
Delaware Register of Regulations

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IN THIS ISSUE:

Regulations:

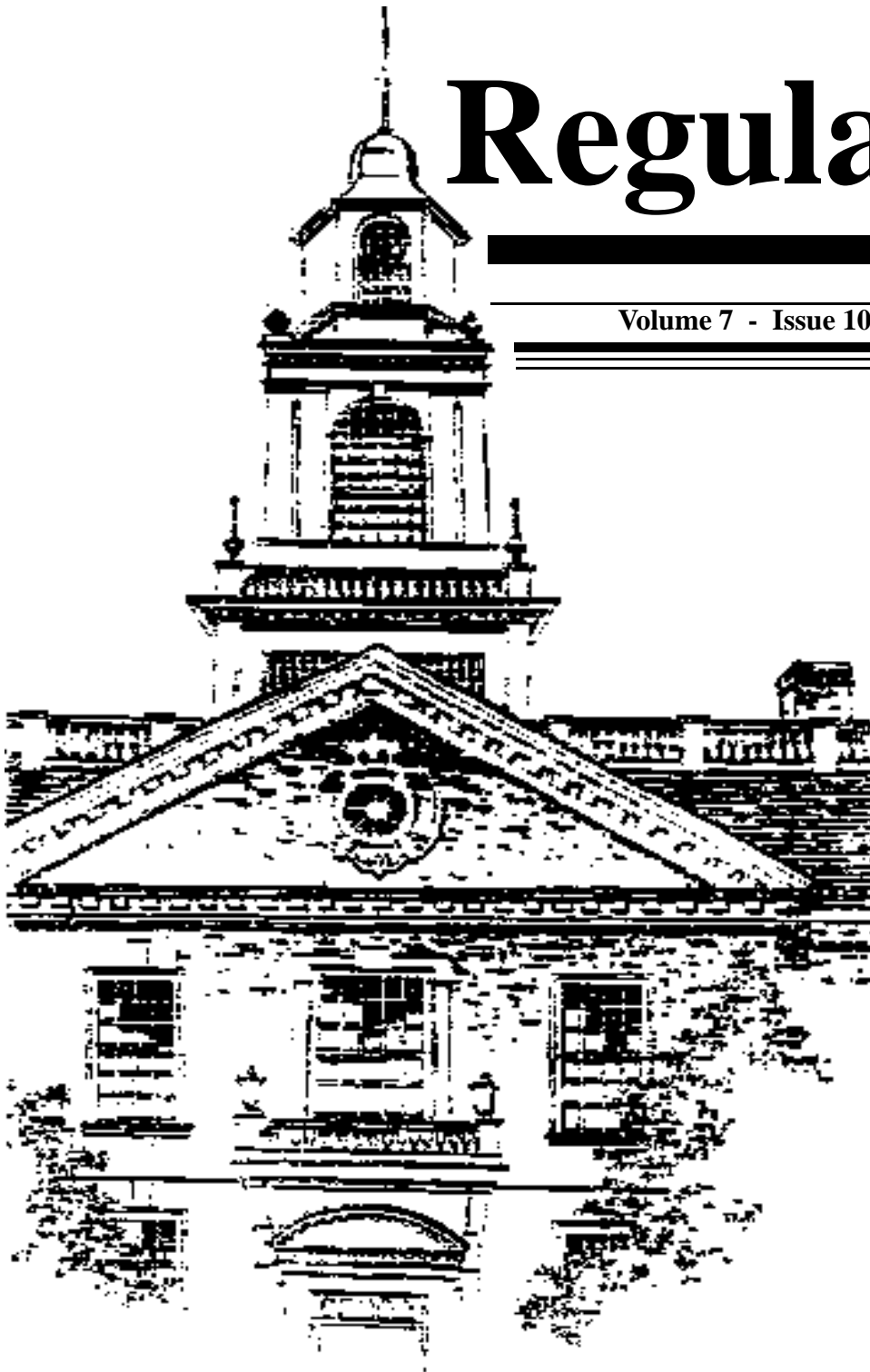
Emergency

Proposed

Final

Calendar of Events &

Hearing Notices



Pursuant to 29 Del. C. Chapter 11, Subchapter III, this issue of the Register contains all documents required to be published, and received, on or before March 15, 2004.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

DELAWARE REGISTER OF REGULATIONS

The Delaware Register of Regulations is an official State publication established by authority of 69 Del. Laws, c. 107 and is published on the first of each month throughout the year.

The Delaware Register will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

The Register will also publish some or all of the following information:

- Governor's Executive Orders
- Governor's Appointments
- Attorney General's Opinions in full text
- Agency Hearing and Meeting Notices
- Other documents considered to be in the public interest.

CITATION TO THE DELAWARE REGISTER

The Delaware Register of Regulations is cited by volume, issue, page number and date. An example would be:

6 DE Reg. 1541-1542 (06/01/03)

Refers to Volume 6, pages 1541-1542 of the Delaware Register issued on June 1, 2003.

SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the Delaware Register of Regulations is \$135.00. Single copies are available at a cost of \$12.00 per issue, including postage. For more information contact the Division of Research at 302-744-4114 or 1-800-282-8545 in Delaware.

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

Delaware citizens and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the Register of Regulations. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations. At the conclusion of all hearings and after receipt, within the time allowed, of all written

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

1223

materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the Register of Regulations, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.

No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.

When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.

Except as provided in the preceding section, no judicial review of a regulation is available unless a complaint therefor is filed in the Court within 30 days of the day the agency order with respect to the regulation was published in the Register of Regulations.

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
MAY 1	APRIL 15	4:30 P.M.
JUNE 1	MAY 15	4:30 P.M.
JULY 1	JUNE 15	4:30 P.M.
AUGUST 1	JULY 15	4:30 P.M.
SEPTEMBER 1	AUGUST 15	4:30 P.M.

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Cumulative Tables..... 1226

EMERGENCY

DEPARTMENT OF AGRICULTURE

Plant Pests 1235
 Poultry, Order Rescinding Emergency
 Regulation..... 1236

PROPOSED

DEPARTMENT OF ADMINISTRATIVE SERVICES DIVISION OF PROFESSIONAL REGULATION

Board of Pharmacy, 3.0, Pharmacy Requirements &
 15.0 Automated Pharmacy Systems..... 1237

DEPARTMENT OF AGRICULTURE

Poultry Disease Prevention Regulations..... 1241

DEPARTMENT OF EDUCATION

103 Accountability for Schools, Districts and
 the State 1244
 1025 Delaware Interscholastic Athletic Association
 (DIAA); 1049 DIAA Definitions; 1050 DIAA
 Sportsmanship; 1051 DIAA Senior High School
 Interscholastic Athletics; 1052 DIAA Junior High/
 Middle School Interscholastic Athletics; 1053
 DIAA Waiver Procedure; 1054 DIAA Investigative
 Procedure; 1055 DIAA Appeal Procedure; 1056
 Recognition of Officials' Associations..... 1251

PROFESSIONAL STANDARDS BOARD

341 Certification Trade and Industrial (T & I)
 Teacher..... 1294
 382 Certification School Social Work Services... 1298
 1516 Standard Certificate..... 1300
 1530 Certification Administrative Principal/Assistant
 Principal, 1531 Certification Administrative
 School Leader I, and 1532 Certification
 Administrative – School Leader II..... 1302
 1556 Standard Certificate Primary Teacher..... 1305
 1557 Standard Certificate Middle Level
 Teacher..... 1307

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Training & Qualifications for Nursing Assistants
 and Certified Nursing Assistants..... 1309

DIVISION OF PUBLIC HEALTH

Regulations Pertaining to the Testing of Newborn
 Infants for Metabolic, Hematologic and
 Endocrinologic Disorders..... 1310

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Green Energy Fund Program Regulation..... 1317

DIVISION OF PARKS

Delaware State Parks Rules & Regulations..... 1327

FINAL

DEPARTMENT OF ADMINISTRATIVE SERVICES DIVISION OF PROFESSIONAL REGULATION

3600 Board of Professional Geologists..... 1342

DEPARTMENT OF EDUCATION

511 Credit Requirements for High School
 Graduation..... 1344
 515 High School Diplomas and Certificate of
 Performance..... 1344

PROFESSIONAL STANDARDS BOARD

342 Endorsement Trade And Industrial (T&I)
 Teacher Special Education Teacher Endorsement
 Repeal of..... 1347
 373 Certification Coordinator, Cooperative
 Occupational/Vocational Education and/or
 Work-Study Programs, Repeal of..... 1347
 374 Certification Counselor Career Guidance and
 Placement, Repeal of..... 1347
 383 Certification Visiting Teacher, Repeal of..... 1347
 1511 Issuance And Renewal Of Continuing
 License 1350

**CALENDAR OF EVENTS/HEARING
NOTICES**

Div. of Professional Regulation, Board of Pharmacy, Notice of Public Hearing.....	1356
Dept. of Agriculture, Poultry Disease Prevention Regulations, Notice of Public Hearing.....	1356
State Board of Education, Notice of Monthly Meeting	1356
Dept. of Health & Social Services, Division of Long Term Care Residents Protection, Training & Qualifications for Nursing Assistants and Certified Nursing Assistants, Notice of Public Hearing.....	1356
Div. of Public Health, Regulations Pertaining to the Testing of Newborn Infants for Metabolic, Hematologic and Endocrinologic Disorders, Notice of Public Hearing.....	1357
Dept. of Natural Resources & Environmental Control, Green Energy Fund Program Regulation, Notice of Public Hearing.....	1357
Div. of Parks & Recreation, Delaware State Parks Rules and Regulations, Notice of Public Hearing.....	1357
Delaware River Basin Commission, Notice of Public Hearing.....	1358

The table printed below lists the regulations that have been proposed, adopted, amended or repealed in the preceding issues of the current volume of the Delaware Register of Regulations.

The regulations are listed alphabetically by the promulgating agency, followed by a citation to that issue of the Register in which the regulation was published. Proposed regulations are designated with (Prop.); Final regulations are designated with (Final); Emergency regulations are designated with (Emer.); and regulations that have been repealed are designated with (Rep.).

DELAWARE FIRE PREVENTION COMMISSION

Part X Ambulance Regulations..... 7 **DE Reg.** 1039 (Prop.)

DEPARTMENT OF ADMINISTRATIVE SERVICES**DIVISION OF PROFESSIONAL REGULATION (TITLE 24 DELAWARE ADMINISTRATIVE CODE)**

100 Board of Accountancy..... 7 **DE Reg.** 7 (Prop.)
 700 Board of Chiropractic..... 7 **DE Reg.** 494 (Final)
 1300 Board of Examiners of Private Investigators and Private Security Agencies..... 7 **DE Reg.** 36 (Final)
 1400 Board of Electrical Examiners..... 7 **DE Reg.** 1173 (Final)
 1700 Board of Electrical Examiners..... 7 **DE Reg.** 697 (Prop.)
 1700 Board of Electrical Examiners..... 7 **DE Reg.** 1167 (Final)
 1700 Respiratory Care Practice Advisory Council of the Delaware Board of Medical
 Practice..... 7 **DE Reg.** 384 (Prop.)
 7 **DE Reg.** 761 (Final)
 1900 Board of Nursing 7 **DE Reg.** 158 (Final)
 2100 Board of Optometry..... 7 **DE Reg.** 545 (Prop.)
 7 **DE Reg.** 912 (Final)
 2500 Board of Pharmacy, 7 **DE Reg.** 239 (Prop.)
 7 **DE Reg.** 309 (Final)
 7 **DE Reg.** 546 (Prop.)
 7 **DE Reg.** 693 (Errata)
 7 **DE Reg.** 914 (Final)
 2700 Board of Professional Land Surveyors..... 7 **DE Reg.** 385 (Prop.)
 7 **DE Reg.** 918 (Final)
 3600 Board of Professional Geologists..... 7 **DE Reg.** 853 (Prop.)
 3900 Board of Clinical Social Work Examiners..... 7 **DE Reg.** 854 (Prop.)
 5300 Board of Massage and Bodywork..... 7 **DE Reg.** 40 (Final)

PUBLIC SERVICE COMMISSION

Regulation Docket No. 50, Consideration of Rules, Standards and Indices to Ensure
 Reliable Electrical Service by Electric Distribution Companies..... 7 **DE Reg.** 243 (Prop.)
 7 **DE Reg.** 762 (Final)
 Regulation Docket No. 53, Regulations Governing Termination of Residential Electric
 or Natural Gas Service by Public Utilities for Non-Payment During Extreme
 Seasonal Temperature Conditions..... 7 **DE Reg.** 550 (Prop.)
 7 **DE Reg.** 922 (Final)

DEPARTMENT OF AGRICULTURE

Poultry 7 **DE Reg.** 1038(Emer.)
 Standardbred Breeder's Fund Regulations..... 7 **DE Reg.** 119 (Prop.)
 7 **DE Reg.** 497 (Final)

Nutrient Management Program

703 Mandatory Nutrient Management Plan Reporting Implementation Regulation..... 7 **DE Reg.** 160 (Final)

Harness Racing Commission

Rules 3.0 Officials, 6.0 Types of Races and 8.0 Veterinary Practices, Equine
 Health Medication..... 7 **DE Reg.** 861 (Prop.)
 Rule 7.0, Rules of the Race, Sections 7.6.6.3 and 7.3.9..... 7 **DE Reg.** 42 (Final)

Pesticides Section

Pesticide Regulations..... 7 **DE Reg.** 1056 (Prop.)

