

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))  
14 DE Admin. Code 252

### PROPOSED

### PUBLIC NOTICE

#### Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)

#### 252 Required Educational Records and Transfer and Maintenance of Educational Records

##### A. Type of Regulatory Action Required

Amendment to Existing Regulation

##### B. Synopsis of Subject Matter of the Regulation

The Acting Secretary of Education intends to amend 14 DE Admin. Code 252 Required Educational Records and Transfer and Maintenance of Educational Records. This regulation is being amended to clarify the maintenance and transfer of student records as it pertains to private and public schools and educational programs operated by the Department of Services for Children, Youth and Their Families. It also clarifies when the student's records should be maintained as an original Cumulative Record File and when they are permitted to be copied and transferred.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before December 7, 2015 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the *Register of Regulations* website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or obtained at the Department of Education, Finance Office located at the address listed above.

##### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to improve student achievement as measured against state achievement standards by clarifying the transfer and maintenance of educational records.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments do not address students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all student's legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

#### 252 Required Educational Records and Transfer and Maintenance of Educational Records

##### 1.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly states otherwise:

**“Court Orders”** shall mean any written direction from a court of competent jurisdiction directed to the student or affecting the student’s care or custody.

**“Delaware School Health Record”** shall mean the form required by 14 DE Admin Code 811 for Delaware public school students.

**“Discipline Record”** shall mean information about any and all periods of suspension or of expulsion from the regular school setting imposed on a student as a result of an infraction of the school or district’s code of conduct or other rules.

**“Emergency/Nursing Treatment Card”** shall mean the card containing the general emergency information and procedures for the care of a student when the student becomes sick or injured in school as required in 14 DE Admin. Code 811.

**“Identifying Data”** shall mean the name of the student, date of birth, sex, race and ethnicity, address, telephone number, Delaware student identification number and the name of the parent(s), guardian(s) or Relative Caregiver.

**“Progress Report”** shall mean a single record maintained for each student in kindergarten through grade 8 that contains end of year and up to date grades; standardized test(s) scores such as the ~~DSTP or successor~~ state student assessment; and attendance data for each year of the student’s attendance.

**“Student Transcript”** shall mean a single record maintained for each student in grades 9 and above that contains the following: end of year and up to date grades; credits earned; class rank; Grade Point Average (GPA); withdrawal or graduation date; standardized test(s) scores such as the ~~DSTP or successor~~ state student assessment, SAT, PSAT, ACT; attendance data and school activities. If applicable, a list of the career technical competencies achieved by a student enrolled in a specific career technical program shall also be included.

### 13 DE Reg. 1075 (02/01/10)

## 2.0 Education Records Required by Schools in Delaware

- 2.1 Each Delaware school shall maintain a Cumulative Record File either as an electronic or paper file for each student enrolled.
  - 2.1.1 The student Cumulative Record File shall contain the Emergency/Nursing Treatment Card, Identifying Data, School Health Record, Progress Report, Student Transcript (for students in grades 9 and above) and Discipline Record.
  - 2.1.2 The student Cumulative Record File shall also contain any Court Orders in the school or district’s possession, ~~to the extent the school or district maintains such documents for an individual student, and;~~
  - 2.1.3 ~~In addition, t~~The Cumulative Record File for a child with a disability as defined in 14 DE Admin Code 925 or for a child identified under Section 504 shall contain any records related to the identification, evaluation, placement, and provision of a free appropriate public education. Such documents may be collected and maintained separately.

### 13 DE Reg. 1075 (02/01/10)

## 3.0 Transfer of the Records of Public School and Private Schools Students

- 3.1 When a student transfers from a public school, private school or an educational program operated by the Department of Services for Children, Youth and Their Families to any other school in Delaware, the receiving school shall immediately request the Cumulative Record File from the sending school or program.
- 3.2 The Cumulative Record File shall follow each student transferred from one school to another including files for each student with disabilities transferred from one school to another.
  - 3.2.1 Public schools, school districts, private schools and educational programs operated by the Department of Services for Children, Youth and Their Families shall promptly transfer a student’s Cumulative Record File upon the request of a receiving school.
    - 3.2.1.1 Public schools and school districts shall maintain the original Cumulative Record File and provide a copy of the file when students transfer to a private school or educational program operated by the Department of Services for Children, Youth and Their Families.
    - 3.2.1.2 Public schools and school districts shall provide the original Cumulative Record File when transferring records to another public school.
  - 3.2.2 Unpaid student fees or fines shall not be a basis for a public school, school district or an educational program operated by the Department of Services for Children, Youth and Their Families to deny or to delay transfer of the Cumulative Record File.

- 3.2.3 Students shall not be denied enrollment into a public school on the grounds that the student's Cumulative Record File has not been received.
- 3.3 Before transferring student records, a public school, school district or private school shall specifically confirm that the Cumulative Record File contains the student's Discipline Record.
- 3.4 When students transfer to a Delaware school from any other school including a school in a foreign country the receiving school is responsible for having the transcripts evaluated.

#### **4.0 Maintenance of the Education Records of Public Schools**

- 4.1 The *Delaware School District General Records Retention Schedule* published by the Delaware Public Archives shall be followed as to the length of time and special considerations for the maintenance of education records.
- 4.2 Contracts for storage of student records of graduates, withdrawals and special education students ~~for district storage,~~ shall be initiated between the school district or charter school and the Delaware Public Archives.
- 4.3 The Cumulative Record Files for students who have graduated from or who left school prior to graduation from high school shall be stored at the school or district of last attendance or in the Delaware Public Archives.

**13 DE Reg. 1075 (02/01/10)**

#### **5.0 Destruction of Education Records of Public Schools**

- 5.1 The *Delaware School District General Records Retention Schedule* published by the Delaware Public Archives shall be followed as to the length of time and special considerations for the destruction of any education records.
- 5.2 The destruction of educational records of children with disabilities shall also comply with the requirements of 14 DE Admin. Code 927.

**8 DE Reg. 1112 (2/1/05)**

**13 DE Reg. 1075 (02/01/10)**

**19 DE Reg. 355 (11/01/15) (Prop.)**