

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 252

PROPOSED

Education Impact Analysis Pursuant To 14 Del.C. Section 122(D)

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 DE Admin. Code 252 Required Educational Records and Transfer and Maintenance of Educational Records as a result of the five year review cycle. The amendments make changes to the definition of Discipline Records to align with federal reporting; references to the state student assessment program; a cross regulatory reference because of changes to the Children with Disabilities regulations; and outlines a charter schools responsibility in regard to Delaware Public Archives.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before January 5, 2010 to Susan Haberstroh, Education Associate, Regulation Review, Department of Education, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation is available from the above address or may be viewed at the Department of Education business office.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is related to student records and does not specifically address student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is related to student records and does not specifically address an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation is related to student records and does not specifically address the health and safety of students; however successful transfer of student medical records when the child transfers or transitions from one school to another, ensures continuity of care for medical conditions.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation is related to student records and continues to ensure student legal rights are respected in relation to their records.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation is related to student records and continues to preserve the necessary authority and flexibility of decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation is related to student records and does not place any unnecessary additional reporting or administrative requirements or mandates upon decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The authority and accountability entity does not change because of this regulation.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of this regulation at this time.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are

no additional costs to the State or local school boards for compliance with the amended regulation.

252 Required Educational Records and Transfer and Maintenance of Educational Records

1.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly states otherwise:

“Court Orders” shall mean any written direction from a court of competent jurisdiction directed to the student or affecting the student’s care or custody.

“Discipline Record” shall mean information about any and all periods of ~~out-of-school~~ suspension or of expulsion from the regular school setting imposed on a student as a result of an infraction of the school or district’s code of conduct or other rules.

“Emergency Treatment Card” shall mean the card containing the general emergency information and procedures for the care of a student when the student becomes sick or injured in school as required in 14 **DE Admin Code** 811.

“Identifying Data” shall mean the name of the student, date of birth, sex, race and ethnicity, address, telephone number, Delaware student identification number and the name of the parent(s), guardian(s) or Relative Caregiver.

“Progress Report” shall mean a single record maintained for each student in kindergarten through grade 8 that contains end of year and up to date grades; standardized test(s) scores such as the DSTP or successor state student assessment; and attendance data for each year of the student’s attendance.

“School Health Record” shall mean the form required by 14 **DE Admin Code** 811 for Delaware public school students.

“Student Transcript” shall mean a single record maintained for each student in grades 9 and above that contains the following: end of year and up to date grades; credits earned; class rank; Grade Point Average (GPA); withdrawal or graduation date; standardized test(s) scores such as the DSTP or successor state student assessment, SAT, PSAT, ACT; attendance data and school activities. If applicable, a list of the career technical competencies achieved by a student enrolled in a specific career technical program shall also be included.

2.0 Education Records Required by Schools in Delaware

- 2.1 Each Delaware school shall maintain a Cumulative Record File either as an electronic or paper file for each student enrolled.
 - 2.1.1 The student Cumulative Record File shall contain the Emergency Treatment Card, Identifying Data, School Health Record, Progress Report, Student Transcript (for students in grades 9 and above) and Discipline Record.
 - 2.1.2 The student Cumulative Record File shall also contain any Court Orders in the school or district’s possession, to the extent the school or district maintains such documents for an individual student.
 - 2.1.3 In addition, the Cumulative Record File for a child with a disability as defined in 14 **DE Admin Code** 925 shall contain any records related to the identification, evaluation, placement, and provision of a free appropriate public education. Such documents may be collected and maintained separately.

3.0 Transfer of the Records of Public School and Private Schools Students

- 3.1 When a student transfers from a public school, private school or an educational program operated by the Department of Services for Children Youth and Their Families to any other school in Delaware, the receiving school shall immediately request the Cumulative Record File from the sending school or program.
- 3.2 The Cumulative Record File shall follow each student transferred from one school to another including files for each student with disabilities transferred from one school to another.

- 3.2.1 Public schools, school districts, private schools and educational programs operated by the Department of Services for Children Youth and Their Families shall promptly transfer a student's Cumulative Record File upon the request of a receiving school.
- 3.2.2 Unpaid student fees or fines shall not be a basis for a public school, school district or an educational program operated by the Department of Services for Children Youth and Their Families to deny or to delay transfer of the Cumulative Record File.
- 3.2.3 Students shall not be denied enrollment into a public school on the grounds that the student's Cumulative Record File has not been received.
- 3.3 Before transferring student records, a public school, school district or private school shall specifically confirm that the Cumulative Record File contains the student's Discipline Record.
- 3.4 When students transfer to a Delaware school from any other school including a school in a foreign country the receiving school is responsible for having the transcripts evaluated.

4.0 Maintenance of the Education Records of Public Schools

- 4.1 The *Delaware School District General Records Retention Schedule* published by the Delaware Public Archives shall be followed as to the length of time and special considerations for the maintenance of education records.
- 4.2 Contracts for storage of student records of graduates, withdrawals and special education students for district storage, shall be initiated between the school district or charter school and the Delaware Public Archives.
- 4.3 The Cumulative Record Files for students who have graduated from or who left school prior to graduation from high school shall be stored at the school or district of last attendance or in the Delaware Public Archives.

5.0 Destruction of Education Records of Public Schools

- 5.1 The *Delaware School District General Records Retention Schedule* published by the Delaware Public Archives shall be followed as to the length of time and special considerations for the destruction of any education records.
- 5.2 The destruction of educational records of children with disabilities shall also comply with the requirements of 14 **DE Admin Code 925 927**.

8 DE Reg. 1112 (2/1/05)

13 DE Reg. 753 (12/01/09) (Prop.)