

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))
14 **DE Admin. Code** 765

PROPOSED

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

765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing. The regulation was reviewed pursuant to the five year review cycle. The amendments are to provide consistency across other regulations relating to permits and other educator credentials and State law.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before April 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 amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is related to permits for resident advisors in the statewide programs for autism and for the deaf/hard of hearing and not specifically related to student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is related to permits for resident advisors in the statewide programs for autism and for the deaf/hard of hearing and should assist in all students receiving an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation is related to permits for resident advisors in the statewide programs for autism and for the deaf/hard of hearing and should assist in ensuring that all students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation is related to permits for resident advisors in the statewide programs for autism and for the deaf/hard of hearing and should assist to ensure all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation preserves the necessary authority and flexibility of decision making at the local board and school level.

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 does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

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 does not change because of the amendments.

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 is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no additional costs to the State and to the local boards for compliance to the amended regulation.

765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing

1.0 Content

This regulation shall apply to the requirements for a Permit for Resident Advisor in the Statewide Programs for Autism and for the Deaf and/Hard of Hearing

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“**Department**” means the Delaware Department of Education.

“**Immorality**” means conduct which is inconsistent with the rules and principals of morality expected of a resident advisor in the Statewide Programs for Autism and for the Deaf and/Hard of Hearing and may reasonably be found to impair an individual’s effectiveness by reason of his or her unfitness or otherwise.

“**Permit**” means a document issued by the Department of Education that verifies an individual’s qualifications and training to serve as a Resident Advisor in the Statewide Programs for Autism and for the Deaf and/Hard of Hearing.

“**Secretary**” means the Secretary of the Delaware Department of Education.

“**Unfit**” means ~~lack of good moral character~~ immorality, misconduct in office, incompetence, ~~willful~~ neglect of duty, disloyalty, willful and persistent insubordination or falsification of credentials.

3.0 Requirement for a Permit

~~Subject to the provisions in 6.0 below,~~ The Department shall issue a Permit as a Resident Advisor in the Statewide Programs for Autism and for the Deaf and/Hard of Hearing to an applicant who has a minimum of a Bachelor’s degree in any field from a regionally accredited college or university.

4.0 Application Procedures

Applicants for a Permit as a Resident Advisor in the Statewide Programs for Autism and for the Deaf and/Hard of Hearing shall submit to the Department official transcripts forwarded directly from the issuing institution or by the applicant in an unopened, unaltered envelope.

5.0 Criminal Conviction History

An applicant shall disclose his or her criminal conviction history upon application for the Permit. Failure to disclose a criminal conviction history is grounds for denial or revocation of a Permit.

6.0 Denial of a Permit

6.1 An applicant ~~may~~ shall be denied a permit for Resident Advisor in the Statewide Programs for Autism and for the Deaf and/Hard of Hearing upon a finding that the applicant; ~~has failed to meet the requirements set forth herein or is unfit to be issued a permit in this State.~~

6.1.1 Failed to meet the requirements set forth herein; or

6.1.2 Is Unfit; or

6.1.3 Had a Permit, certificate or license revoked in another jurisdiction; or

6.1.4 Is under official investigation by any state or local authority with the power to issue educator licenses, permits, or certifications, where the alleged conduct involves immorality, misconduct in office, incompetence, neglect of duty, disloyalty, willful and persistent insubordination or falsification of credentials, until the applicant provides evidence of the investigation’s resolution.

6.42 The Secretary shall give written notice to the applicant of the denial and the reasons therefore. The notice of denial shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary or his or her designee within 10 days of receipt of the notice of denial. The Secretary’s decision shall be final.

~~6.2 Notwithstanding any other provision stated herein, no Permit shall be issued to an applicant if:~~

~~6.2.1 There is legal evidence that the applicant is not of good moral character;~~

~~6.2.2 The applicant has had an educator Permit, certificate or license revoked in another jurisdiction for immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.~~

7.0 Revocation of Permit

7.1 A Permit issued under the provisions of this regulation may be revoked upon a finding of immorality, misconduct in office, incompetence, ~~willful~~ neglect of duty, disloyalty or falsification of credentials and must be

revoked upon a finding that the permit holder made a materially false or misleading statement in his or her permit application.

- 7.2 The Secretary shall give written notice to the permit holder of the proposed revocation and the reasons therefore. The notice of revocation shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary, or his or her designee, within 10 days of the receipt of the notice of denial. The Secretary's decision shall be final.

9 DE Reg. 115 (7/1/05)

14 DE Reg. 851 (03/01/11) (Proposed)