

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 230

FINAL

REGULATORY IMPLEMENTING ORDER

230 Promotion

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin Code** 230 Promotion. The regulation requires that local school districts have promotion policies in place for grades K through grade 12. The local policies must also incorporate the promotion requirements as defined in the *Delaware Code* and in 14 **DE Admin Code** 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs. The amendments: 1) clarify charter schools are subject to this regulation; 2) require a copy of the current promotion policy be on file with the Department; and 3) make a technical correction to a cited regulation.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on Monday, November 3 2008, in the form hereto attached as *Exhibit "A"*. Comments were received from the State Council for Persons with Disabilities noting no substantive concerns. The State Board of Education recommended changing the date for submission of any revised promotion policy to the Department from 90 days to 30 days. This change was made.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 230 Promotion in order to clarify charter schools are subject to this regulation; require a copy of the current promotion policy be on file with the Department; and make a technical correction to a cited regulation.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 230 Promotion. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 230 Promotion attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 230 Promotion 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** 230 Promotion amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 230 Promotion 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 December 18, 2008. 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 18th day of December 2008.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

Approved this 18th day of December 2008

STATE BOARD OF EDUCATION

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230 Promotion

1.0 Each Local School District and Charter School Shall Have a Promotion Policy for Kindergarten Through Grade 12

- 1.1 Local school districts and charter schools must follow, at a minimum, the requirements for promotion as defined in 14 **Del.C.** §153, titled Matriculation and Academic Promotion Requirements and 14 **DE Admin. Code** 925, Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs.
- 1.2 The promotion policies for grades 1 to 8 must also, at a minimum, include the following:
 - 1.2.1 Students in grades 1 to 8 must receive instruction in English Language Arts or its equivalent, mathematics, social studies and science each year as defined in the Delaware Content Standards.
 - 1.2.2 Students in grades 1 to 8 must pass 50% of their instructional program each year (excluding physical education) to be promoted to the next grade level. One of the subject areas that must be passed is English Language Arts or its equivalent. English Language Arts or its equivalent includes English as a Second Language (ESL), and bilingual classes that are designed to develop the English language proficiency of students who have been identified as LEP. Classes in English Language Arts, mathematics, science and social studies include those which employ alternative instructional methodologies designed to meet the needs of LEP students in the content areas.

2 DE Reg. 1248 (1/1/99)

7 DE Reg. 928 (1/1/04)

2.0 Policy Reporting Requirements

- 2.1 Each local school district and charter school shall have an electronic copy of its current promotion policy on file with the Department of Education.
- 2.2 Each local school district and charter shall provide an electronic copy of its promotion policy to the Department of Education within ninety ~~[(99) days]~~ **thirty (30)** of any revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance, or policies.

12 DE Reg. 932 (01/01/09) (Final)