

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b) and (d), 2702(h), and 2707
(14 Del.C. §§122(b) and (d), 2702(h), & 2707)
14 DE Admin. Code 615

FINAL

REGULATORY IMPLEMENTING ORDER

615 School Attendance

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del. C. §§122(b), 2702(h), and 2707 the Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 615 School Attendance. This regulation is being amended to clarify the following: (1) to require that school district and charter school attendance policies include how families and students may access supports and resources for student absences due to social, emotional and behavioral wellness; (2) to require the school district and charter school attendance policies and available resources for addressing attendance be given to parents, guardians or caregivers when student absences exceed 10 unexcused absence; (3) to require school districts and charter schools distribute and explain the school attendance policy to all educators and support staff at the beginning of each school year; (4) to comply with HB 163 of the 151st General Assembly regarding absences due to religious observances; and (5) to comply with HB 175 of the 151st General Assembly regarding absences for the participation in civic engagements.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on October 1, 2021. In addition, notice was published in *The News Journal* and the *Delaware State News* on October 1, 2021, in the form hereto attached as *Exhibit "A"*. Comments received which were pertinent to the subject matter of the regulation suggested the following:

- (1) Further amendments addressing student health and wellness as it extends to attendance in light of COVID-19 and as students return to in-person instruction following remote learning during the COVID-19 crisis.

Response: *The Department does not believe need further amendments are warranted at this point, but should student health and wellness gaps become apparent, the Department will consider future regulation changes. The language is intentionally broad to provide LEAs opportunities to work with students and their families.*

- (2) Policies to provide more proactive, non-punitive supports for students and families who are experiencing chronic absenteeism, or who have experienced frequent absenteeism since March 2020 during periods of remote instruction.

Response: *The Department intentionally wants the language to be broad. Most LEAs are already providing these types of support.*

- (3) The attendance policy be provided to each parent each year.

Response: *LEAs didn't believe providing the attendance policy to each parent each year was necessary. This policy will be on LEAs websites and shared as needed, much like other forms.*

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 615 School Attendance in order to clarify the following: (1) to require that school district and charter school attendance policies include how families and students may access supports and resources for student absences due to social, emotional and behavioral wellness; (2) to require the school district and charter school attendance policies and available resources for addressing attendance be given to parents, guardians or caregivers when student absences exceed 10 unexcused absence; (3) to require school districts and charter schools distribute and explain the school attendance policy to all educators and support staff at the beginning of each school year; (4) to comply with HB 163 of the 151st General Assembly regarding absences due to religious observances; and (5) to comply with HB 175 of the 151st General Assembly regarding absences for the participation in civic engagements.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 615 School Attendance. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 615 School Attendance attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 615 School

Attendance 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** 615 School Attendance amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 615 School Attendance 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 November 18, 2021. 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 18th day of November 2021.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 18th day of November 2021

State Board of Education

/s/ Whitney Townsend Sweeney, President

/s/ Vincent Lofink

/s/ Shawn Brittingham, Vice President

/s/ Audrey J. Noble, Ph.D.

/s/ Wali W. Rushdan, II

/s/ Provey Powell, Jr.

/s/ Candice Fifer

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

615 School Attendance

1.0 Required Attendance Policy

Each school district and charter school shall have an attendance policy that complies with 14 **Del.C.** Ch. 27 and which defines and describes the district's or charter school's rules concerning attendance for students K to 12.

2 DE Reg. 685 (10/01/98)

7 DE Reg. 619 (11/01/03)

12 DE Reg. 221 (08/01/08)

23 DE Reg. 1017 (06/01/20)

2.0 Elements of Attendance Policy

2.1 The attendance policy shall include information on how families and students may access supports and resources for student absences due to social, emotional and behavioral wellness.

2.2 The attendance policy shall permit one excused absence per school year for students in grades 6 through 12 to attend civic engagements, such as visits to the United States Capitol, Delaware Legislative Hall, political or cultural significance sites, to advocate or testify on behalf of legislation, or to participate in a rally, march, or protest. The student's parent, guardian, or relative caregiver must submit a signed, written excuse which is received by the district or charter school at least three (3) days before the student's absence.

