

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(a) (14 Del.C. §122(a))
14 DE Admin. Code 716

PROPOSED

PUBLIC NOTICE

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

716 Maintenance of Local School District and Charter School Personnel Records

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del. C. §122 (a), the Secretary of Education intends to amend 14 DE Admin. Code 716 Maintenance of Local School District and Charter School Personnel Records. The Department has reviewed the regulation in order to comply with 29 Del.C. §10407 which requires regulations to be reviewed on a recurring basis every four years. The proposed amendments being made to: correct grammar, to clarify that the regulation applies to both district and charter schools and the word "Local" is no longer needed, and are made to ensure compliance with the *Delaware Administrative Code and Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before July 2, 2021 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOERegulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendment regulation does not impact students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.

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 change the decision making at the local school 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 place any unnecessary reporting or administrative requirements or mandates on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.

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 is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

716 Maintenance of Local School District and Charter School Personnel Records

1.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly states otherwise:

~~"Delaware Public Archives (DPA)"~~ **"Delaware Public Archives" or "DPA"** means the division within the Department of State that is charged with administering, implementing and enforcing all provisions of the Delaware Public Records Law.

"Employee" means any person whose terms of employment are adequate to qualify the employee for the earning of credit toward pension.

"Termination" means, not only retirement, but any reason the employee leaves the ~~district~~ district or charter school.

20 DE Reg. 801 (04/01/17)

2.0 Records Retention

- 2.1 Records for all school district and charter school employees shall be kept up to date including:
 - 2.1.1 Salary data records for each year of employment in the school district or charter school. (Total salary paid identified as fiscal or calendar year); and
 - 2.1.2 Records that show sick leave days earned and used and the number of days available at any time; and
 - 2.1.3 The record of vacation time for those employees whose terms of employment provide for earned vacation.
 - 2.1.4 All forms and documents that become part of the Delaware Performance Appraisal System II (DPAS II) shall be retained in the individual's personnel file until there are at least five (5) complete ~~summatives~~ summative evaluations. The oldest complete set of evaluation forms and documents may be purged from the personnel file once the sixth set is complete.

9 DE Reg. 395 (09/01/05)

12 DE Reg. 443 (10/01/08)

20 DE Reg. 801 (04/01/17)

3.0 Records Retention

- 3.1 Each school district and charter school shall keep the records referred to in Section 2.0 above for all employees' inactive personnel files for at least fifty (50) years following termination of employment.
- 3.2 For the security of records and the protection of the personnel for whom the information is recorded, it is recommended that original records are to be maintained at the school district or charter school for three (3) years after termination of an employee and a successful audit of such records. Records shall be purged in accordance with the *Delaware Public Archives School Districts General Records Retention Schedule* and prepared for storage according to the *Delaware Public Archives Records Management Handbook Preparation of Records for Short-Term Storage*. Records shall remain in their original format and shall then be transferred to DPA and retained in storage for the balance of the fifty (50) required years. ~~Local~~ District and charter school records officers and authorized agents may request files from storage in accordance with DPA's procedures for requesting files. At the end of the retention period, the documents will be destroyed in accordance with DPA's destruction procedures.
- 3.3 The style and form of the records shall be at the discretion of the ~~local~~ school districts or charter schools, except that records transferred to the ~~Delaware Public Archives~~ DPA for storage shall be in a format acceptable to DPA. Individual ~~local~~ school districts and charter schools may elect to have their records recorded onto a different type of media at district expense, in accordance with DPA guidelines.
 - 3.3.1 The information referred to above shall be maintained and available for any employee or former employee seeking information concerning their own employment records for a period of fifty (50) years after termination of employment. It is recommended that for the convenience of employees and former employees that school districts and charter schools develop an alphabetically arranged file showing the name of each employee and the disposition of his or her records.

3 DE Reg. 1077 (02/01/00)

4 DE Reg. 989 (12/01/00)

9 DE Reg. 395 (09/01/05)

12 DE Reg. 443 (10/01/08)

20 DE Reg. 801 (04/01/17)

24 DE Reg. 1044 (06/01/21) (Prop.)