

**DEPARTMENT OF EDUCATION**  
Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))  
14 **DE Admin. Code** 940

**FINAL**

**REGULATORY IMPLEMENTING ORDER**

**940 Early Admission to Kindergarten for Gifted Students**

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

The Secretary of Education seeks the approval of the State Board of Education to adopt a new regulation 14 **DE Admin. Code** 940 Early Admission to Kindergarten for Gifted Students in order to clarify what a school must do if they choose to admit gifted students to kindergarten before they are five years of age.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on January 20, 2005, 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. The Councils suggested that more discretion be given to the schools in determining if a four year old may be admitted to kindergarten under the category of "Gifted" by using "professional judgment". It was the intent of the Department to bring some specificity to the eligibility process for early admissions to kindergarten. To bring in the option of "professional judgment" would open up the process again. The Department will retain the criteria as described. The Councils suggested removing the words "in conjunction with other appropriate personnel" in line 1.1. The Department will retain the existing language because the intent is to bring in other personnel such as teachers or counselors to assist with the determination for admission to kindergarten.

**II. Findings of Fact**

The Secretary finds that it is appropriate to adopt 14 **DE Admin. Code** 940 in order to clarify what a school must do if they choose to admit gifted students to kindergarten before they are five years of age.

**III. Decision to Amend the Regulation**

For the foregoing reasons, the Secretary concludes that it is appropriate to adopt 14 **DE Admin. Code** 940. Therefore, pursuant to 14 **Del.C.** §3101(3) (a) or (b) and 14 **Del.C.** §2702(b), 14 **DE Admin. Code** 940, attached hereto as *Exhibit "B"* is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 940 hereby adopted 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** 940 adopted hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 940 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 March 17, 2005. 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 17<sup>th</sup> day of March 2005.

**DEPARTMENT OF EDUCATION**

Valerie A. Woodruff, Secretary of Education  
Approved this 17<sup>th</sup> day of March 2005

## STATE BOARD OF EDUCATION

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### 940 Early Admission to Kindergarten for Gifted Students

1.0 When providing early enrollment into kindergarten of children who are gifted pursuant to the provisions of 14 Del.C. § ~~3103(a) (b)~~ 3101(3)(a) or (b), local school districts and charter schools shall comply with the following requirements:

1.1 At the request of any parent, legal guardian or person acting as a caregiver pursuant to 14 Del.C. §202 (f), the district or charter school shall conduct an evaluation of any such potentially gifted child by a school psychologist or other professionally qualified person, in conjunction with other appropriate personnel, to determine ~~the child's outstanding if the child possesses outstanding~~ mental/cognitive abilities and to determine if the child can demonstrate the social, emotional, and physical maturity, normally expected for successful participation in kindergarten. A discussion shall be held to determine the parent, guardian or Relative Caregiver's reason for requesting the child's early admission to kindergarten prior to the legal age.

**[1.1.1 The evaluation shall be conducted at no cost to the parent, guardian or Relative Caregiver.]**

1.2 ~~[The evaluation shall be conducted at no cost to the parent, guardian or caregiver. In order to qualify for early enrollment, the results of the evaluation must indicate that the child achieved a measured score at least 1.5 standard deviations above the mean score for the assessment instrument used to determine the child's outstanding mental/cognitive abilities, and that the child possesses the social emotional and physical maturity to successfully participate in kindergarten.]~~ In order to qualify for early enrollment, the child must achieve a measured score at least 1.5 standard deviations above the mean score for the assessment instrument used to determine the child's mental/cognitive abilities. In addition, the evaluation must indicate that the child possesses the social, emotional and physical maturity to successfully participate in kindergarten.]

1.3 Following the completion of the evaluation, a representative of the school district or charter school who is knowledgeable of the evaluation process and any assessments used during the evaluation shall talk with the parent, guardian or ~~caregiver~~ Relative Caregiver] to discuss the evaluation results.

**8 DE Reg. 1479 (4/1/05)**