

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapter 13 (14 **Del.C.** Ch. 13)
14 **DE Admin. Code** 733

FINAL

REGULATORY IMPLEMENTING ORDER

733 Payment of Substitutes for Teachers

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** Ch. 13, the Secretary of Education intends to amend 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers. The Department has reviewed the regulation in order to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years and concluded that the regulation should be amended to clarify statutory authority and funding rates for substitute teachers who are on paid leave for the birth or adoption of a child. This regulation is also being amended to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on April 1, 2022. In addition, notice was published in *The News Journal* and the *Delaware State News* on April 1, 2022, in the form hereto attached as *Exhibit "A"*. No comments were received for this regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers in order to clarify statutory authority and funding rates for substitute teachers who are on paid leave for the birth or adoption of a child. This regulation is also being amended to comply with the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers 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** 733 Payment of Substitutes for Teachers amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers 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 May 26, 2022. 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 26th day of May 2022.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education
Approved this 26th day of May 2022

733 Payment of Substitutes for Teachers

1.0 Payment of Substitutes for Teachers

- 1.1 State substitute teacher funds may be used to pay substitutes for ~~State funded~~ state-funded teachers when the ~~State funded~~ state-funded teachers are unavailable for duty under the provisions of 14 **Del.C.** §1318, 14 Del.C. §1333, 29 **Del.C.** §5524 and 29 **Del.C.** §5933 (for sick leave calculations for teachers qualifying for workers' compensation).
- 1.2 Substitutes for ~~State funded~~ state-funded teachers may also be paid from ~~State~~ state substitute teacher funds for:
 - 1.2.1 Military leave for training or duty not in excess of 15 working days per year.
 - 1.2.2 Teachers participating in Department of Education led professional learning and project assignments.
- 1.3 Substitutes for ~~State funded~~ state-funded teachers who are absent without pay may be charged to ~~State~~ state funds.
- 1.4 Substitutes for teachers who are paid from federal funds shall be paid from federal funds from the federal program involved or local funds.
- 1.5 Substitutes for teachers who are paid from local funds shall be paid from local funds.
- 1.6 Substitutes for teachers who are paid from ~~State~~ state funds for a fractional part of a ~~State~~ state teacher unit and a fractional part from other funds shall be paid on the same proportional basis.
- 1.7 Substitutes for teachers who are on paid leave for birth of a child or adoption of a child may be funded at the rates provided in 14 Del.C. §1326, including applicable other employment costs.
- ~~4.7~~ 1.8 Substitutes shall be paid from ~~State~~ state substitute teacher funds in the amounts authorized for the various classes of substitutes as provided for in 14 **Del.C.** §1326. School districts paying more for teacher substitutes than prescribed in 14 **Del.C.** §1326 shall do so from local or federal funds. Federal funds may be used only if the federal program permits that use.

3 DE Reg. 1542 (05/01/00)

8 DE Reg. 1609 (05/01/05)

13 DE Reg. 1539 (06/01/10)

20 DE Reg. 717 (03/01/17)

25 DE Reg. 1114 (06/01/22) (Final)