

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 737

FINAL

REGULATORY IMPLEMENTING ORDER

737 Tuition Billing for Special Schools and Special Programs

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** by adding a new regulation 737 Tuition Billing for Special Schools and Special Programs. The regulation is in response to the 144th General Assembly, Senate Bill 300, Section 418 below:

“Section 418. A school district operating a tuition eligible program or school may not reallocate state units earned for the special school or program, if such reallocation requires an increase in the tuition tax rate or tuition billing amount. If a reallocation of state units earned will not require such an increase, districts may reallocate positions as necessary to ensure the most efficient delivery of services, except for those instances currently prohibited by Delaware Code. Additionally the Department of Education shall be authorized to promulgate rules and regulations pertaining to tuition billings and tuition payments to include, but not be limited to, procedures to implement a specific billing and payment schedule; procedures for justification accounting for any increases from estimated to actual per pupil amounts billed; and procedures for the review of included costs to ensure appropriateness as it relates to the ratio of state to local resources.”

Notice of the proposed regulation was published in the News Journal and the Delaware State News on November 3, 2008, in the form hereto attached as *Exhibit “A”*. There were no formal comments received; however, the Department was asked by the Governors Advisory Council for Exceptional Citizens to provide a review of the regulation at their November 18th meeting. Mrs. Debbie Scanlon, Education Associate, Financial Practices from the Department of Education provided the overview at this meeting.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** in order to add a new regulation 737 Tuition Billing for Special Schools and Special Programs to meet the requirements of Senate Bill 300 of the 144th General Assembly.

III. Decision To Amend The Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** to add 737 Tuition Billing for Special Schools and Special Programs. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 737 Tuition Billing for Special Schools and Special Programs attached hereto as *Exhibit “B”* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 737 Tuition Billing for Special Schools and Special Programs 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** 737 Tuition Billing for Special Schools and Special Programs amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 737 Tuition Billing for Special Schools and Special Programs 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

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737 Tuition Billing for Special Schools and Programs

1.0 Purpose

The purpose of this regulation is to outline the process for the tuition billing and payments between local school districts and tuition generating Special Schools and Special Programs.

2.0 Definitions

In this regulation, the following terms shall have the meanings indicated below:

"**Direct Services**" means the provision of instructional and educational services by the authorized Special School or Special Program that are readily identifiable to that program.

"**Educational Related Expenses**" means those expenses that are necessary to operate the Special School or Special Program to meet the criteria for which it was established and includes, but is not limited to, Direct Services and Indirect Costs as those terms are defined herein.

"**Indirect Costs**" means those costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective (e.g. award, project or activity) and cannot be readily and specifically identified with a particular final cost objective without efforts disproportionate to the results achieved. If an authorized Special School or Special Program elects to apply an indirect cost rate it shall not apply a rate that exceeds the Restricted Rate approved by the Department of Education in the fiscal year.

“Intra-district student” means a student who is attending a Special School or Special Program operated by the school district in which the student’s parents, Relative Caregiver or legal guardian resides.

“Inter-district student” means a student who is attending a Special School or Special Program operated by any school district other than the school district in which the student’s parents, Relative Caregiver or legal guardian resides.

“Local School District” means a reorganized school district or vocational technical school district established pursuant to Chapter 10 of Title 14 of the Delaware Code.

“Special School” means a school established pursuant to 14 Del.C. §203 or that has been approved as a Special School by the Department of Education with the consent of the State Board of Education.

“Special Program” means a program established pursuant to 14 Del.C. §203 or that has been approved as a Special Program by the Department of Education with the consent of the State Board of Education.

“Time and Effort Log” means the record of actual time worked in the Special School or Special Program by a local school district employee.

“Tuition Billing form” means the standardized template developed and approved by the Department of Education, and based on current state law, to determine the tuition costs allowable per pupil attending a Special School or Special Program.

3.0 Process for Determining Tuition Eligibility

- 3.1 A local school district may charge tuition for an intra- or inter- district student enrolled in a Special School or Special Program based on the following criteria:
 - 3.1.1 The student shall be enrolled and attending the Special School or Special Program as of September 30th of the current school year; and
 - 3.1.2 The charges attributed to the Special School or Special Program shall be limited to Educational Related Expenses or those expenses that have been approved by the Department of Education.
- 3.2 A local school district operating a tuition eligible Special School or Special Program may not reallocate state units earned for the Special School or Special Program, if such reallocation requires an increase in the tuition tax rate or tuition billing amount. If a reallocation of state units earned will not require such an increase, districts may reallocate positions as necessary to ensure the most efficient delivery of services, except for those instances currently prohibited by state law, including but is not limited to, 14 Del.C., §1703(o).

4.0 Process for Tuition Billing

- 4.1 A local school district shall calculate the tuition charges by using the most current Tuition Billing forms and instructions developed and approved by the Department of Education.
- 4.2 The local school district shall submit tuition bills to the Department of Education for certification no later than November 15th of each year.
- 4.3 The Department of Education shall certify that the billing is true and correct no later than twenty (20) working days after receipt. No bill for tuition charges shall be paid until it has been certified by the Secretary of Education.
- 4.4 Upon certification, the local school district shall provide a copy of the certified tuition bill to the district(s) whose students are being served by the Special School or Special Program.
 - 4.4.1 A district may bill for its students being served by a Special School or Special Program that it operates. All stipulations within this regulation shall be followed for intra district students.
- 4.5 Any local school district that has received a tuition bill from another local school district shall pay the tuition charges no later than January 1st of the current school year.
- 4.6 All billing disputes shall be documented through written explanation and provided to the finance officer of the local school district operating the Special School or Special Program.

- 4.6.1 Only charges in dispute may be held; the undisputed remainder of the tuition bill shall be paid as described in 4.5.
- 4.6.2 Billing disputes shall be resolved and charges paid before the end of the current school year.
- 4.7 If any tuition bill is adjusted within the current school year after already being certified by the Department, and if the adjustments alter the Special School or Special Program's cost, individual enrollment, total enrollment or tuition rate per pupil from what was already certified, the district shall resubmit the tuition bill to the Department for approval and include reasons for change(s).
- 4.8 Tuition billings for a Special School or Special Program serving out-of-state students shall be submitted to the Department of Education on a form entitled "Establishment of Tuition Costs for Out-of-State/Country Students with Disabilities." The Department of Education shall certify the tuition bill in accordance with 14 **Del.C.**, Chapter 6 and other sections of this regulation.

5.0 Tuition Billing Form and Reconciliation

- 5.1 For all estimated and actual tuition rate data, the sum of the sending district enrollments shall be equal to the exact number of students in the total program enrollment.
- 5.2 Tuition bills shall be prepared and submitted in accordance with this regulation for intra-district students served by an approved Special School or Special Program.
- 5.3 Tuition billings that yield an increase or decrease of 10% or more per pupil over the prior year estimate shall include a detailed explanation for the rate change.

6.0 Waivers

Tuition charges may be waived in accordance with 14 **Del.C.**, Chapter 6.

7.0 Audit and Record Retention Requirements

The local school district shall follow the requirements for audit and record retention as prescribed by the Office of the Auditor of Accounts and Department of State – Delaware Public Archives.

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