

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))  
14 **DE Admin. Code** 540

### FINAL

#### REGULATORY IMPLEMENTING ORDER

##### 540 Driver Education

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

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 540 Driver Education in order to correct the title of the Educate Associate, change the reference from sophomore(s) to 10th grade(rs), change the reference to the curriculum requirement and change the format of 6.0. The recent changes in the **Delaware Code** concerning driver's licenses do not require changes to the regulation.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Thursday January 18, 2007, in the form hereto attached as Exhibit "A". Comments received from Governor's Advisory Council for Exceptional Children and the State Council for Persons with Disabilities endorsed the amended regulation.

#### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 540 in order to correct the title of the Educate Associate, change the reference from sophomore(s) to 10th grade(rs), change the reference to the curriculum requirement and change the format of 6.0.

#### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 540. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 540 attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 504 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** 540 amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 540 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 15, 2007. 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 15th day of March 2007.

#### Department of Education

Valerie A. Woodruff, Secretary of Education

Approved this 15th day of March 2007

## State Board of Education

Jean W. Allen, President

Mary B. Graham, Esquire

Barbara Rutt

Dr. Claibourne D. Smith

Richard M. Farmer, Jr., Vice President

Gregory A. Hastings

Dennis J. Savage

## 540 Driver Education

### 1.0 Eligibility for Driver Education

**[1.1]** Delaware residents are entitled to free driver education one time only. Students who are not successful in their initial driver education course may register in any of the adult driver education programs for a fee.

~~[1.1]~~ **[1.2]** The Individualized Education Program Team, in consultation with the Driver Education teacher, may make accommodations to the Driver Education program and offer specialized instruction for special education students through the student's Individual Education Program (I.E.P.).

~~[1.2]~~ **[1.3]** Nothing in this regulation shall alter a school's duties under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act to students who are qualified individuals with disabilities. Nothing in this regulation shall prevent a school from providing driver education to such students.

~~[1.3]~~ **[1.4]** Delaware residents attending school out of state as ~~sophomores~~ 10th graders, students in excess of the September 30th unit allotment, students attending private and parochial academies in state with ~~sophomore~~ 10th grade enrollments of less than twenty five, home schooled students and any student approved by the Secretary as an exceptional case are entitled to attend summer driver education without charge. Districts shall notify all nonpublic and public high schools in their district by May 1st annually as to the location of the nearest summer driver education program. Summer Driver Education shall be offered between June 10 and August 31 and each request for free tuition must be approved by the Secretary of Education through the Office of the Education Associate for ~~Driver Education, Safety and Physical Education~~, Safety and Driver Education.

~~[1.4]~~ **[1.5]** Adult Driver Education programs, when offered, shall follow the same regulations established for the high school and the summer programs. The adult programs are available to any individual for a fee through a local school district in each county. The cost per student for adult driver education will be determined by the Department of Education.

### 2.0 Requirements for Class Time

**[2.1]** The driver education course shall include a minimum of forty four (44) class hours of instruction consisting of thirty (30) class hours of classroom instruction, seven (7) class hours of in the car behind the wheel laboratory instruction and seven (7) hours of actual observation in the car. The class hours must not be less than forty five (45) minutes each. For those schools with varying class schedules the minimum classroom instruction must be no less than one thousand three hundred fifty (1350) minutes and behind the wheel laboratory instruction no less than three hundred fifteen (315) minutes.

~~[2.1]~~ **[2.2]** Driving simulators may be substituted for the required hours of behind the wheel laboratory instruction but only up to three (3) hours of time at the ratio of four (4) hours of driving simulation to one (1) hour of actual behind the wheel laboratory instruction.

~~[2.2]~~ **[2.3]** Off the street driving ranges or multiple driving ranges that are off the street may be substituted for actual behind the wheel laboratory instruction up to three (3) hours time at the ratio of two (2) hours of range instruction time to one (1) hour of actual behind the wheel laboratory instruction time.

~~[2.3]~~ **[2.4]** Driving simulation and off the street driving range time shall not be taken from or cause a reduction of classroom instruction time.

~~[2.4]~~ **[2.5]** Driving simulation and off the street driving range time shall not be substituted for more than one half (1/2) of the total required seven (7) hours of actual behind the wheel laboratory instruction and only at the ratios defined in ~~[the above items~~ **2.0]**. This includes individually or in any combination.

### 3.0 Curriculum

**[3.1]** The Driver Education teachers shall use the "~~Teachers' Guide for Driver Education~~" statewide curriculum for driver education developed by the Department of Education for classroom instruction and behind the wheel laboratory instruction time. Teachers should include student activities requiring reading, writing and research as part of the Driver Education curriculum.

#### **4.0 Final Grades**

**[4.1]** Final grades for the forty four hour driver education course shall be either pass or fail. Schools may grant one fourth (1/4) credit for successful completion of the minimum hours in both the classroom and the behind the wheel laboratory experience. The one fourth **[of a]** credit for driver education may be included as part of the elective credits counted toward graduation.

~~[4.1 4.2]~~ Pass or Fail grades must be received by the Department of Education no later than June 30th for Regular Driver Education Programs and August 31st for Summer Driver Education Programs. Final grades will be maintained by the Department for a seven year period.

#### **5.0 Use of Driver Education Cars**

**[5.1]** Automobiles purchased, leased from Fleet Services or leased directly from a dealership using state funds allocated for driver education shall be used solely for the instruction of students enrolled in Driver Education; except that a school district or charter school may permit a driver education teacher to drive such automobile to and from the teacher's place of residence when the school district or charter school determines that it would be unsafe to store the automobile overnight at the school; and further provided that in the case of a private school driver education teacher, the Education Associate for ~~Driver Education and Physical Education, Safety and Driver Education~~ at the Department of Education may permit the teacher to drive the automobile to and from school from the teacher's place of residence when it appears that it would be unsafe to store the automobile overnight at the school.

#### **6.0 ~~All Public and Nonpublic High Schools with Enrollments of Twenty Five or More Sophomore Students Shall Offer Driver Education as an Integral Part of the Curriculum. Scheduling of Driver Education~~**

6.1 All public and nonpublic high schools with twenty five or more enrolled 10th grade students shall offer Driver Education as part of the curriculum.

**1 DE Reg. 964 (1/1/98)**

**6 DE Reg. 773 (12/1/02)**

**10 DE Reg. 1587 (04/01/07) (Final)**