

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 258

PROPOSED

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

258 Federal Programs General Complaint Procedures*

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 **DE Admin. Code** 258 Federal Programs General Complaint Procedures. The amended regulation reflects the addition of a limitation on the time by which a complaint may be filed and provides a numbering change in cross referencing other parts of Administrative Code. The amended regulation also explicated identifies a charter schools as a Local Education Agency for purposes of this regulation.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before Thursday, July 3, 2008 to Susan Haberstroh, Education Associate, Regulation Review, Department of Education, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation is available from the above address or may be viewed at the Department of Education business office.

C. Impact

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation continues to address the federal programs complaints process not the specifics of student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation continues to address the federal programs complaint process and this process is related to assuring an equitable education for all students.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses the federal programs complaint process not health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to address the federal programs complaint process which provides protection if a student's rights or services under federal legislation listed in the regulation is not fulfilled.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not alter the authority and flexibility of decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not alter the reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

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 will remain in the same entity.

8. Will the amended 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 will remain 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.

9. Is there a less burdensome method for addressing the purpose of the regulation? The federal laws have changed and the references must be corrected in the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? The cost to the State and local school boards remains the same.

258 Federal Programs General Complaint Procedures*

1.0 Programs Covered by the Complaint Process

This complaint process shall apply to the following programs: Title I Part A Improving Basic Programs Operated by Local Education Agencies; Title I Part B-1 Reading First; Title I Part B-2 Early Reading First; Title I Part B-3 William F. Goodling Even Start Family Literacy Program; Title I Part C Education of Migratory Children; Title I Part D Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or at Risk; Title I Part F Comprehensive School Reform; Title I Part G Advanced Placement; Title II Part A Teacher and Principal Training and Recruiting Fund, Grants to States; Title II Part A-5-2151(B) School Leadership; Title II Part D 1 and 2 Enhancing Education Through Technology; Title III Language Instruction for Limited English Proficient and Immigrant Students; Title IV Part A Safe and Drug Free Schools and Communities; Title IV Part B 21st Century Community Learning Centers; Title V Part A Innovative Programs and Title V Part B-1 Public Charter Schools.

2 DE Reg. 217 (8/1/98)

7 DE Reg. 161 (8/1/03)

2.0 Right to File a Complaint

An organization or an individual may file a complaint regarding an alleged violation of Federal Program Statutes or regulations by the Delaware Department of Education or the Local Education Agency. For purposes of this regulation, a Local Education Agency shall also include charter schools. A written and signed complaint shall be filed with the Delaware Department of Education.

2.1 The complaint shall include a statement specifying the alleged violation by the State Education Agency or a Local Education Agency. Such statement shall include facts and documentation of the alleged violation.

2.2 The Delaware Department of Education shall investigate the complaint and issue a written report including findings of fact and a decision to the parties included in the complaint within sixty (60) working days of the receipt of the complaint. An extension of the time limit may be made by the Delaware Department of Education only if exceptional circumstances exist with respect to a particular complaint.

2.3 The Delaware Department of Education may conduct an independent onsite investigation of the complaint, if it is determined that an on site investigation is necessary.

2.4 The complaint shall allege a violation that occurred not more than one (1) year prior to the date that the complaint is received.

2 DE Reg. 217 (8/1/98)

7 DE Reg. 161 (8/1/03)

3.0 Complaint Made to the Local Education Agency

An organization or an individual is encouraged to file a written, signed complaint with the Local Education Agency, prior to submission of the complaint to the Delaware Department of Education, concerning an alleged violation by the Local Education Agency of a Federal statute or regulation that applies to the Local Education Agency's program.

- 3.1 The complaint shall include a statement specifying the alleged violation by the Local Education Agency. Such statement shall include facts and documentation of the alleged violation.
- 3.2 The superintendent or the agency head of the Local Education Agency shall investigate the complaint and issue a written report including findings of fact and a decision to the parties involved in the complaint within sixty (60) working days of the receipt of the complaint.
- 3.3 An appeal of the Local Education Agency decision may be made by the complainant to the Delaware Department of Education. The appeal shall be in writing and signed by the individual or by an individual representative of the organization making the appeal. The Delaware Department of Education shall resolve ~~address~~ the appeal in the same manner as a complaint, as indicated in 2.0.

2 DE Reg. 217 (8/1/98)

7 DE Reg. 161 (8/1/03)

4.0 Review of Final Decision by the U.S. Department of Education

Any party to the complaint has the right to request that the Secretary, U. S. Department of Education, review the final decision of the Delaware Department of Education. The request for an appeal of the decision to the Secretary, U. S. Department of Education, shall be made in writing to the Delaware Department of Education within sixty days of the receipt of the decision.

2 DE Reg. 217 (8/1/98)

5.0 Complaints and appeals to the Delaware Department of Education shall be mailed to the following address:

Secretary of Education
Delaware Department of Education
401 Federal Street
Suite 2
Dover, Delaware 19901-3639

*IDEA Part B, as amended, has other specific remedies and procedural safeguards specified under Section 615 of the Act to protect disabled students with disabilities. See 14 **DE Admin. Code 925**, ~~Children with Disabilities~~ 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies.

2 DE Reg. 217 (8/1/98)

7 DE Reg. 161 (8/1/03)

11 DE Reg. 1544 (06/01/08) (Prop.)