

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 712

FINAL

REGULATORY IMPLEMENTING ORDER

712 Employee Leave

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of Education intends to amend 14 **DE Admin. Code** 712 Employee Leave. This regulation is being amended as part of the 2016 Regulation Review as required by 29 **Del.C.** §10407. Public comment was received for this regulation which asked the Department of Education to include language that requires current employees to use their annual leave in a lump sum when retired/terminated so that a new employee can be hired. The Department consulted with Human Resources Directors on the comment and found that this was not a concern and they did not support the change as requested. The Department did make changes to the annual leave portion of the regulation for purposes of clarification.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on January 1, 2017 in the form hereto attached as *Exhibit "A"*. No comments were received for this regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 712 Employee Leave only to make minor changes to the annual leave portion of the regulation for purposes of clarification.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 712 Employee Leave. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 712 Employee Leave attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 712 Employee Leave 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** 712 Employee Leave amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 712 Employee Leave 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 February 16, 2017. 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 16th day of February 2017.

Department of Education

Susan Bunting, Secretary of Education

Approved this 16th day of February 2017

712 Employee Leave

1.0 Sick Leave

- 1.1 Sick leave accumulated by an employee of any state agency or school district shall be transferred when said employee begins subsequent employment in a school district. If there is a break in service the transfer can only occur if the break was for less than six (6) months.
- 1.2 Sick leave days are made available at the start of the fiscal year, but adjustments for employees who terminate service prior to the end of the school year shall be made in the final paycheck.

8 **DE Reg.** 1479 (04/01/05)

13 **DE Reg.** 1302 (04/01/10)

2.0 Annual Leave

Subject to any limitation imposed by statute, accumulated annual leave shall be paid upon termination of employment. The ~~employee~~ employer may allow the employee to either remain on the regular payroll until such time as all annual leave is exhausted, or receive a lump sum payment for all unused annual leave ~~on~~ in the employee's final paycheck. The vacated position may be filled at any time provided that the two employees do not receive compensation for the same pay period. Accumulated annual leave shall not be transferred between different employing state agencies or school districts.

3 DE Reg. 1392 (04/01/00)

8 DE Reg. 1479 (04/01/05)

13 DE Reg. 1302 (04/01/10)

20 DE Reg. 716 (03/01/17) (Final)