Thoroughbred Racing Commission

Rule 1.28, Meeting.....	7 DE Reg. 316 (Final)
Rule 3.02, Appointment of Stewards.....	7 DE Reg. 316 (Final)
Rule 6.02, Requirements for Owner's Registration.....	7 DE Reg. 389 (Prop.)
Rule 13.05 Thirty Day Prohibition-Racing Claimed Horse	7 DE Reg. 766 (Final)
Rule 13.12, Claiming Races.....	7 DE Reg. 324 (Final)
Rule 15.1.3.1.13, Erythropietin (EPO).....	7 DE Reg. 978 (Prop.)
Rule 15.12, Intermittent Hypoxic Treatment by External Device.....	7 DE Reg. 978 (Prop.)
Rule 15.12, Intermittent Hypoxic Treatment by External Device.....	7 DE Reg. 389 (Prop.)
Rule 19.01, Procedure Before Stewards.....	7 DE Reg. 766 (Final)
Rule 19.01, Procedure Before Stewards.....	7 DE Reg. 316 (Final)

DEPARTMENT OF EDUCATION (TITLE 14 DELAWARE ADMINISTRATIVE CODE)

101 Delaware Student Testing Program.....	7 DE Reg. 51 (Final)
103 School Accountability for Academic Performance	7 DE Reg. 325 (Final)
104 Education Profiles for the Schools, Districts and the State.....	7 DE Reg. 57 (Final)
106 Teacher Appraisal Process-Delaware Performance Appraisal System (DPAS II).....	7 DE Reg. 65 (Final)
107 Specialist Appraisal Process-Delaware Performance Appraisal System (DPAS II).....	7 DE Reg. 1072 (Prop.)
108 Administrator Appraisal Process-Delaware Performance Appraisal System (DPAS II).....	7 DE Reg. 1072 (Prop.)
215 Strategic Planning.....	7 DE Reg. 1072 (Prop.)
215 Strategic Planning.....	7 DE Reg. 10 (Prop.)
220 Diversity.....	7 DE Reg. 330 (Final)
220 Diversity.....	7 DE Reg. 554 (Prop.)
220 Diversity.....	7 DE Reg. 887 (Prop.)
225 Prohibition of Discrimination.....	7 DE Reg. 1177 (Final)
225 Prohibition of Discrimination.....	7 DE Reg. 556 (Prop.)
225 Prohibition of Discrimination.....	7 DE Reg. 888 (Prop.)
225 Prohibition of Discrimination.....	7 DE Reg. 1178 (Final)
230 Promotion Regulation.....	7 DE Reg. 556 (Prop.)
230 Promotion Regulation.....	7 DE Reg. 927 (Final)
235 Teacher of the Year.....	7 DE Reg. 889 (Prop.)
235 Teacher of the Year.....	7 DE Reg. 1178 (Final)
240 Recruiting & Training of Professional Educators for Critical Curricular Areas.....	7 DE Reg. 703 (Prop.)
240 Recruiting & Training of Professional Educators for Critical Curricular Areas.....	7 DE Reg. 994 (Final)
245 Michael C. Ferguson Achievement Awards Scholarship.....	7 DE Reg. 707 (Prop.)
245 Michael C. Ferguson Achievement Awards Scholarship.....	7 DE Reg. 998 (Final)
255 Definitions of Public School and Private School.....	7 DE Reg. 254 (Prop.)
255 Definitions of Public School and Private School.....	7 DE Reg. 618 (Final)
275 Charter Schools.....	7 DE Reg. 125 (Prop.)
275 Charter Schools.....	7 DE Reg. 557 (Prop.)
275 Charter Schools.....	7 DE Reg. 928 (Final)
511 Credit Requirements for High School Graduation.....	7 DE Reg. 891 (Prop.)
511 Credit Requirements for High School Graduation.....	7 DE Reg. 982 (Prop.)
515 High School Diplomas and Certificate of Performance.....	7 DE Reg. 891 (Prop.)
515 High School Diplomas and Certificate of Performance.....	7 DE Reg. 986 (Prop.)
520 Options for Awarding Credit Toward High School Graduation.....	7 DE Reg. 891 (Prop.)
520 Options for Awarding Credit Toward High School Graduation.....	7 DE Reg. 986 (Prop.)
608 Unsafe School Choice Option for Students in Persistently Dangerous Schools and for Students Who Have Been Victims of a Violent Felony.....	7 DE Reg. 67 (Final)
610 Comprehensive School Discipline Program.....	7 DE Reg. 10 (Prop.)
610 Comprehensive School Discipline Program.....	7 DE Reg. 331 (Final)
612 (Formerly 876) Possession, Use or Distribution of Drugs and Alcohol	7 DE Reg. 403 (Prop.)
612 (Formerly 876) Possession, Use or Distribution of Drugs and Alcohol	7 DE Reg. 767 (Final)
615 School Attendance	7 DE Reg. 130 (Prop.)
615 School Attendance	7 DE Reg. 619 (Final)
707 Salary continuation: Operation Noble Eagle and Enduring Freedom.....	7 DE Reg. 708 (Prop.)
707 Salary continuation: Operation Noble Eagle and Enduring Freedom.....	7 DE Reg. 1000 (Final)
811 School Health Record Keeping Requirements.....	7 DE Reg. 68 (Final)

815 Physical Examinations and Screening	7 DE Reg. 68 (Final)
817 Administration of Medications and Treatments.....	7 DE Reg. 68 (Final)
878 Guidelines for the School Districts to Comply with the Gun Free Schools Act.....	7 DE Reg. 12 (Prop.)
	7 DE Reg. 333 (Final)
881 Releasing Students to Persons Other Than Their Parents or Legal Guardians.....	7 DE Reg. 131 (Prop.)
	7 DE Reg. 504 (Final)
901 Education of Homeless Children & Youth.....	7 DE Reg. 254 (Prop.)
	7 DE Reg. 620 (Final)
1025 Delaware Interscholastic Athletic Association (DIAA).....	7 DE Reg. 1081 (Prop.)
1102 Standards for School Bus Chassis and Bodies Placed in Production on March 1, 2002.....	7 DE Reg. 563 (Prop.)
	7 DE Reg. 933 (Final)
1049 DIAA Definitions.....	7 DE Reg. 1081 (Prop.)
1050 DIAA Sportsmanship.....	7 DE Reg. 1081 (Prop.)
1051 DIAA Senior High School Interscholastic Athletics.....	7 DE Reg. 406 (Prop.)
	7 DE Reg. 770 (Final)
	7 DE Reg. 1081 (Prop.)
1052 DIAA Junior High/Middle School Interscholastic Athletics.....	7 DE Reg. 1081 (Prop.)
1053 DIAA Waiver Procedure.....	7 DE Reg. 1081 (Prop.)
1054 DIAA Investigative Procedure.....	7 DE Reg. 1081 (Prop.)
1055 DIAA Appeal Procedure.....	7 DE Reg. 1081 (Prop.)
1056 Recognition of Officials' Associations.....	7 DE Reg. 1081 (Prop.)
1101 Standards for School Bus Chassis and Bodies Placed in Production After March 1, 1998.	7 DE Reg. 1123 (Prop.)
1105 School Transportation.....	7 DE Reg. 1123 (Prop.)

PROFESSIONAL STANDARDS BOARD

120 Required Inservice Training Activities For Delaware Public School Administrators, Repeal Of	7 DE Reg. 894 (Prop.)
	7 DE Reg. 1180 (Final)
301 General Regulations for Certification of Professional Public School Personnel.....	7 DE Reg. 161 (Final)
321 Certification Agriculture Teacher.....	7 DE Reg. 416 (Prop.)
	7 DE Reg. 775 (Final)
322 Certification Business Education Teacher.....	7 DE Reg. 417 (Prop.)
	7 DE Reg. 775 (Final)
325 Certification English Teacher.....	7 DE Reg. 418 (Prop.)
	7 DE Reg. 775 (Final)
328 Certification Foreign Language Teacher Comprehensive.....	7 DE Reg. 418 (Prop.)
	7 DE Reg. 775 (Final)
329 Certification Foreign Language Secondary.....	7 DE Reg. 419 (Prop.)
	7 DE Reg. 775 (Final)
330 Certification Foreign Language Teacher Elementary.....	7 DE Reg. 420 (Prop.)
	7 DE Reg. 775 (Final)
333 Certification Journalism Teacher, Repeal.....	7 DE Reg. 412 (Prop.)
	7 DE Reg. 777 (Final)
335 Certification Mathematics Teacher.....	7 DE Reg. 421 (Prop.)
	7 DE Reg. 775 (Final)
337 Certification Bilingual Teacher (Spanish) Secondary.....	7 DE Reg. 422 (Prop.)
	7 DE Reg. 775 (Final)
338 Certification Social Studies Teacher.....	7 DE Reg. 423 (Prop.)
	7 DE Reg. 775 (Final)
339 Certification Speech Teacher, Repeal.....	7 DE Reg. 412 (Prop.)
	7 DE Reg. 777 (Final)
342 Endorsement Trade and Industrial Teacher.....	7 DE Reg. 986 (Prop.)
343 Certification Art Teacher Comprehensive.....	7 DE Reg. 424 (Prop.)
	7 DE Reg. 775 (Final)
344 Certification Art Teacher Elementary.....	7 DE Reg. 424 (Prop.)
	7 DE Reg. 775 (Final)
345 Certification Art Teacher Secondary.....	7 DE Reg. 425 (Prop.)

CUMULATIVE TABLES

1229

345 Certification Art Teacher Secondary.....	7 DE Reg. 775 (Final)
346 Certification Health Education Teacher.....	7 DE Reg. 425 (Prop.)
	7 DE Reg. 775 (Final)
348 Music Teacher Comprehensive.....	7 DE Reg. 426 (Prop.)
	7 DE Reg. 775 (Final)
349 Music Teacher Elementary.....	7 DE Reg. 427 (Prop.)
	7 DE Reg. 775 (Final)
350 Certification Music Teacher Secondary.....	7 DE Reg. 427 (Prop.)
	7 DE Reg. 775 (Final)
351 Certification Physical Education Teacher Comprehensive.....	7 DE Reg. 428 (Prop.)
	7 DE Reg. 775 (Final)
352 Certification Physical Education TeacherElementary.....	7 DE Reg. 428 (Prop.)
	7 DE Reg. 775 (Final)
353 Certification Physical Education Teacher Secondary.....	7 DE Reg. 429 (Prop.)
	7 DE Reg. 775 (Final)
354 Certification Reading Specialist.....	7 DE Reg. 430 (Prop.)
	7 DE Reg. 775 (Final)
355 Certification Early Care and Education Teacher.....	7 DE Reg. 431 (Prop.)
	7 DE Reg. 775 (Final)
356 Certification Primary Teacher (Grades K-4).....	7 DE Reg. 432 (Prop.)
	7 DE Reg. 775 (Final)
357 Certification Middle Level Teacher (Grades 5-8).....	7 DE Reg. 433 (Prop.)
	7 DE Reg. 775 (Final)
358 Certification Bilingual Teacher (Spanish)Primary/middle Level.....	7 DE Reg. 435 (Prop.)
	7 DE Reg. 775 (Final)
361 Certification Teacher Exceptional Children Special Education/Elementary.....	7 DE Reg. 436 (Prop.)
	7 DE Reg. 775 (Final)
362 Certification Teacher Exceptional Children Special Education/Secondary.....	7 DE Reg. 437 (Prop.)
	7 DE Reg. 775 (Final)
363 Certification Exceptional Children Teacher Gifted/Talented.....	7 DE Reg. 410 (Prop.)
364 Certification Interpreter Tutor for the Hearing Impaired.....	7 DE Reg. 986 (Prop.)
365 Certification Resident Advisor.....	7 DE Reg. 986 (Prop.)
373 Certification Coordinator, Cooperative Occupational/Vocational Education and/or Work- Study Programs.....	7 DE Reg. 986 (Prop.)
374 Certification Counselor Career Guidance and Placement.....	7 DE Reg. 986 (Prop.)
375 Certification Counselor – Elementary School.....	7 DE Reg. 438 (Prop.)
	7 DE Reg. 775 (Final)
376 Certification Counselor – Secondary School.....	7 DE Reg. 439 (Prop.)
	7 DE Reg. 775 (Final)
377 Certification Human Relations Specialists, Repeal.....	7 DE Reg. 412 (Prop.)
	7 DE Reg. 777 (Final)
378 Intern, Repeal.....	7 DE Reg. 412 (Prop.)
	7 DE Reg. 777 (Final)
383 Visiting Teacher.....	7 DE Reg. 986 (Prop.)
390 Delaware Licensure for Teachers Holding National Board for Professional Teaching Standards Certification.....	7 DE Reg. 585 (Prop.)
	7 DE Reg. 955 (Final)
392 Middle Level Certification, Repeal.....	7 DE Reg. 412 (Prop.)
	7 DE Reg. 777 (Final)
605 Student Rights and Responsibilities.....	7 DE Reg. 187 (Final)
905 Federal Programs General Complaint Procedures.....	7 DE Reg. 188 (Final)
1504 Delaware Performance Appraisal System for Administrators.....	7 DE Reg. 13 (Prop.)
1507 Professional Growth Salary Increments.....	7 DE Reg. 709 (Prop.)
	7 DE Reg. 1001 (Prop.)
1509 Meritorious New Teacher Candidate Designation.....	7 DE Reg. 712 (Prop.)
1510 Issuance of Initial License.....	7 DE Reg. 262 (Prop.)
	7 DE Reg. 623 (Final)
	7 DE Reg. 714 (Prop.)

