

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

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

PROPOSED

PUBLIC NOTICE

210 District School Board Member Special Education Due Process Hearing Training

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

A. Type of Regulatory Action Required

New Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 **DE Admin. Code** by adding a new regulation 210 District School Board Member Special Education Due Process Hearing Training. The regulation is required as a result of the passage of HB 386 of the 145th General Assembly. The regulation relates to special education due process hearing training for school district board of education members. The law as written does not apply to charter schools; therefore, this regulation does not apply to charter schools.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **March 4, 2011** 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 new regulation help improve student achievement as measured against state achievement standards? This is a new regulation and not specifically related to improving student achievement.

2. Will the new regulation help ensure that all students receive an equitable education? This is a new regulation and not specifically related to students receiving an equitable education.

3. Will the new regulation help to ensure that all students' health and safety are adequately protected? This is a new regulation and not specifically related to students' health and safety.

4. Will the new regulation help to ensure that all students' legal rights are respected?

The requirements of this new regulation will provide information that includes students' legal rights as they relate to special education.

5. Will the new regulation preserve the necessary authority and flexibility of decision making at the local board and school level? This new regulation does not specifically address decision making at the local board and school level.

6. Will the new regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? This new regulation requires administrators and boards of local school districts to attend training.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The new regulation requires training for local school district board members and does not specifically address decision making authority and accountability.

8. Will the new 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 new regulation is consistent with other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? The new regulation is in response to legislation passed.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are time resources and material costs associated with the requirements of this regulation.

210 District School Board Member Special Education Due Process Hearing Training

1.0 Purpose

The purpose of this regulation is to outline the criteria and process for the required training for members of district school boards, including vocational technical school boards, pursuant to 14 **Del.C.** §1049B. The purpose of the training is to inform school board members of the educational and legal issues generally involved in special education due process

hearings arising under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 ("IDEA") and Chapter 31 of Title 14 of the Delaware Code ("Chapter 31").

2.0 Definitions

"District School Board" shall mean reorganized school district boards and vocational technical school district boards duly appointed or elected pursuant to Chapter 10 of Title 14 of the Delaware Code.

"Materials" shall mean training aids approved by the Secretary of Education for use in the Special Education Due Process Hearing Training.

"School Board Member" shall mean a district school board member whether that person is elected, appointed, or is a volunteer.

"Trainer" means an individual, agency, or organization approved by the Secretary of Education to provide the Special Education Due Process Hearing Training, in whole or in part.

3.0 Special Education Due Process Hearing Training Requirement

3.1 The Special Education Due Process Hearing Training means the program and materials approved by the Department of Education consisting of a minimum of two (2) hours and covering the following topics:

3.1.1 Overview of special education requirements related to the identification, evaluation, and educational placement of children with disabilities, and the provision of a free, appropriate public education to children with disabilities; and

3.1.2 Overview of the due process hearing system; and

3.1.3 Summary of other procedural safeguards and dispute resolution options available to parents and school districts under the IDEA and Chapter 31.

3.2 The training may be provided in a format that includes, but not limited to, an electronic media format or in person.

4.0 Special Education Due Process Hearing Training Requirement for District School Board Members

4.1 Each district School Board Member shall participate and complete the Special Education Due Process Hearing Training the later of the following:

4.1.1 Within one (1) year of election, appointment, or voluntary service to a District School Board; or

4.1.2 Within one year of the initial effective date of this regulation.

5.0 Trainer

The training required by this regulation shall be conducted by a trainer as defined in this regulation.

6.0 Materials

The materials used for the training required by this regulation shall be those as defined in this regulation.

14 DE Reg. 760 (02/01/11)