

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 255

FINAL

REGULATORY IMPLEMENTING ORDER

255 Definitions of Public School, Private School and Nonpublic School

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend 14 **DE Admin. Code** 255 Definitions of Public School, Private School and Nonpublic School. This regulation is being amended in order to include and clarify definitions of various types of schools as well as to change the title of the regulation to more accurately reflect its content.

This regulation was previously published in the *News Journal* and the *Delaware State News* on July 1, 2016. At that time substantive changes regarding the definitions of "Charter School" and "Reorganized School District" required it to be republished. Notice of the current proposed regulation was published in the *News Journal* and the *Delaware State News* on November 1, 2016, in the form hereto attached as Exhibit "A". During the most recent publication comments were received from the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. Both Councils endorsed the changes the Department of Education made to the regulation. The Department made grammatical changes as indicated.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 255 Definitions of Public School, Private School and Nonpublic School in order to include and clarify definitions of various types of schools as well as to change the title of the regulation to more accurately reflect its content.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 255 Definitions of Public School, Private School and Nonpublic School. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 255 Definitions of Public School, Private School and Nonpublic School attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 255 Definitions of Public School, Private School and Nonpublic School 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** 255 Definitions of Public School, Private School and Nonpublic School amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 255 Definitions of Public School, Private School and Nonpublic School 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 December 15, 2016. 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 15th day of December 2016.

Department of Education

Steven H. Godowsky, Secretary of Education

Approved this 15th day of December 2016

1.0 **Public School Purpose**

A public school shall mean a school or Charter School having any or all of grades kindergarten through twelve, supported primarily from public funds and under the supervision of public school administrators. It also shall include the agencies of states and cities which administer the public funds. The purpose of this regulation is to define various types of schools and educational entities operating in the State of Delaware identified in Title 14 of the Delaware Code.

2.0 **Private School Definitions**

A private school shall mean a school having any or all of grades kindergarten through twelve, operating under a board of trustees and maintaining a faculty and plant which are properly supervised and shall be interpreted further to include an accredited or approved college or university.

The following words and terms are applicable unless a specific regulation, statute or the context in which they are used clearly indicates otherwise:

"Charter School" means a non-home-based public school including two or more of grade kindergarten through twelve, operating in an approved physical plant for the personal physical attendance of all students and is managed by a board of directors. It exists under a charter granted by a public school district or the Delaware Department of Education, with the approval of the State Board of Education, pursuant to 14 Del.C. Ch. 5.

"Homeschool" means a nonpublic school as defined in 14 Del.C. §2703A.

"Local Education Agency (LEA)" means a reorganized traditional school district, vocational/technical school district[,] or Charter School[,] legally constituted and established[,] under Delaware law for either administrative control or direction of public elementary or secondary school(s).

"Nonpublic School" means a private school or any home school as defined in this regulation or 14 Del.C. §2703A.

"Private School" means a school having any or all of grades kindergarten through twelve, operating under a board of trustees and maintaining a faculty and plant which are properly supervised.

"Public School" means a physical plant having any or all of grades kindergarten through twelve, supported primarily from public funds and under the supervision of public school administrators. A Charter School, as defined herein, is also a public school.

"Reorganized School District" means a clearly defined geographic subdivision of the state organized for the purposes of administering public education in that area.

"School District" means either a Reorganized School District or a Vocational-Technical School District or both depending upon the context in which the term is used.

"Vocational-Technical School District" means a subdivision of the state, the boundaries of which are co-extensive with the boundaries of the county in which it is located, organized for the purposes of administering vocational and technical education in that area.

4 DE Reg. 1251 (02/01/01)

3.0 **Nonpublic School**

A nonpublic school shall mean a private school as that term is defined in paragraph 2.0 of this regulation or any homeschool defined in 14 Del.C. §2703A.

4 DE Reg. 1251 (02/01/01)

7 DE Reg. 618 (11/01/03)

12 DE Reg. 668 (11/01/08)

20 DE Reg. 547 (01/01/17) (Final)