

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122 and 29 Delaware Code, Section 10407 (14 **Del.C.** §122 & 29 **Del.C.** §10407)
14 **DE Admin. Code** 255

FINAL

REGULATORY IMPLEMENTING ORDER

255 Definitions of Types of Schools

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §122, the Secretary of Education intends to amend 14 **DE Admin. Code** 255 Definitions of Types of Schools. This regulation is being reviewed as required by 29 **Del.C.** §10407 which states regulations are to be reviewed every four years. This regulation is being amended to include magnet schools, provide general clarification and to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on April 1, 2022. In addition, notice was published in *The News Journal* and the *Delaware State News* on April 1, 2022, in the form hereto attached as *Exhibit "A"*. A comment was received which was pertinent to the proposed amendments suggested the Department consider the following:

- (1) The need to change the definition of "Charter School" to allow for remote programs, including remote synchronous or asynchronous days. This change should be made in order to align with other definitions in which attendance is not included.

Response: The Department agrees that the definition of "Charter School" needs to be clarified to remove the "personal physical attendance" given that charter schools are able to operate virtually. Therefore, the definition of "Charter School" will be updated to read "means a public school that is operated under a charter granted by, or transferred to, the Department of Education or other authorizing body pursuant to 14 **Del.C.** Ch. 5."

The Department believes additional clarification is needed to further streamlined the definitions by either referencing the applicable Delaware Code citation or removing duplicative and unnecessary descriptions as required by the *Delaware Administrative Code Drafting and Style Manual*. Therefore, these changes were made to the regulation as well.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 255 Definitions of Types of Schools in order to include magnet schools, provide general clarification and to comply with the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 255 Definitions of Types of Schools. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 255 Definitions of Types of Schools attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 255 Definitions of Types of Schools 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** 255 Definitions of Types of Schools amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 255 Definitions of Types of Schools 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 June 13, 2022. 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 13th day of June 2022.

Department of Education
Mark A. Holodick, Ed.D., Secretary of Education
Approved this 13th day of June 2022

255 Definitions of Types of Schools

1.0 Purpose

The purpose of this regulation is to define various types of schools and educational entities operating in the State of Delaware identified in Title 14 of the Delaware Code.

20 DE Reg. 547 (01/01/17)

2.0 Definitions

The following words and terms are applicable unless a specific regulation, statute or the context in which they are used clearly indicates otherwise terms, when used in this regulation, have the following meaning:

"Charter School" means a ~~[non-home-based]~~ public school ~~[including two or more of grade kindergarten through twelve, operating in an approved physical plant for the personal physical attendance of all students and is managed by a board of directors. It exists that is operated]~~ under a charter granted ~~[by a public school district or by, or transferred to,]~~ the Delaware Department of ~~[Education, with the approval of the State Board of Education, Education or other authorizing body]~~ pursuant to 14 Del.C. Ch. 5.

"Homeschool" means a nonpublic school ~~[as defined in pursuant to]~~ 14 Del.C. §2703A.

"Local Education Agency (LEA)" or "LEA" means a reorganized traditional school district, vocational/technical vocational-technical school district, or Charter School charter school, legally constituted and established under Delaware law for either administrative control or direction of public elementary or secondary school(s) schools.

"Magnet School" means a physical plant having any or all of grades kindergarten through twelve, supported primarily from public funds and under the supervision of public school administrators. It exists under a designation granted by a reorganized school district.

"Nonpublic School" means a private school or ~~[any]~~ home school ~~[as defined in this regulation or pursuant to]~~ 14 Del.C. §2703A.

"Private School" means a school having any or all of grades kindergarten through twelve, operating under a board of trustees and maintaining a faculty and plant which are properly supervised.

"Public School" means a physical plant having any or all ~~[of]~~ grades kindergarten through twelve, supported primarily from public funds and under the supervision of public school administrators. ~~[A] Charter School [charter school, as defined herein, is also a public school.]~~

"Reorganized School District" means a clearly defined geographic subdivision of the state organized for the purposes of administering public education ~~in that area pursuant to 14 Del.C. Ch. 10.~~

"School District" means ~~[either] a Reorganized School District or a Vocational-Technical School District~~ reorganized school district or a vocational-technical school district or both depending upon the context in which the term is used.

"Vocational-Technical School District" means a subdivision of the state, the boundaries of which are co-extensive with the boundaries of the county in which it is located, organized for the purposes of administering vocational and technical education ~~in that area pursuant to 14 Del.C. Ch. 10.~~

4 DE Reg. 1251 (02/01/01)

7 DE Reg. 618 (11/01/03)

12 DE Reg. 668 (11/01/08)

20 DE Reg. 547 (01/01/17)

26 DE Reg. 47 (07/01/22) (Final)