall be in a format acceptable to DPA. Individual local school districts and charter schools may elect to have their records recorded onto a different type of media at district expense, in accordance with DPA guidelines.

3.2.1 The information referred to above shall be maintained and available for any employee or former employee seeking information concerning their own employment records for a period of ~~thirty (30)~~ fifty (50) years after termination of employment. (It is recommended that for the convenience of employees and former employees that school districts and charter schools develop an alphabetically arranged file showing the name of each employee and the disposition of his or her records.)

3 DE Reg. 1077 (2/1/00)

4 DE Reg. 989 (12/1/00)

9 DE Reg. 395 (9/1/05)

12 DE Reg. 116 (08/01/08)