1510 Issuance of Initial License.....	7 DE Reg. 1181 (Final)
1511 Issuance and Renewal of Continuing License.....	7 DE Reg. 197 (Final)
	7 DE Reg. 988 (Prop.)
1512 Issuance & Renewal of Advanced License.....	7 DE Reg. 585 (Prop.)
	7 DE Reg. 956 (Final)
1514 Revocation of Licenses.....	7 DE Reg. 265 (Prop.)
	7 DE Reg. 627 (Final)
1516 Standard Certificate.....	7 DE Reg. 267 (Prop.)
	7 DE Reg. 629 (Final)
	7 DE Reg. 718 (Prop.)
	7 DE Reg. 1004 (Final)
1526 Certification English to Speakers of Other Languages.....	7 DE Reg. 440 (Prop.)
	7 DE Reg. 775 (Final)
1530 Certification - Administrative - School Principal.....	7 DE Reg. 190 (Final)
1531 Certification - Administrative - School Leader I.....	7 DE Reg. 190 (Final)
1532 Certification - Administrative - School Leader II.....	7 DE Reg. 190 (Final)
1540 Certificate Science Teacher.....	7 DE Reg. 441 (Prop.)
	7 DE Reg. 775 (Final)
1541 Standard Certificate – Mathematics Teacher –Middle Level.....	7 DE Reg. 442 (Prop.)
	7 DE Reg. 775 (Final)
1542 Standard Certificate – Science Teacher –Middle Level.....	7 DE Reg. 443 (Prop.)
	7 DE Reg. 775 (Final)
1547 (Formerly 347) Certification Library/Media Specialist	7 DE Reg. 258 (Prop.)
	7 DE Reg. 632 (Final)
1563 Standard Certificate, Teacher of Gifted and Talented Students.....	7 DE Reg. 779 (Final)
1580 (Formerly 380) Certification School Nurse.....	7 DE Reg. 260 (Prop.)
	7 DE Reg. 633 (Final)
1584 Permits, School, Classroom Aides and Autistic Residential Child Care Specialists	7 DE Reg. 720 (Prop.)
	7 DE Reg. 1006 (Final)
1593 Delaware Professional Teaching Standards	7 DE Reg. 75 (Final)
PUBLIC EMPLOYMENT RELATIONS BOARD	
Rule 12, Binding Grievance Arbitration.....	7 DE Reg. 397 (Prop.)
	7 DE Reg. 823 (Final)
DEPARTMENT OF FINANCE	
OFFICE OF THE STATE LOTTERY	
Lottery Regulations	
Rule 30, Non-Discrimination on the Basis of Disability in Delaware Lottery Programs.....	7 DE Reg. 270 (Prop.)
	7 DE Reg. 635 (Final)
	7 DE Reg. 1010 (Final)
Video Lottery Regulations	
Video Lottery,	7 DE Reg. 587 (Prop.)
	7 DE Reg. 958 (Final)
Video Lottery, Section 5.1, Technology Providers: Contracts; Requirements; Duties, Section 7.15, Game Requirements.....	7 DE Reg. 202 (Final)
Video Lottery, Section 5.0, Technology Providers: Contracts; Requirements; Duties, Section 6.0, Agents: Duties, Section 7.0, Game Requirements.....	7 DE Reg. 206 (Final)
DEPARTMENT OF HEALTH AND SOCIAL SERVICES	
DIVISION OF LONG TERM CARE RESIDENTS PROTECTION	
Adult Abuse Registry, Regulations Governing.....	7 DE Reg. 82 (Final)
Regulation 55.0, Neighborhood Homes for Persons with Developmental Disabilities.....	7 DE Reg. 132 (Prop.)
	7 DE Reg. 504 (Final)
Regulation 73.0, Training of Paid Feeding Assistants.....	7 DE Reg. 1133 (Prop.)
Training of Paid Feeding Assistants, Regulations for.....	7 DE Reg. 895 (Prop.)
	7 DE Reg. 1186 (Final)

CUMULATIVE TABLES

1231

DIVISION OF PUBLIC HEALTH

108 Hearing Aid Loan Bank Program Regulations.....	7 DE Reg. 1134 (Prop.)
Home Health Agencies, Regulations for.....	7 DE Reg. 724 (Prop.)
Pre-Hospital Advanced Care Directive Regulations.....	7 DE Reg. 85 (Final)
Public Drinking Water Systems, Regulations Governing.....	7 DE Reg. 94 (Final)
Regulation for the Certification of Radiation Technologists/Technicians.....	7 DE Reg. 273 (Prop.)
	7 DE Reg. 639 (Final)
Uniformed Controlled Substances Act, Rescheduling of Gamma Hydroxy Butyrate (GHB)	7 DE Reg. 608 (Prop.)
	7 DE Reg. 960 (Final)

DIVISION OF SOCIAL SERVICES

Independent Therapist Provider for Physical Therapy and Related Services.....	7 DE Reg. 745 (Prop.)
	7 DE Reg. 1011 (Final)
Prescribed Pediatric Extended Care Program and Title XIX Medicaid State Plan	7 DE Reg. 277 (Prop.)
	7 DE Reg. 643 (Final)
Title XIX Medicaid State Plan, Attachment 4.18, Client Cost Sharing for Pharmaceutical Services.....	7 DE Reg. 23 (Prop.)
	7 DE Reg. 609 (Prop.)
	7 DE Reg. 751 (Prop.)
	7 DE Reg. 962 (Final)
Beds During Absence from Long-Term Care Facilities.....	7 DE Reg. 28 (Prop.)
	7 DE Reg. 781 (Final)

DSSM

1009, Procedures for Serving Non-English Speaking Clients.....	7 DE Reg. 898 (Prop.)
	7 DE Reg. 1191 (Final)
2027, Disqualification of Individuals Convicted of Drug Related Offenses.....	7 DE Reg. 299 (Prop.)
	7 DE Reg. 647 (Final)
3001, Definitions.....	7 DE Reg. 899 (Prop.)
	7 DE Reg. 1191 (Final)
3006.3, TANF Employment and Training Activities.....	7 DE Reg. 899 (Prop.)
.....	7 DE Reg. 1191 (Final)
3006.4, TANF Employment and Training Activities Which Constitute Participation Under TANF.....	7 DE Reg. 899 (Prop.)
	7 DE Reg. 1192 (Final)
3007, TANF Supportive Services and Transitional Benefits.....	7 DE Reg. 900 (Prop.)
	7 DE Reg. 1192 (Final)
3007.1, Child Care.....	7 DE Reg. 900 (Prop.)
	7 DE Reg. 1192 (Final)
3007.2, Fees, Repeal Of.....	7 DE Reg. 900 (Prop.)
	7 DE Reg. 1193 (Rep.)
3007.3, CWEP Payments, Repeal Of.....	7 DE Reg. 900 (Prop.)
	7 DE Reg. 1193 (Rep.)
3007.4, Accessories For Work Or Training, Repeal of.....	7 DE Reg. 901 (Prop.)
	7 DE Reg. 1193 (Rep.)
3007.5, Remedial Medical, Repeal Of.....	7 DE Reg. 901 (Prop.)
	7 DE Reg. 1193 (Rep.)
3011.1, Employment and Training Requirements.....	7 DE Reg. 901 (Prop.)
	7 DE Reg. 1194 (Final)
3011.2, Sanctions for Failing to Comply With Requirements.....	7 DE Reg. 902 (Prop.)
	7 DE Reg. 1194 (Final)
3021, Unrelated Children.....	7 DE Reg. 902 (Prop.)
	7 DE Reg. 1194 (Final)
3028.1, Mandatory Composition of Assistance Units.....	7 DE Reg. 902 (Prop.)
	7 DE Reg. 1195 (Final)
3028.2, Optional Composition of Assistance Units.....	7 DE Reg. 902 (Prop.)
	7 DE Reg. 1195 (Final)
3032.1.3, Items/Services Covered.....	7 DE Reg. 903 (Prop.)
	7 DE Reg. 1195 (Final)
4001, Family Budget Group.....	7 DE Reg. 904 (Prop.)

4001 Family Budget Group.....	7 DE Reg. 1197 (Final)
4001.1, Examples to Illustrate Rules Regarding Budget Groups.....	7 DE Reg. 904 (Prop.)
	7 DE Reg. 1197 (Final)
4005.1, Child Support Payments TANF.....	7 DE Reg. 905 (Prop.)
	7 DE Reg. 1197 (Final)
5100, Legal Base.....	7 DE Reg. 96 (Final)
5304, Jurisdiction.....	7 DE Reg. 96 (Final)
5312, Responses to Hearing Requests.....	7 DE Reg. 96 (Final)
5402, Hearings on Decisions.....	7 DE Reg. 96 (Final)
5403, Availability of Documents and Records.....	7 DE Reg. 96 (Final)
5405, Fair Hearing Procedures.....	7 DE Reg. 96 (Final)
6103, Eligibility.....	7 DE Reg. 1135 (Prop.)
7002.1, Cash Assistance Overpayments.....	7 DE Reg. 905 (Prop.)
	7 DE Reg. 1197 (Final)
9007.1, Citizenship and Alien Status.....	7 DE Reg. 29 (Prop.)
	7 DE Reg. 334 (Final)
9038, Verification Subsequent to Initial Certification.....	7 DE Reg. 30 (Prop.)
	7 DE Reg. 336 (Final)
9056, Earned Income.....	7 DE Reg. 1136 (Prop.)
9057, Unearned Income.....	7 DE Reg. 1137 (Prop.)
9059, Income Exclusions.....	7 DE Reg. 1137 (Prop.)
9063.3, Income Averaging.....	7 DE Reg. 30 (Prop.)
	7 DE Reg. 336 (Final)
	7 DE Reg. 1139 (Prop.)
9079.1, Through 9079.7.....	7 DE Reg. 1140 (Prop.)
9081.3, Exempt Aliens.....	7 DE Reg. 150 (Prop.)
	7 DE Reg. 516 (Final)
9085, Reporting Changes.....	7 DE Reg. 30 (Prop.)
	7 DE Reg. 150 (Prop.)
	7 DE Reg. 336 (Final)
	7 DE Reg. 516 (Final)
9085.2, DSS Responsibilities: Actions on Changes.....	7 DE Reg. 336 (Final)
14300, Citizenship and Alienage.....	7 DE Reg. 212 (Final)
14960, Cost Sharing.....	7 DE Reg. 23 (Prop.)
	7 DE Reg. 609 (Prop.)
	7 DE Reg. 962 (Final)
15120.2, Financial Eligibility.....	7 DE Reg. 32 (Prop.)
	7 DE Reg. 339 (Final)
15200, Transitional Medicaid/Initial Eligibility.....	7 DE Reg. 32 (Prop.)
	7 DE Reg. 339 (Final)
Temporary Assistance For Needy Families Services to Move Families to Work	7 DE Reg. 905 (Prop.)
Temporary Assistance for Needy Families (TANF) program	7 DE Reg. 280 (Prop.)
	7 DE Reg. 649 (Final)
	7 DE Reg. 898 (Prop.)
	7 DE Reg. 1197 (Final)

