

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 4112 (14 **Del.C.** §§122(a) and 4112)
14 **DE Admin. Code** 601

FINAL

REGULATORY IMPLEMENTING ORDER

601 Schools and Law Enforcement Agencies

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Title 14 of the Delaware Administrative Code governs Department of Education matters. Under the provisions of 29 **Del.C.** §10113(b)(5) and pursuant to 14 **Del.C.** §§122(a) and 4112, subsection 6.1 of 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies is being amended to be consistent with the mandatory reporting requirements of 14 **Del.C.** §4112(b). Those requirements were changed by House Bill 243 with House Amendments 1 and 2 of the 146th General Assembly, which eliminated offensive touching and terroristic threatening as bases for mandatory reporting. The amendments do not otherwise alter the substance of the regulation.

The amendments are exempt from the requirement of public notice and comment and are adopted informally in accordance with 29 **Del.C.** §10113(b)(5).

II. FINDINGS OF FACTS

The Secretary of Education finds that it is appropriate to amend 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies in order to be consistent with the mandatory reporting requirements of 14 **Del.C.** § 4112(b). Those requirements were changed by House Bill 243 with House Amendments 1 and 2 of the 146th General Assembly, which eliminated offensive touching and terroristic threatening as bases for mandatory reporting.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies subject to the Secretary of Education's approval. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies attached hereto as Exhibit "A" is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies adopted hereby shall be in the form attached hereto as Exhibit "A," and said regulation shall be cited as 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies 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 Department pursuant to 14 **Del.C.** §122 on June 15, 2018. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Register of Regulations*.

IT IS SO ORDERED the 15th day of June 2018.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 15th day of June 2018.

601 Schools and Law Enforcement Agencies

1.0 Purpose

The purpose of this regulation is to ensure that effective communication and working relationships exist between public schools and law enforcement agencies.

2.0 Definitions

"**Alternative Program**" mean a program established pursuant to 14 **Del.C.** Chapter 16.

"**School Employee**" for purposes of this regulation shall mean all persons 18 years of age or older hired by a school district, attendance zone, or charter school; subcontractors such as bus drivers or security guards; employees of an Alternative Program provider; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property. This definition shall be consistent with 14 **Del.C.** §4112.

3.0 Written Policy and Memorandum of Agreement (MOA)

- 3.1 All local school districts, charter schools, and Alternative Programs shall establish a written policy on effectively communicating and working with law enforcement agencies. Each school district, charter school and Alternative Program shall develop a Memorandum of Agreement (MOA) with each law enforcement agency which provides services to it. Each MOA shall be in a form substantially similar to a Model MOA as developed, approved and from time to time revised by the Department of Education.
- 3.2 The Department shall review the Model MOA and each school district, charter school, or Alternative Program shall review its current MOA at least once every three years.

4.0 Training Component

- 4.1 Any school administrator responsible for reporting school crimes or reporting school conduct incidents to law enforcement and to the Department of Education; or any school administrator responsible for reporting suspension and expulsion data to the Department; or any school administrator responsible for any disciplinary process involving staff or students shall complete Department of Education approved training and any such additional training the Department of Education may prescribe from time to time.
- 4.2 The approved training shall be primarily provided by staff at the Department of Education. The training may be provided by a school administrator at the district, charter school, or Alternative Program who is qualified to provide such training by having completed the Department of Education approved training within the last twenty-four (24) months. The district, charter school, or Alternative Program shall provide the name(s) of the trainer(s) conducting the training and the name(s) of those school administrator(s) attending the training if such training was provided by the district, charter school, or Alternative Program.
- 4.3 Each school district, charter school, and Alternative Program shall, at the time of hiring and at the beginning of each school year thereafter, advise each School Employee of his/her duty to report school crimes and the penalty for failure to so report as prescribed in 14 **Del.C.** §4112 (e).

5.0 Reporting of Crimes to the Delaware Department of Education

- 5.4 The superintendent or head administrator of each school district, charter school, and Alternative Program or his/her designee, shall ensure each school within his/her jurisdiction reports to the Department of Education all school crimes required to be reported pursuant to 14 **Del.C.** §4112, and any subsequent amendment thereto. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education within the time prescribed by Delaware statutes.

6.0 Reporting Specific Incidents of Misconduct

- 6.1 In addition to those school crimes required to be reported to law enforcement pursuant to 14 **Del.C.** §4112, the superintendent or head administrator of each school district, charter school, and Alternative Program, or his/her designee, shall report to the Department of Education incidents of misconduct 6.1.1 through 6.1.14. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education not later than five working days following the incident.
 - 6.1.1 Pornography, possession and production
 - 6.1.2 Criminal mischief (vandalism)
 - 6.1.3 Tampering with public records
 - 6.1.4 Alcohol, possession and use
 - 6.1.5 Felony theft
 - 6.1.6 Bullying (allegations and substantiated incidents)
 - 6.1.7 ~~Offensive Touching (student or employee victim)~~
 - 6.1.8 ~~Terroristic Threatening (student or employee victim)~~
 - 6.1.9 ~~6.1.7~~ Sexual Harassment

~~6.1.106.1.8~~ Fighting

~~6.1.116.1.9~~ Inhalants

~~6.1.126.1.10~~ Drug Paraphernalia

~~6.1.136.1.11~~ Teen Dating Violence

~~6.1.146.1.12~~ Unlawful Drug Use/Influence

16 DE Reg. 838 (02/01/13)

7.0 Compliance Component

A school that fails to comply with the reporting mandates as set forth herein shall be subject to identification as a "Persistently Dangerous School" as this term is defined in 14 **DE Admin. Code** 608. A school identified as Persistently Dangerous will retain that designation for the entire fiscal year.

11 DE Reg. 741 (12/01/07)

16 DE Reg. 838 (02/01/13)

22 DE Reg. 52 (07/01/18) (Final)