

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 930

FINAL

ORDER

930 Supportive Instruction (Homebound)

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 930 Supportive Instruction (Homebound) for formatting purposes as well as clarification. The regulation was reviewed pursuant to the five year cycle.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on October 4, 2010 in the form hereto attached as *Exhibit "A"*. The Department received comments from the Governors Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. As always, the Department appreciates the thoughtful comments provided. A comment was received related to changing language from "physician" to "physician or advanced practice nurse". Advanced practice nurses have varying levels of authority and the Department believes changing this may cause confusion at the school level. A comment was received related to adding charter schools. This regulation is designed to address students who are not eligible to receive homebound as a result of a right created under disability laws. Such students (not eligible under the disability laws) would have no right to homebound without this regulation, and it does not appear that there is statutory authority to extend the regulation to include charter schools. Additional comments were related to language usage and whether it was "affirmative" or "non affirmative". The Department considered the comments; however, it believes rephrasing is not needed at this time. Grammatical changes were made.

II. Findings of Facts

The Secretary of Education intends to amend 14 **DE Admin. Code** 930 Supportive Instruction (Homebound) for formatting purposes as well as clarification. The regulation was reviewed pursuant to the five year cycle.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 930 Supportive Instruction (Homebound). Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 930 Supportive Instruction (Homebound) attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 930 Supportive Instruction (Homebound) 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** 930 Supportive Instruction (Homebound) amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 930 Supportive Instruction (Homebound) 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 18, 2010 date. 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 18th day of November 2010.

Department of Education

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

Approved this 18th day of November 2010

930 Supportive Instruction (Homebound)

1.0 Definition

“**Supportive Instruction**” is an alternative educational program provided at home, in a hospital or at a related site for a students temporarily at home or hospitalized for a sudden illness, injury, episodic flare up of a chronic condition or accident considered to be of a temporary nature.

- 1.1 Procedures for eligibility shall be limited to appropriate certification that the student cannot attend school.
- 1.2 Services for children with disabilities as defined in the Individuals with Disabilities Education Act (IDEA) (20 U.S.C 1400 et.seq), and its regulations (34 CFR parts 300 and 301), 14 Del.C., Ch. 31, and the State Department of Education's regulations on Children with Disabilities (14 DE Admin. Code 922 through 929) shall be provided ~~according to the Administrative Manual: Special Education Services, in accordance with these laws~~ and shall be processed under the district's special education authority. Nothing in this regulation shall prevent a district from providing supportive instruction to children with disabilities in a manner consistent with the Individuals with Disabilities Education Act (IDEA) ~~and the Administrative Manual and its regulations, 14 Del.C., Chapter 31, and the Department of Education's regulations on Children with Disabilities.~~
- 1.3 Nothing in this regulation shall alter a district's duties under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act to students who are qualified individuals with disabilities. Nothing in this regulation shall prevent a district from providing supportive instruction to such students.

2.0 Eligibility

- 2.1 A student enrolled in a school district is eligible for supportive instruction when the ~~school~~ district receives the required certification that an accident, injury, sudden illness or episodic flare up of a chronic condition will prevent the student from attending school for at least ten (10) school days.
 - 2.1.1 A physician must certify absences due to a medical condition.
 - 2.1.2 Absences due to severe adjustment problems must be certified by a psychologist or psychiatrist and confirmed through a staff conference.
 - 2.1.3 A physician must certify absences due to pregnancy complicated by illness or other abnormal conditions.
 - 2.1.3.1 ~~Students do~~ A student does not qualify for supportive instruction for normal pregnancies unless there are complications.
 - 2.1.3.2 ~~Students~~ A student who remain[s] enrolled in school ~~are~~ is eligible for supportive instruction during a postpartum period not to exceed six weeks. Postpartum absences must be certified by a physician.
- 2.4 Supportive instruction can be requested as an in school transitional program that follows a period of supportive instruction that was provided outside of the school setting. If the supportive instruction is provided as an in school transitional program, it must be approved through a staff conference.

9 DE Reg. 402 (9/1/05)

3.0 Implementation

- 3.1 Supportive instruction for a students shall begin as soon as the documentation required by 2.0 is received. Supportive instruction may continue upon the return to school setting only in those

exceptional cases where it is determined that a student needs a transitional program to guarantee a successful return to the school ~~program as delineated in~~ setting in accordance with 2.4.

3.1.1 Supportive instruction shall adhere to the extent possible to the student's school curriculum and shall make full use of the available technology in order to facilitate the instruction.

3.1.1.1 The school shall provide a minimum of 3 hours of supportive instruction each week of eligibility for ~~students a~~ K to 5th grade student, and a minimum of five hours each week of eligibility for ~~students a~~ 6 to 12th grade student. There is no minimum for in school transition.

3.1.1.2 Nothing in this regulation shall prevent a school district [~~school~~] from providing additional hours of supportive instruction to an eligible students from ~~either its Academic Excellence allotment [or]~~ other available funding sources.

3.1.2 Summer instruction is permitted for a student who is otherwise eligible for supportive instruction and, as determined by the student's teachers and principal, needs the instruction to complete course work or to maintain a level of instruction in order to continue in a school ~~program~~ setting the following school year.

4 DE Reg. 344 (8/1/00)

4 DE Reg. 497 (9/1/00)

9 DE Reg. 402 (9/1/05)

14 DE Reg. 558 (12/01/10) (Final)