DEPARTMENT OF INSURANCE

1213 Recognition of the 2001 CSO Mortality Table for use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits.....	7 DE Reg. 444 (Prop.)
	7 DE Reg. 783 (Final)
1310, Standards for Prompt, Fair and Equitable Settlement of Claims for Health Care Services.....	7 DE Reg. 100 (Final)
1406, Third Party Administrators.....	7 DE Reg. 300 (Final)
	7 DE Reg. 668 (Final)

DEPARTMENT OF JUSTICE**DIVISION OF SECURITIES**

Delaware Securities Act, Sections 600, 601, 608, 700 and 610.....	7 DE Reg. 213 (Final)
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DEPARTMENT OF LABOR

Delaware Prevailing Wage Regulation.....	7 DE Reg. 152 (Prop.)
	7 DE Reg. 518 (Final)
Payroll Debit Cards.....	7 DE Reg. 906 (Prop.)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

Aboveground Storage Tanks, Regs Governing	7 DE Reg. 1143 (Prop.)
Amendments to Delaware Phase II Attainment Demonstration For The Philadelphia-Wilmington-Trenton Ozone Non-Attainment Area, Including A Revision of the Mid-Course Review Schedule.....	7 DE Reg. 907 (Prop.)
Chronic Violator Regulation.....	7 DE Reg. 1198 (Final)
Delaware 1999 Milestone Compliance Demonstration” For the 1-hour National Ambient Air Quality Standard Of Ground-Level Ozone	7 DE Reg. 345 (Final)
Delaware Phase II Attainment Demonstration For The Philadelphia-Wilmington-Trenton Ozone Non-Attainment Area Including A Revision of the 2005 Mobile Source Emission Budgets Using MOBILE6.....	7 DE Reg. 353 (Final)
Hazardous Waste, Regulations Governing.....	7 DE Reg. 615 (Prop.)
	7 DE Reg. 1202 (Final)
Reg. No. 30, Title V State Operating Permit Program, Section 2 Definitions.....	7 DE Reg. 446 (Final)
Reg. No. 38, Emission Standards for Hazardous Air Pollutants for Source Categories, Subpart B.....	7 DE Reg. 6 (Errata)

DIVISION OF FISH AND WILDLIFE

Horseshoe Crab Regs HC-1 thru HC-14.....	7 DE Reg. 220 (Final)
Reg. No. 3503, Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit. (Formerly Tidal Finfish Reg. 6).....	7 DE Reg. 1205 (Final)
Reg. No. 3504, Striped Bass Possession Size Limit; Exceptions (Formerly Tidal Finfish Reg. 7).....	7 DE Reg. 1205 (Final)
Reg. No. 3507, Black Sea Bass Size Limits; Trip Limits; Seasons; Quotas	7 DE Reg. 1145 (Prop.)
Reg. No. 3511, Summer Flounder Size Limits; Possession Limits; Seasons	7 DE Reg. 1145 (Prop.)
Reg. No. 3768, Oyster Harvest Quota.....	7 DE Reg. 1144 (Prop.)
Reg. No. 3772, Oyster Harvesting Seasons.....	7 DE Reg. 1144 (Prop.)
Shellfish Regulation 3708.....	7 DE Reg. 308 (Prop.)
	7 DE Reg. 785 (Final)
Tidal Finfish Regulation 3503, Striped Bass Recreational Fishing Season; Methods of Take: Creel Limit; Possession Limit	7 DE Reg. 909 (Prop.)
Tidal Finfish Regulation 3504, Striped Bass Possession Size Limit; Exceptions	7 DE Reg. 909 (Prop.)
Tidal Finfish Regulation 3565, License Lotteries for Apprentices.....	7 DE Reg. 308 (Prop.)
	7 DE Reg. 785 (Final)

DIVISION OF SOIL AND WATER CONSERVATION

Delaware Sediment and Stormwater Regulations	7 DE Reg. 1147 (Prop.)
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DIVISION OF WATER RESOURCES

Surface Water Discharges Section

Surface Water Quality Standards.....	7 DE Reg. 448 (Prop.)
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DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Bounty Hunter/Bail Enforcement Agents.....	7 DE Reg. 1164 (Prop.)
Policy Regulation 45, Concerning Driver Improvement Problem Driver Program.....	7 DE Reg. 524 (Final)
	7 DE Reg. 756 (Prop.)
	7 DE Reg. 1017 (Final)

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

DIVISION OF FAMILY SERVICES

Child Protection Registry.....	7 DE Reg. 340 (Final)
	7 DE Reg. 488 (Prop.)

CUMULATIVE TABLES

Child Protection Registry.....	7	DE Reg.	787 (Final)
Requirements For Day Care Centers.....	7	DE Reg.	911 (Prop.)

MERIT EMPLOYEES RELATIONS BOARD

Rules and Regulations.....	7	DE Reg.	493 (Prop.)
		DE Reg.	799 (Final)

GOVERNOR'S OFFICE

Executive Order No. 44, Creating Principles for Responsible Industry in Delaware.....	7	DE Reg.	103
Executive Order No. 45, Amendment to Executive Order 20 Regarding State Employees' Charitable Campaign.....	7	DE Reg.	104
Executive Order No. 46, The Delaware Homeland Security Council	7	DE Reg.	358
Executive Order No. 47, Establishing the Delaware P-20 Council	7	DE Reg.	358
Executive Order No. 48, Amending Executive Order Number Eleven.....	7	DE Reg.	677
Executive Order No. 49, Creating The Community Notification Working Group	7	DE Reg.	677
Executive Order No. 50, Creating The Governor's Commission On Community-Based Alternatives For Individuals With Disabilities.....	7	DE Reg.	678
Executive Order No. 51, Declaring December 26, 2003 a Holiday.....	7	DE Reg.	1022
Executive Order No. 52, Expanding Bidding Competition for State-Funded Purchases.....	7	DE Reg.	1022
Executive Order No. 53, Reallocation of State Private Activity Bond Volume Cap for Calendar Year 2003 and Initial Suballocation of State Private Activity Bond Volume Cap for Calendar Year 2004.....	7	DE Reg.	1213
Appointments.....	7	DE Reg.	105
		DE Reg.	360
		DE Reg.	831
		DE Reg.	1208

HUMAN RELATIONS COMMISSION

Rule 10, Voluntary Termination and Dismissal & Rule 27, Reconsideration.....	7	DE Reg.	34 (Prop.)
		DE Reg.	793 (Final)

DEPARTMENT OF AGRICULTURE

PLANT INDUSTRIES SECTION

Statutory Authority: 3 Delaware Code
Section 1102 (3 Del.C. § 1102)

EMERGENCY ORDER ADOPTING REGULATIONS PLANT PESTS

AND NOW this 18th day of March, the Secretary of Delaware's Department of Agriculture, in discharging his duties and responsibilities under 3 Del.C. §1102 to eradicate, repress and prevent the spread of plant pests (i) within the State, (ii) from within the State to points outside the State, and (iii) from outside the State to points within the State deems it imperative that the following regulations be adopted on an emergency basis to prevent their spread within the State. The Secretary proposes the immediate adoption of the following regulations to protect the health of the uninfected plants within Delaware and to negate or minimize the potential adverse economic implications to Delaware's overall nursery industry and trees in Delaware, as follows:

1.0 The entire State of Delaware is hereby closed to shipments of all nursery stock that originates and/or is shipped from the State of California listed by USDA-APHIS-PPQ as "Regulated and Associated Plants for *Phytophthora ramorum*" (Sudden oak death, APHIS 3/12/2004 as listed below, or most current list).

2.0 All nurseries (Title 3, Chapt. 13, §1303) within the State of Delaware that have received shipments of nursery stock (Title 3, Chapt. 13, §1303) from the State of California are prohibited from selling, moving, (Title 3, Chapt. 13, §1303) or transporting this material.

2.1 This prohibition will remain in effect until the State of California develops an expanded quarantine to account for all new detections of Sudden oak death and satisfactorily declares suspect California nursery stock free of the pathogen.

2.2 Nurseries and plant dealers within Delaware who have received shipments of nursery stock from

California are hereby prohibited from selling, moving, or transporting this nursery stock until they receive a release from Plant Industries, Delaware Department of Agriculture.

3.0 Nursery stock that originates and/or is shipped from the State of California listed by USDA-APHIS-PPQ as "Regulated and Associated Plants for *Phytophthora ramorum*" (Sudden oak death, APHIS 3/12/2004 listed below, or most current list), to be used for experimental or scientific purposes may be excepted from this regulation with the possession of a valid USDA-APHIS-PPQ Plant Pest permit. This material is subject of examination and release by Plant Industries.

4.0 Any plants found to have been transported or moved in violation of these regulations shall be destroyed, according to Sudden oak death, APHIS 3/12/2004, Treatments and Biosecurity, by this Department. Failure to comply with these prohibitions may result in the assessment of a civil penalty of up to \$1,000, to both the Dealer and Agent, Broker, or Consignor (Title 3, Chapt. 13, §1303) responsible for movement or sale, for each plant (Title 3, Chapt. 13, §1303) in violation, after an administrative hearing as stated in Title 3, Chapt. 11, §1108.

5.0 The State Department of Agriculture authorizes its duly appointed agents to cooperate with other agencies of the State of Delaware, counties or municipalities of the State of Delaware, corporations, individuals, or Federal agencies in carrying out the purposes of these rules and regulations.

6.0 These rules and regulations shall take effect on the eighteenth day of March, 2004.

Michael T. Scuse, Secretary, Department of Agriculture
March ____, 2004

APHIS LIST OF REGULATED AND ASSOCIATED PLANTS FOR *PHYTOPHTHORA RAMORUM*

Plant species regulated for *Phytophthora ramorum* (these are regulated in whole or in part, see www.aphis.usda.gov/ppq/ispn/sod)

<u><i>Acer macrophyllum</i></u>	<u>Bigleaf maple</u>	<u><i>Aesculus californica</i></u>	<u>California buckeye</u>
<u><i>Arbutus menziesii</i></u>	<u>Madrone</u>	<u><i>Arctostaphylos manzanita</i></u>	<u>Manzanita</u>
<u><i>Camellia japonica</i></u>	<u>Camellia</u>	<u><i>Camellia sasanqua</i></u>	<u>Sasanqua camellia</u>
<u><i>Hamamelis virginiana</i></u>	<u>Witch hazel</u>	<u><i>Heteromeles arbutifolia</i></u>	<u>Toyon</u>
<u><i>Lithocarpus densiflorus</i></u>	<u>Tanoak</u>	<u><i>Lonicera hispidula</i></u>	<u>California honeysuckle</u>
<u><i>Pieris floribunda x japonica</i></u>	<u>Pieris 'Bouwer's Beauty'</u>	<u><i>Pieris japonica</i></u>	<u>Japanese pieris</u>
<u><i>Pieris formosa</i></u>	<u>Himalaya pieris</u>	<u><i>Pieris formosa x japonica</i></u>	<u>Pieris 'Forest Flame'</u>
<u><i>Pseudotsuga menziesii v. menziesii</i></u>	<u>Douglas-fir</u>	<u><i>Quercus agrifolia</i></u>	<u>Coast live oak</u>
<u><i>Quercus chrysolepis</i></u>	<u>Canyon live oak</u>	<u><i>Quercus kelloggii</i></u>	<u>California black oak</u>
<u><i>Quercus parvula v. shrevei</i></u>	<u>Shreve oak</u>	<u><i>Rhamnus californica</i></u>	<u>California coffeeberry</u>
<u><i>Rhododendron spp</i></u>	<u>Rhododendron</u>	<u><i>Sequoia sempervirens</i></u>	<u>Coast redwood</u>

EMERGENCY REGULATIONS

<u><i>Orientalis latifolia</i></u>	<u>Western starflower</u>	<u><i>Umbellularia californica</i></u>	<u>California bay laurel,</u> <u>pepperwood, Oregon</u> <u>myrtle</u>
<u><i>Vaccinium ovatum</i></u>	<u>Huckleberry</u>	<u><i>Viburnum plicatum v. tomentosum</i></u>	<u>Mariesii, Doublefile</u> <u>viburnum</u>
<u><i>Viburnum x bodnantense</i></u>	<u>Bodnant viburnum</u>	<u><i>Viburnum tinus</i></u>	<u>Laurustinus</u>

Plant species associated with *P. ramorum* (these are not currently regulated, see www.aphis.usda.gov/ppq/ispm/sod)

