

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 940

FINAL

Regulatory Implementing Order

940 Early Admission to Kindergarten for Gifted Students

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the consent of the State Board of Education to repeal 14 **DE Admin. Code** 940 Early Admission to Kindergarten for Gifted Students. This regulation was reviewed under the five year cycle, and a proposed amendment was published in the May 2010 Register of Regulations. The Department received comments from the Governor's Advisory Council and thereafter reviewed the regulation and proposed amendment again. Upon this further review and consideration of the comments received, the Department determined that the identification by professionally qualified persons under 14 **Del.C.** § 3101(4) and the local district's assessment of the best interest of the child under 14 **Del.C.** § 2702(b) is the better mechanism to determine early admission to Kindergarten for Gifted Students. That mechanism will allow students with all statutorily listed areas of abilities, singularly or in combination, to be assessed with the same criteria. Accordingly, the Department has determined that continued regulation in this area is unnecessary at this time.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on Thursday, September 2, 2010, in the form hereto attached as *Exhibit "A"*. The Department received comments from both the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities endorsing the repeal of this regulation.

II. Findings of Facts

The Secretary finds that it is appropriate to repeal 14 **DE Admin. Code** 940 Early Admission to Kindergarten for Gifted Students. The Department determined that the identification by professionally qualified persons under 14 **Del.C.** § 3101(4) and the local district's assessment of the best interest of the child under 14 **Del.C.** § 2702(b) is the better mechanism to determine early admission to Kindergarten for Gifted Students. That mechanism will allow students with all statutorily listed areas of abilities, singularly or in combination, to be assessed with the same criteria. Accordingly, the Department has determined that continued regulation in this area is unnecessary at this time.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to repeal 14 **DE Admin. Code** 940 Early Admission to Kindergarten for Gifted Students. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 940 Early Admission to Kindergarten for Gifted Students attached hereto as *Exhibit "B"* is hereby repealed. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 940 Early Admission to Kindergarten for Gifted Students hereby repealed 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** 940 Early Admission to Kindergarten for Gifted Students amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 940 Early Admission to Kindergarten for Gifted Students 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 October 21, 2010. 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 21st day of October 2010.

DEPARTMENT OF EDUCATION

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

Approved this 21st day of October 2010.

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~~940 Early Admission to Kindergarten for Gifted Students~~

~~1.0 Requirements for Early Admission to Kindergarten~~

~~When providing early enrollment into kindergarten of children who are gifted pursuant to the provisions of 14 **Del.C.** §3101(3)(a) or (b), local school districts and charter schools shall comply with the following requirements:~~

- ~~1.1 At the request of any parent, legal guardian or person acting as a caregiver pursuant to 14 **Del.C.** §202(f), the district or charter school shall conduct an evaluation of any such potentially gifted child by a school psychologist or other professionally qualified person, in conjunction with other appropriate personnel, to determine if the child possesses outstanding mental and cognitive abilities and to determine if the child can demonstrate the social, emotional, and physical maturity, normally expected for successful participation in kindergarten. A discussion shall be held to determine the parent, guardian or Relative Caregiver's reason for requesting the child's early admission to kindergarten prior to the legal age.~~
 - ~~1.1.1 The evaluation shall be conducted at no cost to the parent, guardian or Relative Caregiver.~~
- ~~1.2 In order to qualify for early enrollment, the child must achieve a measured score at least 1.5 standard deviations above the mean score for the assessment instrument used to determine the child's mental and cognitive abilities. In addition, the evaluation must indicate that the child possesses the social, emotional and physical maturity to successfully participate in kindergarten.~~
- ~~1.3 Following the completion of the evaluation, a representative of the school district or charter school who is knowledgeable of the evaluation process and any assessments used during the evaluation shall talk with the parent, guardian or Relative Caregiver to discuss the evaluation results.~~

~~8 DE Reg. 1479 (4/1/05)~~

14 DE Reg. 459 (11/01/10) (Final)