

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b) and 154(e)  
(14 **Del.C.** §122(b) and §154(e))  
14 **DE Admin. Code** 603

### FINAL

#### REGULATORY IMPLEMENTING ORDER

#### 603 Compliance with the Gun-Free Schools Act

##### I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks to amend 14 **DE Admin. Code** 603 Compliance with the Gun-Free Schools Act. Minor amendments were made to reflect: 1) the policy must be on file electronically with the Department of Education; and 2) modifications to expulsion are made on a case by case basis by the chief school officer.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Thursday, July 3, 2008, in the form hereto attached as Exhibit "A". Comments were received from Governor's Advisory Council for Exceptional Children and the State Council for Persons with Disabilities regarding endorsing the regulation with minor changes related to the citation to the federal Gun-Free Schools Act. The Department has made the correction.

##### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 603 Compliance with the Gun-Free Schools Act in order to add reporting requirements and timelines and to make a modification that expulsion are made on a case by case basis by the chief school officer.

##### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 603 Compliance with the Gun-Free Schools Act. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 603 Compliance with the Gun-Free Schools Act attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 603 Compliance with the Gun-Free Schools Act 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** 603 Compliance with the Gun-Free Schools Act amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 603 Compliance with the Gun-Free Schools Act 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 August 18, 2008. 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 August 2008.

**DEPARTMENT OF EDUCATION**

Valerie A. Woodruff, Secretary of Education

**603 Compliance with the Gun-Free Schools Act**

**1.0 Written Policy Required**

Each school district and charter school requesting assistance under the Elementary and Secondary Education Act (ESEA) shall have a written policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC 7151)] and 11 **Del.C.** §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

- 1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.
- 1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.
- 1.3 The definition of "**Firearm**" shall be the same as the meaning given to the term in ~~18 USC §921(a)~~ the federal Gun-Free Schools Zone Act [at 18 U.S.C.A. §921].

**2.0 Submission of the Policy to the State Department of Education**

Each school district and charter school requesting assistance under the ESEA shall submit the following to the Delaware Department of Education by June 1 each year, in such form as the Department requires:

- 2.1 An assurance that its policies comply with this regulation and with 11 **Del.C.** §1457(j) or its successor statute.
- 2.2 Descriptions of the expulsions imposed under 11 **Del.C.** §1457(j) or its successor statute and under the policy implemented in accord with this regulation.

**3.0 Individuals with Disabilities Act**

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.

**4.0 Reporting Requirements and Timelines**

- 4.1 Each public school district and charter school shall have an electronic copy of its policy implementing the Gun-Free Schools Act [(20 USC §4141) (20 USC 7151)] and 11 **Del.C.** §1457(j) or its successor statute on file with the Department of Education.
- 4.2 Each public school district and charter school shall provide an electronic copy of any policy implementing the Gun-Free Schools Act [(20 USC 4141) (20 USC §7151)] and 11 **Del.C.** §1457(j) or its successor statute within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

**1 DE Reg. 1976 (6/1/98)**

**7 DE Reg. 333 (9/1/03)**

**12 DE Reg. 9 (07/01/08)**

**12 DE Reg. 325 (09/01/08) (Final)**