

**DEPARTMENT OF EDUCATION  
OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 1604(8) and Chapter 31 (14 **Del.C.** §1604(8) & Ch. 31)  
14 **DE Admin. Code** 930

**PROPOSED**

**PUBLIC NOTICE**

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

**930 Supportive Instruction (Homebound)**

**A. Type of Regulatory Action Required**

Amendment to Existing Regulation

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

Pursuant to 14 **Del.C.** Chapter 31 and §1604(8), the Secretary of Education intends to amend 14 **DE Admin. Code** 930 Supportive Instruction (Homebound). The Department has reviewed the regulation in order to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring bases every four years. The Department intends to update the regulation to clarify illness and chronic conditions are not limited to physical illness and includes mental illness and conditions.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before November 4, 2019 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to [DOEregulations.comment@doe.k12.de.us](mailto:DOEregulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or obtained at the Department of Education, located at the address listed above.

**C. Impact Criteria**

1. Will the regulation help improve student achievement as measured against state achievement standards? The amended regulation does help to improve student achievement as measured against state achievement standards by providing guidelines for supportive instruction in various settings.
2. Will the regulation help ensure that all students receive an equitable education? The amended regulation is intended to help ensure all students receive an equitable education.
3. Will the regulation help to ensure that all students' health and safety are adequately protected? The amended regulation helps ensure that all student's health and safety are adequately protected.
4. Will the regulation help to ensure that all students' legal rights are respected? The amended regulation specifically helps to ensure that all student's legal rights are respected.
5. Will the regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.
6. Will the 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 any unnecessary reporting or administrative requirements on decision makers.
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 does not change because of the amended regulation.
8. Will the 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 material costs to implementing this amended regulation.

**930 Supportive Instruction (Homebound)**

**1.0 Definition**

“**Supportive Instruction**” means an alternative educational program provided at home, in a hospital or at a related site for a student temporarily at home or hospitalized for a sudden physical or mental illness, injury, episodic flare up of a chronic physical or mental health condition, accident, or pregnancy, childbirth, or related medical condition to pregnancy or childbirth. Subject to 14 ~~Del.C., Del.C.~~ §1604(8), this may also include an alternative educational program provided at home to a student that has been suspended, expelled or subject to expulsion based upon the student’s local school district or charter school policy.

- 1.1 Procedures for eligibility shall be limited to appropriate certification that the student cannot attend school.
- 1.2 Services for children with disabilities as defined in the Individuals with Disabilities Education Act (IDEA) (20 U.S.C 1400 ~~et seq et seq.~~), and its regulations (34 CFR parts 300 and 301), 14 ~~Del.C., Del.C.~~ Ch. 31, and the Department of Education’s regulations on Children with Disabilities (14 **DE Admin. Code** 922 through 929) shall be provided in accordance with these laws and shall be processed under the district’s or charter school’s special education authority. Nothing in this regulation shall prevent a district from providing supportive instruction to children with disabilities in a manner consistent with the Individuals with Disabilities Education Act (IDEA) and its regulations, 14 ~~Del.C., Chapter Del.C.~~ Ch. 31, and the Department of Education’s regulations on Children with Disabilities.
- 1.3 Nothing in this regulation shall alter a district’s or charter school’s duties under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act to students who are qualified individuals with disabilities. Nothing in this regulation shall prevent a district from providing supportive instruction to such students.

**14 DE Reg. 558 (12/01/10)**  
**16 DE Reg. 412 (10/01/12)**  
**18 DE Reg. 215 (09/01/14)**

## **2.0 Eligibility for Conditions other than Suspension, Expulsion or Subject to Expulsion**

- 2.1 A student enrolled in a school district or charter school is eligible for supportive instruction when the district or charter school receives the required certification that one or more of the following conditions will prevent the student from attending school for at least ten (10) school days:
  - 2.1.1 Sudden physical or mental illness,
  - 2.1.2 Accident,
  - 2.1.3 Episodic flare up of a chronic physical or mental health condition,
  - 2.1.4 Injury, or
  - 2.1.5 Pregnancy, childbirth or related medical condition.
- 2.2 A physician or an advanced practice nurse, employed by or who has a collaborative agreement with a licensed physician, or a physician assistant employed by and who has a written agreement with a supervising licensed physician must certify absences due to a medical condition.
  - ~~2.2.1 A student qualifies for supportive instruction during absences because of pregnancy, childbirth, or related medical conditions, which shall be excused absences for as long as deemed medically necessary by a physician or an advanced practice nurse, employed by and who has a collaborative agreement with a licensed physician, or a physician assistant employed by and who has a written agreement with a supervising licensed physician.~~
  - 2.2.2.1 A student who remains enrolled in school is eligible for supportive instruction during a postpartum period for as long as deemed medically necessary. Postpartum absences shall be certified by a physician or an advanced practice nurse, employed by and who has a collaborative agreement with a licensed physician, or a physician assistant employed by and who has a written agreement with a supervising licensed physician.
- 2.3 ~~Absences due to severe adjustment problems must be certified by a psychologist or psychiatrist and confirmed through a staff conference~~ A licensed clinical mental health provider (such as a Licensed Clinical Social Worker, psychiatric nurse practitioner, psychologist, or psychiatrist) must certify absences due to a mental illness or mental health condition.
- 2.4 Supportive instruction can be requested as an in school transitional program that follows a period of supportive instruction that was provided outside of the school setting. If the supportive instruction is provided as an in school transitional program, it must be approved through a staff conference.

**9 DE Reg. 402 (09/01/05)**  
**14 DE Reg. 558 (12/01/10)**  
**16 DE Reg. 412 (10/01/12)**  
**18 DE Reg. 215 (09/01/14)**

### **3.0 Implementation**

- 3.1 Supportive instruction for a student shall begin as soon as the documentation required by Section 2.0 is received. Supportive instruction may continue upon the return to school setting only in those exceptional cases where it is determined that a student needs a transitional program to guarantee a successful return to the school setting in accordance with subsection 2.4.
  - 3.1.1 Supportive instruction shall adhere to the extent possible to the student's school curriculum and shall make full use of the available technology in order to facilitate the instruction.
    - 3.1.1.1 The school shall provide a minimum of ~~3~~ three (3) hours of supportive instruction each week of eligibility for a K to 5th grade student, and a minimum of five hours each week of eligibility for a 6<sup>th</sup> to 12<sup>th</sup> grade student. There is no minimum for in school transition.
    - 3.1.1.2 Nothing in this regulation shall prevent a school district or charter school from providing additional hours of supportive instruction to an eligible student from other available funding sources.
  - 3.1.2 Summer instruction is permitted for a student who is otherwise eligible for supportive instruction and, as determined by the student's teachers and principal, needs the instruction to complete course work or to maintain a level of instruction in order to continue in a school setting the following school year.

**4 DE Reg. 344 (08/01/00)**

**4 DE Reg. 497 (09/01/00)**

**9 DE Reg. 402 (09/01/05)**

**14 DE Reg. 558 (12/01/10)**

**16 DE Reg. 412 (10/01/12)**

**18 DE Reg. 215 (09/01/14)**

### **4.0 Eligibility and Implementation for Suspension, Expulsion, or Subject to Expulsion**

If a local school district or charter school provides for supportive instruction (homebound) for students that have been suspended or expelled, the local school district or charter school shall have a written policy, which conforms with 14 **Del.C.** §1604(8), and any of its implementing regulations, regarding eligibility and implementation.

**16 DE Reg. 412 (10/01/12)**

**23 DE Reg. 275 (10/01/19) (Prop.)**