<u><i>Abies grandis</i></u>	<u>Grand fir</u>	<u><i>Aesculus hippocastanum</i></u>	<u>Horse chestnut</u>
<u><i>Arbutus unedo</i></u>	<u>Strawberry tree</u>	<u><i>Camellia reticulata</i></u>	<u>Camellia</u>
<u><i>Camellia x williamsii</i></u>	<u>Camellia</u>	<u><i>Castanea sativa</i></u>	<u>Sweet chestnut</u>
<u><i>Corylus cornuta</i></u>	<u>California hazel</u>	<u><i>Fagus sylvatica</i></u>	<u>European beech</u>
<u><i>Kalmia latifolia</i></u>	<u>Mountain laurel</u>	<u><i>Leucothoe fontanesiana</i></u>	<u>Leucothoe</u>
<u><i>Rhamnus purshiana</i></u>	<u>Cascara</u>	<u><i>Pieris formosa v. forrestii</i></u>	<u>Pieris</u>
<u><i>Pieris formosa v. forrestii x japonica</i></u>	<u>Pieris</u>	<u><i>Pittosporum undulatum</i></u>	<u>Victorian box</u>
<u><i>Quercus falcata</i></u>	<u>Southern red oak</u>	<u><i>Quercus ilex</i></u>	<u>Holm oak</u>
<u><i>Quercus rubra</i></u>	<u>Northern red oak</u>	<u><i>Quercus sativa</i></u>	<u>European turkey oak</u>
<u><i>Rubus spectabilis</i></u>	<u>Salmonberry</u>	<u><i>Syringa vulgaris</i></u>	<u>Lilac</u>
<u><i>Taxus baccata</i></u>	<u>European yew</u>	<u><i>Toxicodendron</i></u>	<u>Poison oak</u>
		<u><i>diversiloba</i></u>	
<u><i>Vaccinium vitis-idaea</i></u>	<u>Lingonberry</u>	<u><i>Viburnum davidii</i></u>	<u>David viburnum</u>
<u><i>Viburnum farreri</i> (= <i>V. fragrans</i>)</u>	<u>Fragrant viburnum</u>	<u><i>Viburnum lantana</i></u>	<u>Wayfaringtree</u> <u>viburnum</u>
		<u><i>Viburnum x burkwoodii</i></u>	<u>Burkwood viburnum</u>
<u><i>Viburnum opulus</i></u>	<u>European cranberrybush</u> <u>viburnum</u>		
<u><i>Viburnum x carlcephalum x utile</i></u>	<u>Viburnum</u>	<u><i>Viburnum x pragense</i></u>	<u>Prague viburnum</u>

POULTRY ORDER RESCINDING REGULATIONS

Statutory Authority: 3 Delaware Code,
Section 6301, 7101(a) (3 Del.C. §6301, 7101(a))

AND NOW this *8th* day of *March*, 2004, the Secretary of Delaware's Department of Agriculture, having discharged his duties and responsibilities under 3 Del.C. §§6301 and 7101(a) to protect, prevent, suppress, control or eradicate dangerous, contagious, or infectious diseases within the poultry population of the State of Delaware, deems it proper to rescind regulation 1.0, 2.0, 2.1 and 2.2. adopted on an emergency basis on February 25, 2004 to combat the recent outbreak of avian influenza that had been detected on two farms within the state. The Secretary is not rescinding emergency regulations 3.0, 4.0, or 5.0. They will remain in force until rescinded or until they expire by operation of law.

IT IS SO ORDERED.

Michael T. Scuse, Secretary, Delaware Department of
Agriculture,

Dated: March 8, 2004

1.0 Any movement, transportation, or field application of poultry litter is forbidden on any Delaware farm until after March 10, 2004 or as modified by the Secretary.

2.0 All Delaware poultry house complete cleanouts are forbidden until after March 10, 2004 or as modified by the Secretary.

2.1 Partial cleanout will be permitted starting Friday, February 27, 2004 at 12:00 noon, for all growers outside the two mile quarantine zone who have received negative avian influenza test results from the testing of their last flocks.

2.2 Litter from the cleanout must be stored in a manure storage structure or stockpiled at the end of the poultry house and covered. Under no circumstances will the litter be permitted to be moved outside the general area of the poultry house nor spread.

3.0 With the exception of commercial integrators recognized as such by the Delaware Department of Agriculture, the transportation of live poultry intrastate or in or out of Delaware is forbidden.

4.0 Violation of the foregoing regulations will subject the violator to a fine of up to \$5,000.00.

5.0 The Delaware Department of Agriculture will receive, consider, and respond to petitions by any interested person for the reconsideration or revision of these emergency regulations.

Symbol Key

Roman type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text. Language which is ~~stricken~~ through indicates text being deleted.

Proposed Regulations

Under 29 Del.C. §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the Register of Regulations. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation; The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF PHARMACY**

24 DE Admin. Code 2500

Statutory Authority: 24 Delaware Code,
Section 2509 (24 Del.C. §2509)

NOTICE

PLEASE TAKE NOTICE, pursuant to 29 Del.C. §2509, the Delaware Board of Pharmacy has developed and proposes to adopt new Regulations 3 and 15. Some space requirements have been eliminated for pharmacy areas in Regulation 3. Regulation 15 has been modified to clarify the use of and the approval process for automated pharmacy systems.

A public hearing will be held on the proposed changes on May 12, 2004 at 10:00 a.m. in the Jesse Cooper Building, Room 309 (third floor conference room), Federal and Water Streets, Dover, DE 19901. The Board will receive and consider input from any person on the proposed Regulation. Written comment can be submitted at any time prior to the hearing in care of David Dryden, Executive Secretary, at the above address. In addition to publication in the Register of Regulations, copies of the proposed regulation can be obtained from David Dryden, Executive Secretary, by calling (302)739-4798. Notice of the hearing and the nature of the proposal are also published in two Delaware newspapers of general circulation.

3.0 Pharmacy Requirements**3.1 Pharmacist in Charge**

3.1.1 Application for permit to operate a pharmacy in the State of Delaware must be on a form approved by the Board. The form shall include the statement to be signed by the pharmacist in charge, "I understand that I am responsible for conducting and managing the prescription department in compliance with applicable State and Federal laws."

3.1.2 The Board interprets the responsibilities of the Pharmacist-in-Charge to include, but not be limited to the following:

3.1.2.1 Maintain necessary pharmaceutical equipment and reference texts in accordance with the State Board of Pharmacy requirements.

3.1.2.2 Maintain records required by the Uniform Controlled Substances Act and other relevant State and Federal regulations.

3.1.2.3 Maintain proper security of particular pharmacy operation during and after normal business hours.

3.1.2.4 Establish procedures within operation that maintain standard of practice as it relates to the dispensing of pharmaceuticals. These procedures shall include proper supervision of supportive personnel and delegation of authority to another pharmacist when not on duty.

3.1.2.5 The pharmacist on duty is directly responsible for his own actions.

3.1.2.6 Notify the Board of Pharmacy in writing within 10 days of termination as pharmacist-in-charge.

3.2 Owner's Affidavit. The owner or owners and, in the case of a corporation, an authorized official of the

corporation must present an affidavit properly notarized containing the statement, "I hereby swear or affirm that the foregoing statements are correct and do hereby agree to abide by the pharmacy laws of the State of Delaware and to all rules and regulations of the Delaware State Board of Pharmacy." The Board must be notified within 10 days of change of ownership.

3.3 Equipment and Reference Materials. Each pharmacy shall have the following equipment and maintain a library of the latest edition and supplements of current reference sources (either hard copy or electronically accessible) appropriate to the individual pharmacy practice and to the care of the patients served. The reference sources must:

3.3.1 References:

3.3.1.1 Provide information on the therapeutic use, dosing, pharmacology, adverse effects, and interactions of drugs dispensed to patient.

3.3.1.2 Provide information helpful in the counseling of patients on the use of drugs dispensed.

3.3.1.3 Enable the pharmacist to properly compound medicines within accepted standards of pharmacy practice.

3.3.1.4 Include a listing of therapeutic equivalents for drugs dispensed.

3.3.1.5 Include current Delaware and federal laws and regulations governing pharmacy and controlled substances.

3.3.1.6 Provide any other information necessary to the safe and effective practice of pharmacy for the specific practice setting.

3.3.2 Equipment

3.3.2.1 Prescription Scale, Class A

Set of Metric Weights

3.3.2.2 Graduates, (must be glass) Metric

One of Each:

30 ml

60 ml

125 ml

500 ml

(or Set with both metric and Apothecary

Graduations may be used)

3.3.2.3 Mortars and Pestles

1 8 ounce glass

1 8 ounce wedgewood

3.3.2.4 Filter Paper

3.3.2.4 Prescription/physician Order Files

3.3.2.5 Two Spatulas

3.3.2.6 One Glass Funnel

3.3.2.7 One Glass Stirring Rod

3.3.2.8 Ointment Slab or Papers

3.3.2.9 Purified Water

Each Pharmacy shall have such additional equipment as is necessary to perform a specific procedure.

All equipment must be clean and must be maintained in such a manner that allows the pharmacist to accurately weigh, measure and compound ingredients.

3.4 Physical Facilities. Have sufficient size, space, sanitation, and environmental control for adequate distribution, dispensing and storage of drugs and devices. Such facilities shall include:

3.4.1 A dispensing area of adequate size and space for proper compounding, dispensing and storage of drugs and devices, to ensure the safety and well being of the public and pharmacy personnel.

3.4.2 Sufficient environmental control, i.e. lighting, ventilation, heating and cooling to maintain the integrity of drugs and devices. The area in which drugs and devices are stored shall be accurately monitored using control devices to maintain room temperature between 59× and 86× Fahrenheit.

3.4.3 The pharmacy department or prescription area must contain a sink with hot and cold running water. It must be large enough to accommodate the equipment required by the Board so that the utensils can be properly washed and sanitized.

3.4.4 Suitable refrigeration with appropriate monitoring device. Refrigerators and freezers (where required) will be maintained at the USP/NF range:

Refrigerator - 36× to 46× Fahrenheit

Freezer - plus 4× to minus 14× Fahrenheit.

A sign with letters not less than 3/4" in height in the vicinity of the prescription department visible to the public which shows the name of the pharmacists employed at that pharmacy or the name of the pharmacist on duty.

3.5 Building Standards. An application to operate a new pharmacy must include (3) copies of blueprints floor plans drawn to scale of the proposed prescription department. The blueprints floor plans must include the following:

3.5.1 The requirements listed in §2534(F)(1) through (4).

~~3.5.2 A view of the partition surrounding the prescription department showing a five (5) foot height requirement measured from the floor. A section or sections totaling a maximum of twelve (12) ft. in length and at least three (3) ft. in height will be acceptable in all situations. The area(s) must be secured to the five (5) ft. level when the pharmacist or designated responsible person is not in the pharmacy department.~~

3.5.3 A partitioned area which assures patient privacy will be provided to facilitate counseling. This area must afford the patient privacy from auditory detection by any unauthorized person or persons. The minimum requirement would be a 9 square foot partitioned area.

3.5.4 The blueprints floor plans shall include the location of the sink, all doors, storage room, approved Schedule II controlled substance safe or cabinet, and the

method of securing the prescription department from floor to ceiling, when the prescription department is closed and the remainder of the store is open.

3.5.54 The ~~blueprints~~ floor plans must include the type of alarm system to be installed, and the name, address and phone number of alarm provider. The alarm system, as required by Regulation 5 of the Delaware Controlled Substance Act, must be reviewed and approved for compliance by the Office of Narcotics and Dangerous Drugs.

3.5.65 The above requirements shall also apply for any remodeling or change of location of the prescription department. The pharmacist-in-charge or applicant for permit must submit the ~~blueprints~~ floor plans requirements to the Delaware Board of Pharmacy and the Office of Narcotics and Dangerous Drugs prior to any construction and at least 15 days prior to the next scheduled Board of Pharmacy meeting for its review.

3.6 Security. When the pharmacist is off duty and the operation is open for business, the pharmacy department shall be physically or electronically secured from floor to ceiling. The partitioned off section required by 24 **Del.C.** §2534 must be five feet high measured from the floor. A conspicuous sign with letters not less than three inches in height, reading "PRESCRIPTION LABORATORY TEMPORARILY CLOSED, NO PROFESSIONAL SERVICES RENDERED," or words of similar import, must be posted in the front section of the operation or in front of the prescription area, room or partitioned off section where it can be seen by the public.

3.7 Board Interview. Applicants for permit to operate a pharmacy in the State of Delaware must appear before the Board for an interview. The owner or authorized official must be present in addition to the pharmacist-in-charge. Whenever there is a change of pharmacist-in-charge, if that person has never held that position in the State of Delaware, he/she must appear before the Board for an interview within ninety days after assuming the position.

Regulation 3.5.2 revised 6/16/97

Regulation 3.5.6 revised Effective date 10/11/98

See 2 DE Reg. 683 (10/1/98)

See 6 DE Reg. 488 (10/1/02)

See 7 DE Reg. 309 (9/1/03)

15.0 Automated Pharmacy Systems

15.1 Purpose and Scope

15.1.1 The purpose of this regulation is to recognize the use of automated pharmacy systems in community, institutional, and long term care pharmacy settings.