2.3 The attendance policy shall include how school districts and charter schools will handle absences due to religious observances, including, but not limited to, the following:

2.3.1 A student shall be excused for any of the following religious holidays when the school district or charter school receives a student's parent, guardian, or relative caregiver's signed, written excuse:

- Rosh Hashanah (Jewish)
- Yom Kippur (Jewish)
- Dussehra (Hindu)
- Sukkot (Jewish)
- Diwali (Hindu)

- Birth of Bahá'u'lláh (Baha'i)
 - Sangha Day (Buddhist)
 - Maha Shivaratri (Hindu)
 - Naw- Rúz (Baha'i)
 - Holi (Hindu)
 - Ram Navami (Hindu)
 - Beginning of Ramadan (Islamic)
 - Theravada (Buddhist)
 - Lailat Ul Qadr (Islamic)
 - Eid al-Fitr (end of Ramadan) (Islamic)
 - Vesak (Buddhist)
 - Shavuot (Jewish)
- 2.3.2 Each school district and charter school may excuse student absences on any other day not included on this list for religious or cultural observances.
- 2.3.3 A student of any school district or charter school who is absent due to a religious holiday observance shall not be deprived of any award or eligibility to compete for any award.
- 2.3.4 The attendance policy must discourage teachers from scheduling major grading events, such as tests, examinations, presentations, or project due dates on religious holidays.
- 2.3.5 A student who misses a grading event due to excused absence for observance of a religious holiday must be allowed the opportunity to take the test on an alternate day or take an alternate test or be given some other means to recover credit.
- 2.3.6 The Department of Education shall annually release a list of upcoming religious holidays for the upcoming school year and shall also keep an updated list on the Department of Education website.
- 2.3.7 The list in this regulation includes the name of the holiday to be observed. For an annual school year calendar with dates for the school year, visit the Department of Education's website. The annual calendar will be sent to all school districts and charter schools in time for school calendars creation.
- 2.3.8 Religious holidays occurring outside the standard school year are not included on this list. Holidays already included as public holidays on the State of Delaware calendar are not included on this list. All Jewish and Islamic holidays begin at sundown on the evening before the holiday. For holidays more than a day long, the date listed on the annual calendar is considered to be the time a student would be out of school. Additionally, some holidays, including those not listed here, involve fasting; so while a student may be in school, their parent/guardian may consider letting the school know the student is fasting.

2.03.0 Distribution of Attendance Policy

- 2.13.1 Each district or charter school shall distribute and explain these policies to every student at the beginning of each school year.
- 2.23.2 Each district or charter school shall distribute and explain these policies to each student enrolling or ~~re~~ enrolling re-enrolling during the school year.
- 2.33.3 Each district or charter school shall post the attendance policy on its website and notify a parent, ~~guardian~~ guardian, or relative caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, ~~guardian~~ guardian, or relative caregiver upon request or when absences have exceeded ten (10) unexcused absences. This hard copy will include phone numbers to area supports and a school contact number.
- 3.4 Each district or charter school shall distribute the school's attendance policy to their educators and support staff at the beginning of each school year.

12 DE Reg. 221 (08/01/08)

23 DE Reg. 1017 (06/01/20)

3.04.0 Reporting Requirements and Timelines

- 3.14.1 Each public school district or charter school shall have an electronic copy of its current attendance policy on file with the Department of Education.
- 3.24.2 Each public school district or charter school shall provide an electronic copy of any revised attendance policy within ninety (90) days of such ~~revision(s)~~ revisions regardless of whether said revisions were made as a result of changes to federal, state or local law, regulations, guidance or policies.

12 DE Reg. 221 (08/01/08)

23 DE Reg. 1017 (06/01/20)

25 DE Reg. 699 (01/01/22) (Final)

