

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

FINAL

REGULATORY IMPLEMENTING ORDER

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

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** 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.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on March 23, 2011 in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. The Department considered the comments and has incorporated several, but not all of the suggested changes. An area of concern for the Councils was the definition of "Unfit". The definition within the regulation is consistent with the requirements of other public school personnel that are governed by state licensure, certification, and permit regulations and laws. The Department has incorporated the comments related to grammatical recommendations.

II. Findings of Facts

The Secretary finds that it is appropriate 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 in order to provide consistency across other regulations relating to permits and other educator credentials and State law.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate 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. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing 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** 765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 765 Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing 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 April 21, 2011. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

Department of Education

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 21st day of April 2011

State Board of Education

Teri Quinn Gray, Ph.D., President
Jorge L. Melendez, Vice President
G. Patrick Heffernan

Gregory Coverdale
Terry M. Whittaker, Ed.D.
James L. Wilson, Ed.D.

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 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] meets the definition of “Unfit” in 2.0 of this regulation], until the applicant provides evidence of the investigation’s resolution.~~

6.1.2 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, neglect of duty, disloyalty, willful and persistent insubordination or falsification of credentials~~ **meets the definition of “Unfit” in 2.0 of this regulation]** and must be revoked upon a finding that the permit holder made a materially false or misleading statement in his or her ~~[permit 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. 1226 (05/01/11)