

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 738

FINAL

REGULATORY IMPLEMENTING ORDER

738 Financial Goals for Instruction and Instruction-related Expenditures

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** by adding 738 Financial Goals for Instruction and Instruction-related Expenditures. This regulation is a result of legislation from the 145th General Assembly, House Substitute 1 to House Bill No. 119.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Thursday, December 3, 2009, in the form hereto attached as *Exhibit "A"*. Comments were received by the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. The Department has incorporated several of the recommendations provided by the Councils. The changes included clarification language and the removal of the term "agency transaction" as it appeared in the definition of "expenditures". This deletion was done after consultation with NCES since they are removing this term from their definition. There were two suggestions that were not included, specifically a reference to "middle school" and an explicit reporting by the districts and charter schools of their data. The suggested revisions were deemed unnecessary because (1) secondary and elementary are dichotomous references and middle school is included by reference to elementary school; and (2) the Department collects data directly from the National Center of Education Statistics NCES therefore a separate report from districts and charter schools is not needed.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** by adding 738 Financial Goals for Instruction and Instruction-related Expenditures. This regulation is a result of legislation from the 145th General Assembly, House Substitute 1 to House Bill No. 119.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 738 Financial Goals for Instruction and Instruction-related Expenditures. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 738 Financial Goals for Instruction and Instruction-related Expenditures attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 738 Financial Goals for Instruction and Instruction-related Expenditures 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** 738 Financial Goals for Instruction and Instruction-related Expenditures amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 738 Financial Goals for Instruction and Instruction-related Expenditures 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 January 14, 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 14th day of January 2010.

DEPARTMENT OF EDUCATION

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

Approved this 14th day of January 2010

738 Financial Goals for Instruction and Instruction-related Expenditures

1.0 Purpose

The purpose of this regulation is to outline goals for Delaware's local school districts and charter schools with respect to the percentage of cumulative revenues that shall be used for instruction and instruction-related expenditures, as those terms are used by the National Center for Educational Statistics or its successor organization, as required pursuant to 14 **Del.C.** §1510.

2.0 Definitions

"**Charter School**" shall mean a school pursuant to 14 **Del.C.**, Chapter 5.

"**Expenditures**" shall mean all amounts of money paid out by a school system, net of recoveries and other correcting transactions, other than for retirement of debt, purchase of securities, **[and]** extension of loans~~[-, and agency transactions]~~. Expenditures include only external transactions of a school system and exclude noncash transactions such as the provision of prerequisites or other in-kind payments. Definition from the National Center for Education Statistics NCES 2009-338 Sept 2009.

"**Instruction and Instruction- related expenditure**" shall mean payments for instruction and Instruction staff support services. These are expenditures that are directly related to providing instruction and for activities that assist with classroom instruction. These include salaries and benefits for teachers, teaching assistants, librarians and library aides, in-service teacher trainers, curriculum development, student assessment, technology (for students but outside the classroom), and supplies and purchased services related to these activities. Definition from the National Center for Education Statistics NCES 2009-338 Sept. 2009.

"**Local Educational Agency**" or "**LEA**" means a public board of education or other public authority legally constituted within Delaware for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a school district, or for a combination of school districts. The term includes an educational service agency, as defined in this section, and any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

"**Local School District**" shall mean a reorganized school district or vocational technical school district established pursuant to 14 **Del.C.**, Chapter 10.

"**Total revenues**" is the sum of revenue contributions emerging from local, state, and federal sources. Revenue received from bond sales or the sale of property or equipment is not included. Definition from the National Center for Education Statistics NCES 2009-338 Sept. 2009.

3.0 Goals for Instruction and Instruction-Related Expenditures

3.1 Each local school district shall increase Instruction and Instruction-related expenditures as a percentage of Total Revenues to exceed the national average by at least 5% from the most current data available from the U.S. Department of Education, National Center for Education Statistics, Institute of Education Sciences. The baseline shall be 54.9%. This represents data from FY07 which is the latest information available from the National Center for Education Statistics.

- 3.2 Each charter school shall increase Instruction and Instruction-related expenditures as a percentage of Total Revenues to meet the national average from the most current data available by the U.S. Department of Education, National Center for Education Statistics, Institute of Education Sciences. The baseline for the 2010-2011 school year shall be 52.3%. This represents data from FY07 which is the latest information available from the National Center for Education Statistics.
- 3.3 Beginning with the 2009-2010 school year, local school districts and charter schools shall provide data as required by NCES for that current school year to the Department as required by timelines imposed by NCES, but no later than July 15th [following the end of the school year].
- 3.4 Beginning with the 2010-11 school year, the goal for each local school district and charter school shall be to budget to reflect 3.1 and 3.2.

4.0 Department Review and Oversight

- 4.1 By December 1st of each year, the Department shall notify the local school district and charter schools the goals, based the latest NCES data, for 3.1 and 3.2.
- 4.2 By March 1, 2010 for the 2008-2009 school year, and December 31st following the end of each school year thereafter, the Department shall provide a report on its website describing each local school district[‘s] and charter school[‘s] status with respect to the goals in 3.1 and 3.2. For charter schools, the description shall at a minimum include any expenses associated with facilities.

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