

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 733

FINAL

REGULATORY IMPLEMENTING ORDER

733 Payment of Substitutes for Teachers

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers. This regulation is being amended as part of the 2016 Regulation Review as required by 29 **Del.C.** §10407. During this review, public comment was received for this regulation. The Department was requested to include language that prohibits school districts from requiring teachers to pay for substitutes out of their own money. The Department considered the comment but did not make specific amendments to this effect. The Department did make minor changes for clarification purposes. Additionally, the regulation was reviewed pursuant to the required five-year review cycle.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on January 1, 2017 in the form hereto attached as *Exhibit "A"*. Comments were received from the Delaware State Education Association (DSEA) as to why the section regarding kindergarten teachers on abbreviated days was removed. Since the time of the original regulation, full day kindergarten has been adopted throughout the state, thus this clause was considered to be non-applicable. A second comment by DSEA asked if any schools currently require teachers to pay for substitutes out of their own money. The Department is not aware of any such requirement, and also notes that this is not permitted per the regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers in order to make minor changes beyond the comments received and for clarification purposes.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers 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** 733 Payment of Substitutes for Teachers amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers 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 February 16, 2017. 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 16th day of February 2017.

Department of Education

Susan S. Bunting, Secretary of Education

Approved this 16th day of February 2017

733 Payment of Substitutes for Teachers

1.0 Payment of Substitutes for Teachers

- 1.1 State substitute teacher funds may be used to pay substitutes for State funded teachers when the ~~state~~ State funded teachers are unavailable for duty under the provisions of 14 **Del.C.** §1318, 29 **Del.C.** §5524 and 29 **Del.C.** §5933 (for sick leave calculations for teachers qualifying for workers' compensation).
- 1.2 Substitutes for ~~state~~ State funded teachers may also be paid from State substitute teacher funds for:
 - 1.2.1 Military leave for training or duty not in excess of 15 working days per year.
 - 1.2.2 ~~Kindergarten Teachers on Abbreviated Days. In order to allow kindergarten teachers additional time for parent conferences, substitute teachers may be hired using state substitute teacher funding for ½ day on abbreviated days when kindergarten is scheduled.~~
 - 1.2.3 Teachers participating in Department of Education ~~initiated committee work~~ led professional learning and project assignments.
- 1.3 Substitutes for State funded teachers who are absent without pay may be charged to ~~the Division I teacher salary line~~ State funds.
- 1.4 Substitutes for teachers who are paid from federal funds shall be paid from federal funds from the federal program involved or local funds.
- 1.5 Substitutes for teachers who are paid from local funds shall be paid from local funds.
- 1.6 Substitutes for teachers who are paid from State funds for a fractional part of a State teacher unit and a fractional part from other funds shall be paid on the same proportional basis.
- 1.7 Substitutes shall be paid from State substitute teacher funds the amounts authorized for the various classes of substitutes as provided for in 14 **Del.C.** §1326. School districts paying more for teacher substitutes than prescribed in 14 **Del.C.** §1326 shall do so from local or federal funds. Federal funds may be used only if the federal program permits that use.

3 DE Reg. 1542 (05/01/00)

8 DE Reg. 1609 (05/01/05)

13 DE Reg. 1539 (06/01/10)

20 DE Reg. 717 (03/01/17) (Final)