

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

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

PROPOSED

PUBLIC NOTICE

Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)

601 Schools and Law Enforcement Agencies

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(b), the Secretary of Education intends to amend 14 **DE Admin. Code** 601 School and Law Enforcement Agencies. This regulation was previously proposed on October 1, 2022, but since that time the Department determined that additional clarification was needed related to the titles of individuals responsible for reporting crimes. Therefore, this regulation is being amended pursuant to 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years, to ensure alignment with existing practice, and to clarify the titles of head of charter schools and the individual required to report crimes. Additionally, it is being amended to correct typographical and grammatical errors to comply with *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before January 3, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the 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 does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.
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 and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

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

The following words and terms, when used in this regulation, shall have the following meaning:

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

"School Employee" ~~for purposes of this regulation shall mean~~ means 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)~~ 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 as needed by the Department of Education.
- 3.2 The Department of Education shall review the Model ~~MOA~~ 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 of Education; 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)~~ 24 months. The district, charter school, or Alternative Program shall provide the ~~name(s) of the trainer(s)~~ names of trainers conducting the training and the ~~name(s) of those school administrator(s)~~ names of school administrators 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~~ the 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 principal~~ or head administrator of each school ~~district~~, charter school, and Alternative Program ~~Program~~, or ~~his/her~~ the principal's or head administrator's designee, shall ensure each school within ~~his/her~~ the principal's or head administrator's 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 14 **Del.C.** §4112, the ~~superintendent principal~~ or head administrator of each school ~~district~~, charter school, and Alternative Program, or ~~his/her~~ the principal's or head administrator's designee, shall report to the Department of Education when any incidents of misconduct as defined in subsections 6.1.1 through 6.1.14 occur on school property or at a school function except subsection 6.1.6.1 which must be reported to the Department of Education regardless

of origin of the speech. 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
- 6.1.6 Bullying (allegations and substantiated incidents)

6.1.6.1 Cyberbullying (allegations and substantiated incidents) as defined in 14 DE Admin. Code 624, subsection 2.1.

- 6.1.7 Offensive Touching (student or employee victim)
- 6.1.8 Terroristic Threatening (student or employee victim)
- 6.1.9 Sexual Harassment
- 6.1.10 Fighting
- 6.1.11 Inhalants
- 6.1.12 Drug Paraphernalia
- 6.1.13 Teen Dating Violence
- 6.1.14 Unlawful Drug ~~Use/Influence~~ Use or Influence

16 DE Reg. 838 (02/01/13)

7.0 Compliance Component

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 a Persistently Dangerous School will retain that designation for the entire fiscal year.

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

16 DE Reg. 838 (02/01/13)

22 DE Reg. 52 (07/01/18)

22 DE Reg. 161 (08/01/18)

26 DE Reg. 434 (12/01/22) (Prop.)