15.2 Definitions

15.2.1 "**Automated Pharmacy Systems**" include, but are not limited to, mechanical systems that perform operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or

distribution of medications, and which collect, control, and maintain ~~collects, controls, and maintains~~ all transaction information.

15.2.2 Automated Pharmacy Systems can be utilized in licensed pharmacies, remote locations under the jurisdiction of the Board of Pharmacy, and licensed health care facilities when legally permissible. Automated Pharmacy Systems shall be used only in settings where there is an established program of pharmaceutical care that ensures medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.

15.3 ~~Automated Pharmacy Systems~~ — General Requirements Approval

15.3.1 Any new Automated Pharmacy System must be presented to the Board for approval prior to installation in the State. The presentation shall focus on patient safety and shall include how the technology functions and its quality control features.

15.3.2 The Board may approve the Automated Pharmacy System pending an inspection of the first installation within the State.

15.3.3 The Board will maintain a list of currently approved automated systems.

15.3.4 To ensure that changes in automation technology are reflected, a repeat presentation will be made to the Board if there is a substantive change in the technology.

15.3.5 A pharmacy wishing to install an Automated Pharmacy System previously approved by the Board will provide the Board with prior written notice of the installation or substantive changes of automated pharmacy systems. Such notice must include, but is not limited to:

15.3.5.1 The name and address of the pharmacy; and the location of the automated equipment;

15.3.5.2 Anticipated go-live date;

15.3.5.3 The identification of the responsible pharmacist;

15.3.5.4 Written policies and procedures for system operations that address at a minimum:

15.3.5.4.1 System operation, including access to and limits on access (e.g., security levels) to the Automated Pharmacy System that comply with State and Federal regulations;

15.3.5.4.2 Prevention of unauthorized access;

15.3.5.4.3 Maintenance of patient confidentiality;

15.3.5.4.4 Quality assurance procedures;

15.3.5.4.5 Procedures that will be followed if the automated dispensing system is unavailable at any time; and

15.3.5.4.6 Record keeping procedures.

~~15.3.1 Personnel~~

~~15.4 15.3.1.1 Duties and Responsibilities of the Permit Holder~~

~~15.4.1 15.3.1.1.1 The Permit Holder has the following responsibilities:~~

~~15.4.1.1 Notifying the Board prior to the installation or removal of an approved Automated Pharmacy System.~~

~~15.4.1.2 15.3.1.1.1.1 Assuring that the Automated Pharmacy System is in good working order and accurately dispenses the correct strength, dosage form, and quantity of the drug prescribed while maintaining appropriate record keeping and security safeguards.~~

~~15.4.1.3 15.3.1.1.1.2 Developing and implementing an ongoing quality assurance program that monitors performance of the Automated Pharmacy System, which is evidenced by written policies and procedures developed by the pharmacy.~~

~~15.4.1.4 Developing written policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, and malfunction or down time.~~

~~15.4.1.5 Maintaining documentation at the location where the system is used of at least the following:~~

~~15.4.1.5.1 Name and address of the pharmacy and/or licensed health care facility where the automated pharmacy system is being used;~~

~~15.4.1.5.2 Manufacturer's name and model;~~

~~15.4.1.5.3 Description of how the device is used;~~

~~15.4.1.5.4 Quality assurance procedures to determine continued appropriate use of the automated device; and~~

~~15.4.1.5.5 Policies and procedures for operation of the Automated Pharmacy System.~~

~~15.5 Record Keeping Requirements~~

~~15.5.1 Records and/or electronic data kept by Automated Pharmacy Systems shall meet the following requirements:~~

~~15.5.1.1 All events involving the contents of the Automated Pharmacy System must be recorded electronically; and~~

~~15.5.1.2 Records must be maintained by the pharmacy and must be readily available to the Board. Such records must be maintained for a period of three(3) years and shall include:~~

~~15.5.1.2.1 Identity of the system accessed;~~

~~15.5.1.2.2 Identification of the individual accessing the system;~~

~~15.5.1.2.3 Type of transaction;~~

~~15.5.1.2.4 Name, strength, dosage form, and quantity of the drug accessed;~~

~~15.5.1.2.5 Name of the patient for whom the drug was ordered; and~~

~~15.5.1.2.6 Such additional information as the pharmacist-in-charge may deem necessary.~~

~~15.3.1.1.3 Providing the Board with 60 days prior written notice of the installation, removal, substantive change of Automated Pharmacy Systems. Such notice must include, but is not limited to:~~

~~15.3.1.1.3.1 the name and address of the pharmacy;~~

~~15.3.1.1.3.2 the location of the automated equipment; and~~

~~15.3.1.1.3.3 the identification of the responsible pharmacist.~~

~~15.3.1.1.3.4 policies and procedures for system operations (for initial installations).~~

~~15.3.1.1.4 Obtaining written approval and authorization from the Board of Pharmacy prior to implementation.~~

~~15.3.2 Pharmacy Practice~~

~~15.3.2.1 Automated Pharmacy Systems~~

~~15.3.2.1.1 Automated Pharmacy Systems can be utilized in licensed pharmacies, remote locations under the jurisdiction of the Board of Pharmacy, and licensed health care facilities where legally permissible and shall comply with the following provisions:~~

~~15.3.2.1.1.1 Documentation as to type of equipment, serial numbers, content, policies and procedures, and location shall be maintained on-site in the pharmacy for review by an agent of the Board of Pharmacy. Such documentation shall include, but is not limited to~~

~~15.3.2.1.1.1.1 Name and address of the pharmacy and/or licensed health care facility where the Automated Pharmacy System(s) is being used;~~

~~15.3.2.1.1.1.2 Manufacturers's name and model;~~

~~15.3.2.1.1.1.3 Description of how the device is used;~~

~~15.3.2.1.1.1.4 Quality assurance procedures to determine continued appropriate use of the automated device; and~~

~~15.3.2.1.1.1.5 Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, and malfunction.~~

~~15.3.2.1.1.1.2 Automated pharmacy Systems shall be used only in setting where there is an established program of pharmaceutical care that ensures medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.~~

~~15.3.2.1.1.1.3 All policies and procedures must be maintained in the pharmacy responsible for the system and, if the system is not located within the facility where the pharmacy is located, at the location where~~

the system is being used.

~~15.3.2.1.1.1.4 Automated~~

~~Pharmacy Systems shall have adequate security systems and procedures, evidenced by written policies and procedures, to:~~

~~15.3.2.1.1.1.4.1 Prevent~~

~~unauthorized access and to comply with Federal and State regulations; and~~

~~15.3.2.1.1.1.4.2 Maintain~~

~~patient confidentiality.~~

~~15.3.2.1.1.1.5 Records and/or~~

~~electronic data kept by Automated Pharmacy Systems shall meet the following requirements:~~

~~15.3.2.1.1.1.5.1 All events~~

~~involving the contents of the Automated Pharmacy System must be recorded electronically; and~~

~~15.3.2.1.1.1.5.2 Records~~

~~must be maintained by the pharmacy and must be readily available to the Board. Such records must be maintained for a period of three (3) years and shall include:~~

~~15.3.2.1.1.1.5.2.1~~

~~identity of system accessed;~~

~~15.3.2.1.1.1.5.2.2~~

~~identification of the individual accessing the system;~~

~~15.3.2.1.1.1.5.2.3 type~~

~~of transaction;~~

~~15.3.2.1.1.1.5.2.4 name,~~

~~strength, dosage form, and quantity of the drug accessed;~~

~~15.3.2.1.1.1.5.2.5 name~~

~~of the patient for whom the drug was ordered; and~~

~~15.3.2.1.1.1.5.2.6 such~~

~~additional information as the pharmacist in charge may deem necessary.~~

~~15.3.2.1.1.1.6 Access to and~~

~~limits on access (e.g., security levels) to the Automated Pharmacy System must be defined by policy and procedures and must comply with State and Federal regulations.~~

15.6 General Requirements

15.6.1 15.3.2.1.1.1.7 The pharmacist-in-charge or

authorized designee shall be responsible for:

15.6.1.1 15.3.2.1.1.1.7.1 Assigning,

discontinuing, or changing access to the system.

15.6.1.2 15.3.2.1.1.1.7.2 Ensuring that

access to the medication complies with State and Federal regulations.

15.3.2.1.1.1.7.3 Ensuring

that the Automated Pharmacy System is filled/stocked accurately and in accordance with established, written policies and procedures that ensure accuracy.

15.6.1.3 15.3.2.1.1.1.7.4 Checking the

Automated Pharmacy System for accurate dispensing of medications at appropriate periodic intervals.

~~15.3.2.1.1.1.8 The filling/~~

~~stocking of all medication in the Automated Pharmacy~~

~~System shall be accomplished by qualified personnel under the supervision of a licensed pharmacist.~~

15.6.2 15.3.2.1.1.1.8.1 Community/Outpatient

Pharmacy. A final check by the pharmacist is required after the medication is placed in the final container prior to dispensing and administration to the patient.

15.6.3 15.3.2.1.1.1.8.2 Hospital/Institution.

Unit based or centralized dispensing requires the same level of supervision required in Regulation ~~IX—B3~~ 9.2.3 which states: "Supportive personnel may be utilized in assisting the pharmacist. These persons must be supervised by a registered pharmacist who is present within the hospital and is responsible for the activities of those persons".

15.6.4 15.3.2.1.1.1.9 A record of medication filled/stocked into an Automated Pharmacy System shall be maintained and shall include identification of the persons filling/stocking and checking for accuracy.

15.6.5 15.3.2.1.1.1.10 All containers of medications stored in Automated Pharmacy System shall be packaged and labeled in accordance with Federal and State laws and regulations.

15.6.6 15.3.2.1.1.1.11 All aspects of handling controlled substances shall meet the requirements of all State and Federal laws and regulations.

15.6.7 15.3.2.1.1.1.12 The Automated Pharmacy System shall provide a mechanism for securing and accounting for medications removed from and subsequently returned to the Automated Pharmacy System, all in accordance with existing State and Federal law.

15.6.8 15.3.2.1.1.1.13 The Automated Pharmacy System shall provide a mechanism for securing and accounting for wasted medications or discarded medications in accordance with existing State and Federal law.

*** PLEASE NOTE: AS THE REST OF THE REGULATIONS WERE NOT AMENDED, THEY ARE NOT BEING PUBLISHED.**

DEPARTMENT OF AGRICULTURE

Statutory Authority: 3 Delaware Code,
Sections 6301 and 7101 (3 Del.C. §§ 6301 and
7101)

NOTICE

The State of Delaware, Department of Agriculture, proposes these regulations pursuant to 3 Del.C. §§ 6301 and 7101. The proposed regulations contain the following general sections: Authority, Purpose, Definitions, Registration, Sale or transfer of poultry leaving the state, Selling or trading poultry in Delaware, Non-commercial

poultry leaving the state and returning under the same ownership, Commercial poultry, Violations and hearings procedures, Appeals, Civil penalties. These regulations are intended to more clearly define the role of DDA in the Delaware poultry industry.

The proposed regulations will be considered at a public hearing scheduled for May 7, 2004 at 1:00 p.m. at the Delaware Department of Agriculture building conference room #1 located at 2320 S. Dupont Hwy, Dover, DE.

The hearing is being held for the purpose of receiving information, factual evidence, and public reaction as it relates to proposed Poultry Disease Prevention Regulations under **Title 3, Delaware Code**, Chapters 63 and 71, Poultry and Animal Health. The hearing will be conducted in accordance with **Title 29**, Chapter 101, and the Administrative Procedures Act.

Copies of the proposed regulations may be obtained from the Department of Agriculture by calling the 1-800-282-8685; by writing the Delaware Department of Agriculture, 2320 S. Dupont Hwy., Dover, DE 19901; or, by visiting the Register of Regulations site at: <http://www.delregs.state.de.us/index.html>. Public comments may be submitted in writing to Bruce R. Walton, Executive Assistant to the Secretary of the Department of Agriculture on or before 1:00 p.m. on May 7, 2004 and/ or in person at the public hearing.

Poultry Disease Prevention Regulations

1.0 Authority.

This regulation is written under the authority of Title 3, Chapters 63 and 71, and Sections 6301 and 7101 of the Delaware Code.

2.0 Purpose.

2.1 The commercial poultry industry in the State of Delaware is of vital economic importance to the state's agricultural community. The threat of serious poultry diseases, such as avian influenza or exotic New Castle Disease, necessitates the promulgation of new regulations aimed at safeguarding poultry flocks in Delaware from the introduction of these or other diseases.

2.2 The following proposed regulations will apply to the specific categories of poultry as noted.

3.0 Definitions.

The following words and terms when used in these regulations mean:

"Commercial poultry" means poultry wholly owned by a corporate enterprise that controls the entire growing cycle of the birds, from the breeder flock to the processing plant.

"Completely clean" means free of all organic material.

