

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

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

FINAL

REGULATORY IMPLEMENTING ORDER

210 District School Board Member Special Education Due Process Hearing Training

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** by adding a new regulation 210 District School Board Member Special Education Due Process Hearing Training. The regulation is required as a result of the passage of HB 386 of the 145th General Assembly. The regulation relates to special education due process hearing training for school district board of education members. The law as written does not apply to charter schools; therefore, this regulation does not apply to charter schools.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 4, 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 endorsing the proposed regulation.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** by adding a new regulation 210 District School Board Member Special Education Due Process Hearing Training in order to outline the criteria and process for the required training for member of school district boards of education.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training 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** 210 District School Board Member Special Education Due Process Hearing Training amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training 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 March 17, 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*.

IT IS SO ORDERED the 17th day of March 2011.

Department of Education

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

Approved this 17th day of March 2011

210 District School Board Member Special Education Due Process Hearing Training

1.0 Purpose

The purpose of this regulation is to outline the criteria and process for the required training for members of district school boards, including vocational technical school boards, pursuant to 14 Del.C. §1049B. The purpose of the training is to inform school board members of the educational and legal issues generally involved in special education due process hearings arising under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 ("IDEA") and Chapter 31 of Title 14 of the Delaware Code ("Chapter 31").

2.0 Definitions

"District School Board" shall mean reorganized school district boards and vocational technical school district boards duly appointed or elected pursuant to Chapter 10 of Title 14 of the Delaware Code.

"Materials" shall mean training aids approved by the Secretary of Education for use in the Special Education Due Process Hearing Training.

"School Board Member" shall mean a district school board member whether that person is elected, appointed, or is a volunteer.

"Trainer" means an individual, agency, or organization approved by the Secretary of Education to provide the Special Education Due Process Hearing Training, in whole or in part.

3.0 Special Education Due Process Hearing Training Requirement

3.1 The Special Education Due Process Hearing Training means the program and materials approved by the Department of Education consisting of a minimum of two (2) hours and covering the following topics:

3.1.1 Overview of special education requirements related to the identification, evaluation, and educational placement of children with disabilities, and the provision of a free, appropriate public education to children with disabilities; and

3.1.2 Overview of the due process hearing system; and

3.1.3 Summary of other procedural safeguards and dispute resolution options available to parents and school districts under the IDEA and Chapter 31.

3.2 The training may be provided in a format that includes, but not limited to, an electronic media format or in person.

4.0 Special Education Due Process Hearing Training Requirement for District School Board Members

4.1 Each district School Board Member shall participate and complete the Special Education Due Process Hearing Training the later of the following:

4.1.1 Within one (1) year of election, appointment, or voluntary service to a District School Board; or

4.1.2 Within one year of the initial effective date of this regulation.

5.0 Trainer

The training required by this regulation shall be conducted by a trainer as defined in this regulation.

6.0 Materials

The materials used for the training required by this regulation shall be those as defined in this regulation.

14 DE Reg. 760 (02/01/11)

14 DE Reg. 1048 (04/01/11) (Final)