

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 742

FINAL

REGULATORY IMPLEMENTING ORDER

742 Compensation of School District and Charter School Personnel Under Federal Projects

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 742 Compensation of School District and Charter School Personnel Under Federal Projects in order to clarify local school districts and charter schools must follow the federal U.S. Office of Management and Budget's processes for compensation of personnel under federal projects and for formatting purposes.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Friday, October 2, 2009, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 742 Compensation of School District and Charter School Personnel Under Federal Projects in order to clarify local school districts and charter schools must follow the federal U.S. Office of Management and Budget's processes for compensation of personnel under federal projects.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 742 Compensation of School District and Charter School Personnel Under Federal Projects. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 742 Compensation of School District and Charter School Personnel Under Federal Projects attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 742 Compensation of School District and Charter School Personnel Under Federal Projects hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of 14 **DE Admin. Code** 742 Compensation of School District and Charter School Personnel Under Federal Projects amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 742 Compensation of School District and Charter School Personnel Under Federal Projects in the *Administrative Code of Regulations* for the Department of Education.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on November 13, 2009. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 13th day of November 2009.

DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed. D., Secretary of Education

Approved this 13th day of November 2009

742 Compensation of School District and Charter School Personnel Under Federal Projects

1.0 Use of Federal Funds

1.1 A school district or charter school may use federal funds to:

- 1.1.1** Employ additional administrative, supervisory and teaching personnel, or other necessary personnel beyond those allocated in **Delaware Code**, Title 14, in order to implement a federally supported project.
- 1.1.2** Extend the employment of a ten or eleven month employee through the eleventh and twelfth month for purposes of conducting a federally supported program. Part time assignments shall be paid a pro rata share.
- 1.1.3** Employ teachers of the school district or charter school during the school year for additional hours each week to support such federally supported programs.
- 1.1.4** Employ full time instructional personnel who are qualified for administrative or supervisory positions to carry on administrative or supervisory activities of a federally supported program beyond the regular school day or school week.
- 1.1.5** Pay a salary equal to the combined state and local salary of other persons in similar assignments at the same rank.
- 1.1.6** Pay an hourly rate for a part time assignment as an amount pro-rated against the annual salary for the same rank and assignment and in accordance with the qualifications of the individual so assigned and in accordance with previous sections of this statement.

8 DE Reg. 884 (12/1/04)

2.0 A School District or Charter School Shall Not

- 2.1** Supplant funds for a local or state position by substituting federal funds for payment of that position.
- 2.2** Pay a salary to cover paid vacation days during intended federal employment when that federal employment is an extension of a ten or eleven month school year as assigned and paid by the state.

3 DE Reg. 755 (12/1/99)

8 DE Reg. 884 (12/1/04)

3.0 For Federal Project Proposals that Require the Approval of the Department of Education, the Applicant Shall

- 3.1** Describe any new or additional position, align it with a recognized rank as described in **Delaware Code** Title 14 or in the case of a nonpublic school institution describe the position in terms of a rank already existing in the institution and assigned to comparable work.
- 3.2** Include in the benefits of the employee all of those benefits that accrue to an employee of the state or the local school district or charter school except that the benefit of the provisions of 14 **Del.C.** Ch. 14 shall not apply to any person whose salary is paid from federal funds in whole or in part.
- 3.3** Seek and obtain approval of the project through the Department of Education prior to the assignment of personnel for the assumption of duties and payment of wages or salary.

8 DE Reg. 884 (12/1/04)

4.0 Local School Districts Shall Comply with the Maximum Hourly Compensation Rates as Published by the Department of Education.

8 DE Reg. 884 (12/1/04)

5.0 Additional Requirement

All local school districts and charter schools shall be required to follow the U.S. Office of Management and Budget's OMB Circular A-87, specifically attachment B, Section 11, or any subsequent change thereto.

13 DE Reg. 842 (12/01/09) (Final)