

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))
14 **DE Admin. Code** 601

FINAL

Regulatory Implementing Order

601 School Police Relations

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on Tuesday, October 16 2007, 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 primary comments related to the persons conducting the training of school staff and the types of incidents of misconduct that are required to be reported by school staff. The Department made changes to address the issue of training and also added clarifying language to assist the reader in the list of incidents of misconduct.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies by adding definitions, a training component for school administrators involved in reporting school crimes, and specific incidents of misconduct. In addition, a compliance component was added in Section 7.0 that if a school fails to comply with the reporting mandates it shall be subject to identification as a "Persistently Dangerous School" 14 **DE Admin. Code** 608.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies 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** 601 Schools and Law Enforcement Agencies amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 601 Schools and Law Enforcement Agencies 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 November 16, 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 16th day of November 2007.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

Approved this 16th day of November 2007.

State Board of Education

Jean W. Allen, President
Mary B. Graham, Esquire
Barbara B. Rutt
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601 School Police Relations

4.0 Policy on School Police Relations

~~All local school districts, charter schools and alternative schools or consortia shall establish a policy on school police relations. Each school district, charter school and alternative school or consortium shall develop a Memorandum of Agreement (MOA) with each police department which provides services to it. Each MOA shall be in a form substantially similar to a Model MOA as developed, approved and from time to time revised by the Department of Education.~~

2.0 School Employees Responsibilities for Reporting Crimes

~~Each school district, charter school and alternative school or consortium shall, at the time of hiring and at the beginning of each school year thereafter, advise each school employee (as that term is defined in 14 Del.C. §4112) of his/her duty to report school crimes and the penalty for failure to so report.~~

3.0 Reporting of Crimes to the Delaware Department of Education

~~The Superintendent of each school district and program administrator for each charter school and alternative school, or his/her designee, shall report to the Department of Education all school crimes required to be reported pursuant to 14 Del.C. §4112, and any subsequent amendment thereto. Such reports shall be made on forms as designated by the Department of Education and filed with the Department of Education within the time prescribed by statute.~~

4.0 Reporting Specific Incidents of Misconduct

~~In addition to those school crimes required to be reported pursuant to statute, the Superintendent of each school district and program administrator for each charter school and alternative school or consortia shall report to the Department of Education incidents of misconduct 4.1 through 4.7. Such reports shall be made on forms as designated by the Department of Education and filed with the Department of Education not later than five working days following the incident.~~

- ~~4.1 Pornography, possession and production~~
- ~~4.2 Bomb threats~~
- ~~4.3 Criminal mischief (vandalism)~~
- ~~4.4 Tampering with public records~~
- ~~4.5 Alcohol, possession and use~~
- ~~4.6 Felony theft (\$1,000 or more)~~
- ~~4.7 Bullying~~

5.0 Definition

~~For purposes of the reporting required pursuant to 4.7 of this regulation, "**Bullying**" is defined as when one person, or a group of persons, targets another person with repeated direct or indirect negative actions over a period of time which are harmful to the victim either emotionally or physically. A negative action occurs when a person knowingly inflicts, or attempts to inflict, physical or emotional injury or discomfort upon another person:~~

~~1-DE-Reg-511 (11/1/97)~~

601 Schools and Law Enforcement Agencies

1.0 Purpose

The purpose of this regulation is to ensure that effective communication and working relationships exist between public schools and law enforcement agencies.

2.0 Definitions

"Alternative Program" mean a program established pursuant to 14 Del.C., Chapter 16.

"School Employee" for purposes of this regulation shall mean all persons 18 years of age or older hired by a school district, attendance zone, or charter school; subcontractors such as bus drivers or security guards; employees of an Alternative Program provider; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property. This definition shall be consistent with 14 Del.C. §4112.

3.0 Written Policy and Memorandum of Agreement (MOA)

3.1 All local school districts, charter schools, and Alternative Programs shall establish a written policy on effectively communicating and working with law enforcement agencies. Each school district, charter school and Alternative Program shall develop a Memorandum of Agreement (MOA) with each law enforcement agency which provides services to it. Each MOA shall be in a form substantially similar to a Model MOA as developed, approved and from time to time revised by the Department of Education.

[3.2 The Department shall review the Model MOA and each school district, charter school, or Alternative Program shall review its current MOA at least once every three years.]

4.0 Training Component

4.1 Any school administrator responsible for reporting school crimes or reporting school conduct incidents to law enforcement and to the Department of Education; or any school administrator responsible for reporting suspension and expulsion data to the Department; or any school administrator responsible for any disciplinary process involving staff or students shall complete Department of Education approved training and any such additional training the Department of Education may prescribe from time to time.

4.2 The approved training shall be primarily provided by staff at the Department of Education. The training may be provided by a school administrator at the district, charter school, or Alternative Program who is qualified to provide such training by having completed the Department of Education approved training [within the last twenty-four (24) months]. The district, charter school, or Alternative Program shall provide the name(s) of the trainer(s) conducting the training and the name(s) of those school administrator(s) attending the training if such training was provided by the district, charter school, or Alternative Program.

4.3 Each school district, charter school, and Alternative Program shall, at the time of hiring and at the beginning of each school year thereafter, advise each School Employee of his/her duty to report school crimes and the penalty for failure to so report as prescribed in 14 Del.C. §4112 (e).

5.0 Reporting of Crimes to the Delaware Department of Education

5.1 The superintendent or head administrator of each school district, charter school, and Alternative Program or his/her designee, shall ensure each school within his/her jurisdiction reports to the Department of Education all school crimes required to be reported pursuant to 14 Del.C. §4112, and any subsequent amendment thereto. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education within the time prescribed by Delaware statutes.

6.0 Reporting Specific Incidents of Misconduct

6.1 In addition to those school crimes required to be reported [to law enforcement] pursuant to [statute 14 Del.C. §4112], the superintendent or head administrator of each school district, charter school, and Alternative Program, or his/her designee, shall report to the Department of Education incidents of misconduct 6.1.1 through 6.1.12. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education not later than five working days following the incident.

6.1.1 Pornography, possession and production

- 6.1.2 Criminal mischief (vandalism)
- 6.1.3 Tampering with public records
- 6.1.4 Alcohol, possession and use
- 6.1.5 Felony theft (\$1,000 or more)
- 6.1.6 Bullying
- 6.1.7 Offensive Touching (student victim)
- 6.1.8 Terroristic Threatening (student victim)
- 6.1.9 Sexual Harassment
- 6.1.10 Fighting/Disorderly Conduct
- 6.1.11 Inhalants
- 6.1.12 Drug Paraphernalia

7.0 Compliance Component

7.1 A school that fails to comply with the reporting mandates as set forth herein shall be subject to identification as a "Persistently Dangerous School" as this term is defined in 14 DE Admin. Code 608. A school identified as Persistently Dangerous will retain that designation for the entire fiscal year.

11 DE Reg. 741 (12/01/07) (Final)