

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b) and 154(e)  
(14 Del.C. §122(b) and §154(e))  
14 DE Admin. Code 603

### PROPOSED

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

#### 603 Compliance with the Gun Free Schools Act

##### A. Type of Regulatory Action Required

Amendment to Existing Regulation

##### B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks to amend 14 DE Admin. Code 603 Compliance with the Gun Free Schools Act. Minor amendments were made to reflect: 1) the policy must be on file electronically with the Department of Education; and 2) modifications to expulsion are made on a case by case basis by the chief school officer.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 5, 2008 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 amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses safety and does not change student achievement as measured against the state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses safety issues and does not change student equity.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses safety issues related to the implementation of the Gun Free Schools Act.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses students' legal rights as part of the implementation of the Gun Free Schools Act.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation reflect the requirements of the Federal statute's reporting procedures.

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 preserves the necessary authority and flexibility of decision making at the local board and school level.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

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 will 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.

9. Is there a less burdensome method for addressing the purpose of the regulation? This regulation is required by Federal statute.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There should be no additional costs related to the reporting requirements.

## **603 Compliance with the Gun Free Schools Act**

### **1.0 Written Policy Required**

Each school district and charter school requesting assistance under the Elementary and Secondary Education Act (ESEA) shall have a written policy implementing the Gun Free Schools Act [(20 USC §4141) (20 USC §7151)] and 11 **Del.C.** §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

- 1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.
- 1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.
- 1.3 The definition of "**Firearm**" shall be the same as the meaning given to the term in ~~18 USC §921(a)~~ the federal Gun Free Schools Zone Act at 18 U.S.C.A. §921.

### **2.0 Submission of the Policy to the State Department of Education**

Each school district and charter school requesting assistance under the ESEA shall submit the following to the Delaware Department of Education by June 1 each year, in such form as the Department requires:

- 2.1 An assurance that its policies comply with this regulation and with 11 **Del.C.** §1457(j) or its successor statute.
- 2.2 Descriptions of the expulsions imposed under 11 **Del.C.** §1457(j) or its successor statute and under the policy implemented in accord with this regulation.

### **3.0 Individuals with Disabilities Act**

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.

### **4.0 Reporting Requirements and Timelines**

- 4.1 Each public school district and charter school shall have an electronic copy of its policy implementing the Gun Free Schools Act [(20 USC §4141) (20 USC §7151)] and 11 **Del.C.** §1457(j) or its successor statute on file with the Department of Education.
- 4.2 Each public school district and charter school shall provide an electronic copy of any policy implementing the Gun Free Schools Act [(20 USC §4141) (20 USC §7151)] and 11 **Del.C.** §1457(j) or its successor statute within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

**1 DE Reg. 1976 (6/1/98)**

**7 DE Reg. 333 (9/1/03)**

**12 DE Reg. 9 (07/01/08) (Prop.)**