

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(a) and 29 Delaware Code, Section 10119
(14 Del.C. §122(a) & 29 Del.C. §10119)
14 DE Admin. Code 731

EMERGENCY

ORDER

731 School Food Service Employees

WHEREAS, the Centers for Disease Control and Prevention determined that a novel coronavirus ("COVID-19") presents a serious public health threat and, as a result, on March 12, 2020, the Governor issued a Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat ("State of Emergency Order"), which has been modified; and

WHEREAS, on July 15, 2020, the Department of Education ("DOE") released the State's guidance for reopening schools for the 2020-2021 school year, which outlines requirements for schools under three scenarios: if minimal community spread exists in the State (and school buildings are open), if minimal-to-moderate community spread exists in the State (situation dependent), and if significant community spread exists in the State (and school buildings are closed); and

WHEREAS, on August 4, 2020, the State determined that minimal-to-moderate community spread exists and, as a result, schools could reopen for the 2020-2021 school year using a hybrid model of remote instruction and in-person learning options with precautions in place; and

WHEREAS, on October 28, 2020, DOE determined that various Delaware school districts were operating under full remote, hybrid model, and in-person learning models. This created a change in how the districts are operating their school nutrition program from previous years. U.S. Department of Agriculture (USDA) provided a waiver for school districts to operate under the Summer Food Service Program (SFSP) rather than the School Nutrition Program (SNP) which allowed the school districts to serve meals to all children birth through 18 years free of charge without the collection of individual meal eligibility status; and

WHEREAS, the COVID-19 related change in school nutrition food operations and inability to report the number of reimbursable breakfasts, reimbursable lunches, and other meals served by Delaware schools and reportable to the Department would render the salary formula of 14 DE Admin. Code 731 improper for the determination of compensation for and number of necessary school food service employees. DOE proposes that the amendments be adopted, effective immediately, and

WHEREAS, in accordance with 29 Del.C. §10119(4), the Department of Education will receive, consider, and respond to petitions by any interested persons for reconsideration or revision of the amendments to the Emergency Regulation by addressing the petitions to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOERegulations.comment@doe.k12.de.us; and

WHEREAS, in accordance with 29 Del.C. §10119(3), the Emergency Regulation shall be effective for 120 days from November 13, 2020 and may be renewed once for a period not exceeding 60 days; and

WHEREAS, a copy of this Order will be submitted to the Registrar of Regulations for publication in the next issue of the *Register of Regulations*.

NOW, THEREFORE, IT IS ORDERED this 13th day of November 2020 that the following amendments to 14 DE Admin. Code 731, attached hereto as Exhibit A shall take effect immediately.

IT IS SO ORDERED the 13th day of November 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

731 School Food Service Employees

1.0 Experience

School food service employees may be granted one (1) year of experience for each creditable year of experience in similar employment.

20 DE Reg. 803 (04/01/17)

2.0 Determination of Employee Staffing and Formula

2.1 School districts shall determine the salaries paid to cafeteria workers as follows:

2.1.1 Of the total number of full time workers assigned to a food preparing cafeteria, a maximum of two may be paid as a cook and baker. Satellite schools are eligible for State funded positions as set forth in 14 **Del.C.** §1322(a).

8 DE Reg. 1608 (05/01/05)

20 DE Reg. 803 (04/01/17)

3.0 Salary Formula

3.1 The salaries prescribed in 14 **Del.C.** §1322(c) for general workers, cooks and bakers shall be paid by the State from funds not derived from local food service operations as determined by the formula:

3.1.1 Seven (7) hours of labor per 100 meals determined as follows:

3.1.1.1 Total number of reimbursable lunches served in the base month; plus

3.1.1.2 Total number of reimbursable breakfasts served in the base month; plus

3.1.1.3 Total of all other meals served in the base month determined by aggregating all income.

3.1.1.3.1 The number of meals prepared and served for the 2020-21 academic year shall be based on the average reported for the month of October on the monthly reimbursement claim for the 2019-20 academic year.

~~3.2 Each school district shall submit to the Department of Education a computation sheet for cafeteria workers with data showing hourly rate and hours worked not to exceed the maximum allowed under state formula.~~

~~3.3 Each school district shall submit a roster of cafeteria managers to the Department of Education showing names of managers and the salaries prescribed in 14 **Del.C.** §1322(a). Each district shall also submit a computation sheet as prescribed by the Department of Education to determine the number of meals served according to the state formula.~~

8 DE Reg. 1608 (05/01/05)

13 DE Reg. 1537 (06/01/10)

20 DE Reg. 803 (04/01/17)

4.0 Effective Date

This regulation shall be effective on November 13, 2020 and shall be in effect for 120 days unless it is renewed, amended, or repealed.

3 DE Reg. 1542 (05/01/00)

8 DE Reg. 1608 (05/01/05)

13 DE Reg. 1537 (06/01/10)

20 DE Reg. 803 (04/01/17)

24 DE Reg. 515 (12/01/20) (Emer.)