"DDA" means the Delaware Department of Agriculture.

"Integrated Poultry Company" means a corporate enterprise those contracts the entire growing cycle of its own birds from the breeder flock to the processing plant.

"Non-commercial poultry" means all other species and classes of poultry other than those defined as commercial poultry. Examples include but are not limited to: hobby or pet poultry exhibition poultry, poultry for the owner's own consumption, poultry for trade or resale, etc.

"Persons" means individuals, incorporations, businesses and cooperatives.

"Physical plant" means the permanent structure of a building or place including walls, floors, ceilings, crates, coops, other enclosures that may become contaminated with infectious material.

"Poultry dealer" means a person or corporation that consistently purchases three or more lots of poultry during a week and resells such poultry within one month of purchase.

"Poultry producer" means any person who owns or operates a poultry producing premise for shares in the profits and risks of loss from such premise, and who grows, raises, feeds or produces said agricultural commodity in Delaware.

"Poultry producing premises" means any location in Delaware where live poultry is kept.

4.0 Registration.

4.1 In order to be able to quickly notify all poultry producers in the state of a potential or existing disease threat, the (DDA) will require the registration of all premises in Delaware where live poultry is kept. This will allow information regarding disease scenarios to be sent in a timely manner to all poultry producers.

4.2 The registration form, available from DDA, shall include at a minimum the following information:

4.2.1 Name.

4.2.2 Address.

4.2.3 Telephone number of owner/producer.

4.2.4 Type and number of the poultry being raised.

4.2.5 The geo-reference coordinates (latitude/longitude state plane coordinates NAD 83) of the chicken house(s) ;(if not available, DDA will provide), and

4.2.6 The general purpose for which they are kept (hobby, show, own consumption, eventual sale, etc.).

4.3 This registration is also in anticipation of the forthcoming national animal premises identification system. Forms will be provided by the Department of Agriculture and when completed, must be returned to that agency. Other timely information may also be sent to registrants.

5.0 Sale or transfer of poultry leaving the state.

Owners of commercial or privately owned poultry leaving the State of Delaware and whose cargo changes ownership outside the State of Delaware must abide by the following provisions:

5.1 Complete and accurate records must be maintained including the name, address and telephone number of the purchaser, the number, species and weight of the poultry to be sold and the date of the sale. These records, invoices or receipts must be retained for at least one year.

5.1.1 All vehicles, crates, coops and footwear must be in a completely clean condition before being used to load poultry from a Delaware farm. Department personnel will have the authority to inspect all vehicles and equipment prior to use. Unsatisfactory inspections will result in an immediate refusal to allow loading of the poultry.

5.1.2 After the poultry has been unloaded at an out of state location, and prior to its return into the State of Delaware, it will be necessary to completely clean the entire vehicle, including the inside floorboard and pedals by using (commercial) truck washing personnel and equipment.

5.1.3 In addition, all coops, crates, and footwear must be individually washed and completely cleaned and disinfected by commercial equipment before being loaded onto a vehicle and returning to the State of Delaware. A receipt from a company, approved by the DDA to perform this service, must be obtained by the transporter and kept in the vehicle for inspection by Department personnel. DDA personnel will have the authority to inspect all vehicles and equipment as deemed necessary. These receipts must be kept for a period of at least one year.

5.1.4 Poultry transported out of the state for the purpose of sale or change of ownership and brought back into Delaware is prohibited and will result in the quarantine of the entire flock. The foregoing quarantine will be in effect until sufficient diagnostic testing has been completed to ensure that no serious diseases have been introduced. The conclusion by the DDA that the returned poultry has introduced a serious poultry disease may result the destruction of the entire flock.

5.1.5 It shall be the responsibility of the owner (individual or corporation) of the birds to obtain all pertinent information from the state of destination regarding any health diagnostic testing or inspection requirements that must be fulfilled prior to the birds leaving the Delaware farm. Furthermore, it will be the owner's responsibility to make the necessary arrangements with the approved diagnostic laboratory, accredited veterinarian or other persons needed to provide the official documentation necessary to satisfy these requirements.

6.0 Selling or trading poultry in Delaware.

6.1 Livestock/poultry auctions or poultry swap meets taking place within the State of Delaware will be authorized to sell live poultry if they abide by certain requirements imposed by the DDA. To be authorized, the auction or other entity organized for the sale, barter or trade of live poultry must abide by the following:

6.1.1 Allow DDA full access to all premises,

grounds and buildings where poultry is being kept or offered for sale.

6.1.2 Keep complete and accurate records of names, addresses, type and number of poultry from all consignors. The same information must be recorded for all buyers whether paying cash or making other arrangements for payment. These records must be maintained for at least one year.

6.1.3 Notify the Department of any purchasers at the auction/sale that would be considered a dealer. The person who meets the conditions of being a poultry dealer will be required to purchase a livestock/poultry dealer's license and to comply with the provisions thereof.

6.1.4 Allow Department personnel full access to inspect all lots of poultry offered for sale, trade or barter. If, in the opinion of Department personnel, a lot of poultry exhibits signs of sickness or extremely poor husbandry as to be deemed a possible disease threat, the entire lot will be condemned, confiscated, humanely destroyed and diagnostic tests performed to determine the possible presence of a serious infectious diseases.

6.2 The vehicles, crates and coops of all poultry dealers coming to auctions/sales within the State of Delaware from out of state must have been completely cleaned and disinfected before coming into this state. Department personnel may inspect all equipment and any findings of incomplete cleanliness of the vehicle, coops or crates will be cause to prevent that dealer from remaining at the auction and purchasing any poultry or livestock.

6.3 The physical plant, floors, cages and other equipment used to house or transport poultry must be completely cleaned and disinfected after each sale. This procedure must be completed at least two working days prior to the next sale so that Department personnel may inspect the facilities, if desired. If the cleaning and disinfecting procedure is deemed unsatisfactory, management will be notified and given the opportunity to remediate the situation. Failure to do so will result in the cancellation of the next scheduled poultry auction/sale.

7.0 Non-Commercial Poultry leaving the State of Delaware and returning under the same ownership.

7.1 These flocks are strictly non commercial poultry of a hobby nature. Owners of this class of poultry must comply with the following regulations:

7.1.1 All Delaware show bird exhibitors will be responsible for being completely familiar with the poultry health requirements of the state and the particular show which they are attending.

7.1.2 All crates and coops used to transport the birds must be of such construction and material to be completely cleaned and disinfected before returning to this state. A small, plastic pump up sprayer could be used for this purpose. All four vehicle tires and floor board pedals must

also be cleaned.

7.1.3 Any newly obtained poultry originating from a state that has had a case of Avian Influenza or other serious infectious poultry disease within the past six months, must be tested by an official state laboratory using an officially recognized test no more ten days prior to that bird entering Delaware.

7.1.4 Each poultry producer bringing birds back into Delaware for re-entry into his flock must abide by a set of biosecurity procedures aimed at minimizing the possibility of spreading a poultry disease contracted at a show to the remainder of his flock or to other flocks in the nearby area.

8.0 Commercial Poultry.

8.1 The following requirements will be imposed on all commercial poultry companies/growers:

8.1.1 Complete a poultry producer registration form (as described above) for each farm owned or operated by an individual or corporation who produces poultry for an integrated company.

8.1.2 Submit a plan, signed, approved and verified by the integrated company, for the in-place in-farm disposal method of normal day to day mortality for each separate commercial poultry producing farm.

8.1.3 The transport of any poultry which is owned by an integrated poultry company to a public sale or auction is strictly prohibited.

8.1.4 In an attempt to minimize the establishment of new back yard poultry flocks, the commercial poultry companies will instruct catching crews to catch and load all live birds and/or killed culls from every house. If any birds are left in a house, they must be caught and humanely destroyed within 48 hours of when the flock left.

9.0 Violations and hearing procedures.

9.1 Failure to comply with these regulation may result in the assessment of a civil penalty.

9.2 No civil penalty shall be imposed until an administrative hearing is held before the Secretary of Agriculture or his or her designee. Administrative hearings for the provisions of this chapter shall be conducted within 30 days of the violation of this chapter. The Department shall issue a decision in writing to the person(s) charged with a violation of this chapter within 30 days of the conclusion of the administrative hearing.

9.3 The person(s) charged with a violation of this chapter will be notified in writing of the date and time of the aforementioned administrative hearing. The aforementioned person(s) shall have the right to appear in person, to be represented by counsel and to provide witnesses in his or her own behalf.

9.4 The Secretary, for the purposes of investigation of a

possible violation of this chapter and for its hearings, may issue subpoenas, compel the attendance of witnesses, administer oaths, take testimony and compel the production of documents. In case any person summoned to testify or to produce any relevant or material evidence refuses to do so without reasonable cause, the Department of Agriculture may compel compliance with the subpoena by filing a motion to compel in Superior Court which shall have jurisdiction over this matter.

9.5 The Department shall preserve a full record of the proceedings and a transcript may be purchased by any interested person.

10.0 Appeal.

Any party, including an individual or corporation, that feels aggrieved by decision of the Secretary or his or her designee after an administrative hearing may take appeal to the Superior Court within thirty days of the date the decision is mailed to that party by the DDA. After a full hearing, the Court shall make such decree as seems just and proper. Written notice of such appeal, together with the grounds therefore, shall be served upon the Secretary of the DDA.

11.0 Civil penalties.

11.1 It shall be unlawful for any person to interfere with the DDA in its effort to enforce these regulations and will subject the violator to a civil penalty of no less than \$100 nor more than \$1,000 per proven violation.

11.2 It shall be unlawful for any person to violate a quarantine order issued by the DDA and will subject the violator to a civil penalty of no less than \$1,000 nor more than \$5,000 per proven violation.

11.3 The payment of penalties assessed under these regulations may be made on a payment schedule approved by the Secretary of the DDA.

11.4 A person who violates an emergency order of the Secretary of DDA or his or her designee exposes themselves to a civil penalty of no less than \$1,000 nor more than \$5,000 per proven violation.

DEPARTMENT OF EDUCATION

Statutory Authority: 14 Delaware Code,
Section 220 (14 Del.C. 220)
14 DE Admin. Code 220

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

103 Accountability for Schools, Districts and the State

A. Type of Regulatory Action Required
Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend regulation 103 Accountability for Schools, Districts and the State. The amendments reflect the changes made to Delaware's plan under the federal No Child Left Behind Act of 2001. Changes include: definitions of the Adequate Yearly Progress levels in 2.1.1 and changes in other sections of the regulation reflecting these changes; change in the Other Academic Indicator(s) definition in 2.6; the definition of a "new school" in 3.4; and the addition of a State Progress Determinations in 5.0 and changes in other sections reflecting the calculations as defined in 5.0.

C. Impact Criteria

1. Will the regulation help improve student achievement as measured against state achievement standards? Yes this amended regulation is based on the premise that student achievement improves from one year to the next and places the state in compliance with the federal No Child Left Behind Act of 2001.

2. Will the regulation help ensure that all students receive an equitable education? Yes, schools and districts are required to help those students not meeting the standards. Data is disaggregated by subgroups and school/district ratings are reflected by the scores of students in the subgroups.

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

4. Will the regulation help to ensure that all students' legal rights are respected? The amended regulation addresses accountability issues not students' legal rights.

5. Will the regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

6. Will the regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? All reporting requirements and calculations are made at the Department of Education and shared with the local district and school or charter school.

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 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, 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 amended regulation? The federal statute No Child Left Behind requires states to make regulations in order to implement the law.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no additional cost for compliance with the amended regulation.

103 Accountability for Schools, Districts and the State**1.0 Accountability**

1.1 Accountability: All public schools, including charter schools, reorganized and vocational-technical school districts and the state shall be subject to the calculation and reporting of Adequate Yearly Progress (AYP) as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S. C.A. §6301 et seq. Additionally, public schools, including charter schools, reorganized and vocational-technical school districts shall be subject to the applicable rewards, sanctions and other accountability activities including the State Progress Determinations as prescribed in this regulation.

2.0 Adequate Yearly Progress (AYP)

2.1 Adequate Yearly Progress shall be determined by the Department of Education for all public schools, including charter schools, reorganized and vocational-technical school districts and the State on an annual basis. In order for a public school, including a charter school, reorganized or vocational-technical school district or the State to meet AYP, the aggregate student population and each subgroup of students as identified in ESEA, must meet or exceed the target for percent proficient using a confidence interval to be determined by the Department of Education in the state assessments of reading/language arts and mathematics; 95% of the students as an aggregate and within each subgroup must participate in the state assessments of reading/language arts and mathematics, ~~except for those students who meet the exemption criteria as specified in 14 DE Admin. Code 101.9.0;~~ and the respective entity must ~~maintain or show progress towards the state target for other academic indicator(s)~~ meet the requirements of the Other Academic Indicator(s) as defined in 2.6. In calculating the percent proficient each year, the state will average the most recent two years of percent proficient (including the current year's percent proficient) and compare the results to the current year percent proficient. The highest percent proficient score will be used to determine the school, district

or State AYP status.

