

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 3110(d) (14 Del.C. § 3110(d))  
14 DE Admin. Code 211

### PROPOSED

### PUBLIC NOTICE

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

#### 211 Notice to School Boards of Due Process Proceedings

##### A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

##### B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. §3110(d), the Secretary of Education intends to amend 14 DE Admin. Code 211 Notice to School Boards of Due Process Proceedings. This regulation is being amended to specifically recognize vocational school and charter school board members and to streamline language in accordance with the *Delaware Administrative Code Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before April 1, 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](mailto: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](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 will help ensure all 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 special education 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 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.

#### 211 Notice to District and Charter School Boards of Due Process ~~Proceedings~~ Hearings

##### 1.0 Purpose

The purpose of this regulation is to outline the process for notifying district, including vocational technical school, and charter school board members pursuant to 14 **Del.C.** §3110(d) of special education administrative hearings under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 et seq. ("IDEA") and 14 **Del.C.** §3101 ~~et seq~~ ("Chapter 31") involving the school ~~district~~ district, vocational technical school, or charter school.

## **2.0 Definitions**

**"School Board"** ~~shall mean~~ means charter school boards of directors organized pursuant to ~~Chapter 5 of Title 14 of the Delaware Code, 14 Del.C. Ch. 5,~~ and reorganized school district boards and vocational technical school district boards duly appointed or elected pursuant to ~~Chapter 10 of Title 14 of the Delaware Code~~ 14 Del.C. Ch. 10.

**"School Board Member"** ~~shall mean~~ means a ~~district school board member~~ district, vocational technical, or charter school board member whether that person is elected, appointed, or ~~is a volunteer~~ volunteers.

## **3.0 Privacy and Confidentiality Considerations**

Actions taken and documents provided in accordance with this regulation and 14 **Del.C.** §3110(d) must comply with IDEA and its regulations, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g ("FERPA") and its regulations, the Delaware Freedom of Information Act, 14 **Del.C.** §10001 et seq. ("FOIA"), and all other applicable federal and state laws and regulations governing the privacy and confidentiality of student information and records.

## **4.0 Notice of Due Process Complaint**

- 4.1 After receiving notification that a due process complaint has been received by the Secretary of the Department of Education, the superintendent of a reorganized school district or a vocational technical school district (~~"superintendent"~~) or the head of charter school principal (~~"principal"~~) shall provide a copy of the complaint to each school board member at the next scheduled school board meeting.
- 4.2 The school board president shall sign a statement that all school board members received a copy of the complaint and the superintendent or ~~principal~~ head of charter school shall provide a copy of the statement to the ~~parent(s)~~ parent or legal guardian of the child named in the complaint by certified mail.

## **5.0 Notice of Due Process Hearing Panel Decision**

- 5.1 Within ~~7~~ seven (7) school days of receiving a due process hearing decision, the superintendent or ~~principal~~ head of charter school shall provide a copy of the decision to each school board member.
- 5.2 The superintendent or ~~principal~~ head of charter school shall send a letter signed by the school board president to the parent or legal guardian of the child named in the hearing decision by certified mail, stating that the members of the school board were provided with a copy of the due process hearing decision.

**14 DE Reg. 1050 (04/01/11)**

## **6.0 Notice of Parent Request for Judicial Review of Due Process Hearing Panel Decision**

- 6.1 After receipt of the civil action filed by a parent or legal guardian seeking judicial review of a due process hearing decision pursuant to applicable laws and regulation, the superintendent or ~~principal~~ head of charter school shall provide each school board member with a copy of the civil action at the next regularly scheduled school board meeting.
- 6.2 The superintendent or ~~principal~~ head of charter school shall send a letter signed by the president of the school board by certified mail to the ~~parent(s)~~ parent or legal guardian of the child named in the civil action stating that the members of the school board were provided with a copy of the civil action.

## **7.0 School District or Charter School Request for Judicial Review of Due Process Hearing Panel Decision**

A decision by a reorganized school ~~district or district,~~ a vocational technical school district or a charter school to seek judicial review of a due process hearing decision must be made by a majority of school board members.

**14 DE Reg. 1050 (04/01/11)**

**24 DE Reg. 828 (03/01/21) (Prop.)**