

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 609

FINAL

REGULATORY IMPLEMENTING ORDER

609 District and School Based Intervention Services

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 609 District and School Based Intervention Services. This regulation is part of the five-year review cycle. The Department recognizes the on-going work of the House Resolution 22 Task Force that is reviewing laws and regulations related to school discipline.

The regulation was first published in the November 2009 *Register of Regulations* and was republished in the February 2010 *Register of Regulations*. Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 5, 2010, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. Both Councils recognized that the republication reflects the addition of language regarding student population served and the membership of the school based intervention teams. Both Councils expressed concerns that section 1.0 of the regulation bars districts from providing school based intervention services to any student who is "eligible" for placement in an alternative school pursuant to 14 **DE Admin. Code** 611. The Department interprets section 1.0 to require districts to provide services to disruptive students who are not eligible for placement in consortia discipline alternative programs (CDAPs) while providing flexibility to districts to voluntarily provide school based services to such students. The intent is for students whose behavior disrupts the classroom setting and creates distractions to be served first in the district/school based programs prior to going to the CDAP, which is for chronic and severe infractions. Further, district/school based intervention programs are not designed for students who are ineligible for CDAP placement because of a serious violation of the criminal code (see 14 **DE Admin. Code** 611 §2.0). In addition, the Department declines to make parents mandatory members of the school based intervention team as districts must have the flexibility to act quickly. Parents are mandatory members of CDAP teams.

II. Findings of Facts

For the foregoing reasons, the Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 609 District and School Based Intervention Services.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 609 District and School Based Intervention Services. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 609 District and School Based Intervention Services attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 609 District and School Based Intervention Services 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** 609 District and School Based Intervention Services amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 609 District

and School Based Intervention Services 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 18, 2010. 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 March 2010.

DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 18th day of March 2010

609 District and School Based Intervention Services

1.0 Provision of Services

Each school district shall provide services for students whose behavior disrupts the classroom setting and creates distractions that impede the learning process, but who are not eligible for placement in an alternative program pursuant to 14 **DE Admin. Code** 611. School districts may offer such services based on the identified needs of the district and its individual schools, subject to the requirements of this regulation.

2.0 Application for Funding

- 2.1 Any school district requesting an incentive or supplemental grant to provide intervention services shall apply for such funds using the LEA Consolidated Application process provided by the Department of Education.
- 2.42 Any incentive or supplemental grant approved as part of the LEA Consolidated Application process shall be in the amount appropriated for that purpose by law.

3.0 Student Population to be Served

Services funded under this regulation may be provided to any student in grades K to 12, subject to the terms of the district's approved LEA Consolidated Application. Notwithstanding any of the provisions to the contrary, IDEA-identified students with disabilities shall be served pursuant to the provisions in 14 **DE Admin. Code** 925 and students with disabilities identified under Section 504 of the Rehabilitation Act shall be served in conformity with 34 C.F.R. Part 104.

4.0 School Based Intervention Programs

- 4.1 If a district, through its LEA Consolidated Application, provides a School Based Intervention Program as part of the services provided to disruptive students, such Program shall meet the following requirements:
- 4.42 A School Based Intervention Program shall include both short term and long term intervention strategies. Such strategies may include character education, short or long term counseling to improve behavior which impacts educational performance, and methods to identify the need to refer students for additional services either within the district or to other agencies. The Program shall also include support services to provide a smooth transition for students who are returning to their regular school from a Consortium Discipline Alternative Program or from a Department of Services to Children, Youth and their Families (DSCYF) setting.

- 4.23 The decision to place a student in the School Based Intervention Program shall be made by the student's Intervention Team. The Intervention Team shall include the building principal or assistant principal, school nurse, counselor, social worker (if the student receives social work services), and a teacher familiar with the student. Other individuals, including parents, guardians or Relative Caregivers, may be invited as appropriate.
- 4.3 When placing an IDEA-identified student with a disabilities in a School Based Intervention Program, the Intervention Team and a student's IEP team may be the same as long as the membership of the Intervention Team also meets the requirements of 14 **DE Admin. Code** 925. When placing a student with a disability identified under Section 504 of the Rehabilitation Act, the Intervention Team may be the same as a multidisciplinary team authorized to make placement decisions as long the Intervention Team also meets the requirements of 34 C.F.R. 104.35

5.0 Evaluation of Services

- 5.1 Any local school district receiving a grant pursuant to this regulation shall submit an annual evaluation report on the effectiveness of its District and School Based Intervention Services. Such report shall be submitted as part of the LEA Consolidated Application process and shall conform to content and format standards.

8 DE Reg. 1008 (1/1/05)

13 DE Reg. 1301 (04/01/10)