2.1.1 Adequate yearly progress shall include three levels: Above Target, Meets Target and Below Target.

2.1.1.1 Above Target shall mean that the school, district or State in the aggregate student population and for each subgroup exceeds the annual target in English language arts and mathematics for percent proficient as defined in 2.3 and further meets the criteria for participation as defined in 2.4 and Other Academic Indicator(s) as defined in 2.6.

2.1.1.2 Meets Target shall mean that the school, district or State in the aggregate student population and for each subgroup meets the annual target in English language arts and mathematics with or without the application of a confidence interval for percent proficient as defined in 2.3 or meets the criteria of Safe Harbor defined in 2.5, and further meets the criteria for participation as defined in 2.4 and Other Academic Indicator(s) as defined in 2.6.

2.1.1.3 Below Target shall mean that the school, district or State in the aggregate student population and for each subgroup did not meet the annual target in English language arts or mathematics through the application of a confidence interval for percent proficient as defined in 2.3 or does not meet the criteria of Safe Harbor defined in 2.5, or does not meet the criteria for participation as defined in 2.4 or does not meet the criteria of Other Academic Indicator(s) as defined in 2.6.

2.2 Full academic year for accountability:

2.2.1 For school accountability students enrolled continuously in the school from September 30 through May 31 of a school year ~~and~~ including those students identified in 3.1 and 3.2, shall be considered enrolled for a full academic year.

2.2.2 For district accountability students enrolled continuously in the district (but not necessarily the same school), from September 30 through May 31 of a school year, ~~and~~ including those students identified in 3.1 and 3.2, shall be considered enrolled for a full academic year.

2.2.3 For state accountability students enrolled continuously in the state (but not necessarily the same school or district) from September 30 through May 31 of a school year shall be considered enrolled for a full academic year.

2.3 Proficient: For accountability purposes students who score at Performance Level 3 (Meets the Standard) or above and who have met the requirements of a Full Academic Year as defined in 2.2 shall be deemed proficient. Students who score at Performance ~~Level 2, Level 1 or Level 0~~ Level 2 or Level 1 who have met the requirements of a Full Academic Year as defined in 2.2 shall not meet the definition of proficient.

2.4 Participation Rate: For accountability purposes in school years 2002-2003 through 2004-2005, the participation rate for each subgroup, all public schools,

including charter schools, districts, and the State, shall be the number of students who participate in the DSTP in grades 3, 5, 8 and 10 divided by the number of students enrolled in these tested grades during the testing period. Beginning with the 2005-2006 school year the participation rate shall include the number of students who participate in the DSTP in grades 3 through 8 inclusive and grade 10 divided by the number of students enrolled in these tested grades during the testing period. Students exempted by 14 **DE Admin. Code** 101.9.0 ~~are not~~ shall be included in the participation rate calculation. For schools with no accountability tested grades (K-2), the participation rate shall be determined by the number of students who participated in the work sampling or grade 2 DSTP assessments divided by the number of students enrolled during the testing period.

2.5 Safe Harbor: For accountability purposes if a school, district or the State fails to meet the target for percent proficient for a given subgroup or for the entity in aggregate, ~~safe harbor~~ Safe Harbor provisions shall be examined for that group. When the percentage of students in a subgroup not meeting the definition of proficient decreases by at least 10% when compared to the previous year's data, the participation rate for the population is at least 95%, and the subgroup ~~maintains or shows progress on the other academic indicator~~ meets the requirements of the Other Academic Indicator(s) as defined in 2.6, the subgroup will have met AYP.

2.6 Other ~~academic indicator~~ Academic Indicator(s):

2.6.1 High School: For AYP purposes, the ~~other academic indicator~~ Other Academic Indicator(s) shall be graduation rate as defined as the number of students in one cohort who started in the ~~school/district/state school, the district or the state~~ in 9th grade and graduated four years later or in the time frame specified in the Individual Education Program (IEP), excluding students who earn a GED certificate, divided by the same number plus those that have dropped out during the same four year period.

2.6.1.1 The statewide target for the high school ~~other academic indicator~~ Other Academic Indicator shall be a graduation rate of 90% by the school year 2013-2014. The statewide target for 2003-2004 shall be 75% and shall increase by 1.5% each year until 90% is reached in 2013-2014. Beginning with the school year 2002-2003, if the graduation rate is used for ~~safe harbor~~ Safe Harbor purposes, the high school shall ~~be expected to~~ maintain its graduation rate or show positive progress when compared to the previous year or meet or exceed the statewide target for that school year.

2.6.1.2 A school that does not maintain its graduation rate or show positive progress from the previous year or meet or exceed the statewide target for that school year shall be considered as not meeting AYP for that year.

2.6.2 Elementary and Middle School: For AYP

purposes, the Other Academic Indicator for elementary and middle schools shall be ~~the percent of students proficient on the grade 4, 6, and 8 DSTP science and social studies assessments combined. The science and social studies content standards are arranged by grade clusters. Students shall be tracked back to the school/district that provided the instructional services for the grade cluster determined by improvement of the scores of the low achieving students, defined as students performing below Performance Level 3, in reading and mathematics combined or a decrease in the percent of students scoring at Performance Level 1 in reading and mathematics. The average scale score for the students who perform at Performance Level 1 and 2 in reading and mathematics combined shall be determined for the current and previous years. The scores from the current year will be compared to the previous year to determine if the school has shown progress. A confidence interval determined by the Department of Education shall be applied to the average scale scores when making this determination. Students included in this calculation shall have been in the school for a full academic year.~~

2.6.2.1 The statewide target for the elementary and middle school ~~other academic indicator~~ Other Academic Indicator shall be ~~a percent proficient of 85%~~ 0% of students scoring at Performance Level 1 in reading and mathematics by the school year 2013-2014. Beginning with the school year 2002-2003 2003-2004, when compared to the previous year, the school or subgroup, if used for safe harbor Safe Harbor purposes, shall be expected to maintain its percent proficient or show positive progress shall maintain or show progress when compared to the previous year towards the state target of 85%. ~~shall maintain or show improvement of the scores of the low achieving students in reading and mathematics combined or show that the percent of students at Performance Level 1 in reading and mathematics has decreased from the previous year.~~

2.6.2.2 An elementary or middle school that does not maintain ~~its percent proficient for the other academic indicator or show positive progress from the previous year shall be considered as not meeting AYP for that year~~ or show improvement of the scores of the low achieving students in reading and mathematics combined or show that the percent of students at Performance Level 1 in reading and mathematics has decreased from the previous year shall be considered as not meeting AYP for that year.

2.6.3 For state and district accountability purposes, the state or a district shall be expected to ~~maintain both the graduation rate and percent proficient or show positive progress when compared to the previous year towards the state target of 90% for the high school other academic indicator and 85% for the elementary and middle school other academic indicator.~~ meet the requirements in 2.6.1.2 and 2.6.2.2.

2.7 Annual Objective: The annual objectives for

reading/language arts and mathematics shall be determined by the Department of Education and published annually. The annual objectives shall be the same for all schools, districts and subgroups of students.

2.8 Intermediate Target: There shall be seven intermediate targets with the first intermediate target occurring in the 2004-2005 school year. The second intermediate target shall occur in 2006-2007; the third in 2008-2009; the fourth in 2009-2010; the fifth in 2010-2011, the sixth in 2011-2012 and the seventh in 2012-2013. By the end of the school year 2013-2014, all students in all subgroups shall be proficient in reading/language arts and mathematics. The intermediate targets shall be calculated using the procedures as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C.A. §6301 et seq.

2.9 Starting Point: A single statewide starting point shall be calculated for reading/language arts and a single statewide starting point shall be calculated for mathematics using the procedures as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C.A. §6301 et seq.

2.10 Subgroup categories: For AYP purposes, subgroup categories shall be delineated as follows: 1) Children with Disabilities (as per IDEA); 2) Economically Disadvantaged Students, as determined by eligibility for free and reduced lunch program; 3) Students with Limited English Proficiency, as determined by the language proficiency assessment; and 4) Race/ethnicity, to be furthered divided into African American/~~black~~ Black, American Indian/Alaska ~~native~~ Native, Asian/Pacific Islander, Hispanic, and White. Such subgroup categories shall include all students eligible for the AYP calculation as further defined throughout this Chapter. The "All" categories shall include all students in the entity for which AYP is calculated and who meet all other eligibility criteria for the AYP calculation.

2.11 ~~Adequate Yearly Progress (AYP) Calculations~~ AYP Determinations

2.11.1 For each public school, including charter schools, reorganized and vocational-technical school district, and the State, AYP shall be calculated annually.

2.11.2 School AYP: In order to meet AYP, ~~the aggregate student population of a school and each subgroup of students within a school, shall meet or exceed the annual target for percent proficient as defined in 2.3; the participation rate shall be 95% or greater; and the school in the aggregate shall maintain or show progress on the other academic indicator,~~ the school shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient,

participation rate and Other Academic Indicator shall be reported and used to determine AYP status and accountability ratings. ~~The Safe Harbor provision as defined in 2.5 shall be used for a school that does not meet AYP in the aggregate or in any subgroup within the school.~~

2.11.3 District AYP: In order to meet AYP, the ~~aggregate student population of a district and each subgroup of students within a district, shall meet or exceed the annual target for percent proficient as defined in 2.3; the participation rate shall be 95% or greater; and the district in the aggregate shall maintain or show progress on both of the other academic indicators~~ district shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported and used to determine AYP status and accountability ratings. ~~The Safe Harbor provision as defined in 2.5 shall be used for a district that does not meet AYP in the aggregate or in any subgroup within the school.~~

2.11.4 State AYP: In order to meet AYP, the ~~aggregate student population in the State and each subgroup of students within the State, shall meet or exceed the annual target for percent proficient as defined in 2.3; the participation rate shall be 95% or greater; and the State in the aggregate shall maintain or show progress on both of the other academic indicators~~ state shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported and used to determine AYP status and accountability ratings. ~~The Safe Harbor provision as defined in 2.5 shall be used for state accountability if the State does not meet AYP in the aggregate or in any subgroup within the State.~~

2.11.5 Under Improvement: A school or district shall be deemed Under Improvement if AYP is not met two consecutive years in the same content area of reading/English language arts or mathematics for percent proficient or for participation rate, or if a school or district in the aggregate does not ~~maintain or show progress on~~ meet the requirements of the Other Academic Indicator(s) as defined in 2.6.

3.0 Accountability School and/or District:

For AYP purposes, the school/district to which a student's performance is assigned for a full academic year shall be the Accountability School/District. No student shall have his/her performance assigned to more than one

Accountability School/District in a given school year.

3.1 For a student enrolled in an intra-district intensive learning center or intra-district special school or program operating within one or more existing school facilities, the school/district of residence shall be considered the Accountability School/District for the student. For a student enrolled in inter-district special schools or programs that have an agreement to serve students from multiple school districts, ~~the school/district of residence shall be considered the Accountability School/District~~ the special school that provides the instructional program shall be considered the Accountability School for that student. For district accountability purposes, the district of residence shall be the district to which these special school students are included for accountability.

3.2 For a student enrolled in an alternative school program pursuant to 14 Del.C. Ch.16, or the Delaware Adolescent Program, the Accountability School/District shall be the school/district that assigned such student to the program or the school/district of residence. ~~For the purposes of this chapter the~~ The time the students were enrolled in the alternative or transitional program shall be credited to the Accountability School/District.

3.3 For a student who participates in ~~the~~ a choice program pursuant to 14 Del.C. Ch.4 the Accountability School/District shall be the school/district to which the student has choiced.

3.4 For accountability purposes, a school shall be considered a new school if: less than sixty percent of the students would have been enrolled in the same school together without the creation of the new school; or it is the first year of operation of a charter school; or two or more grade levels have been added to the school or to a charter school's charter.

3.5 If a school is determined not to be a new school, the school shall receive the accountability rating and related consequences of the school in which the majority of students would attend in that year.

4.0 Assessment Criteria

4.1 For a student who takes a portion of the assessment more than once during the school year, the first score shall be included in the AYP calculation.

4.2 A student who tests with non-aggregable conditions as defined in the Department of Education's *Guidelines for the Inclusion of Students with Disabilities and Students with Limited English Proficiency* shall have his/her earned performance level included in the calculation of AYP.

4.3 For accountability purposes a student who tests but does not meet attemptedness rules as defined in the Department of Education's scoring specifications or otherwise receives an invalid score shall be deemed as not meeting proficiency.

4.4 A student participating in alternate assessments

shall have her/his earned performance level included in the AYP calculation consistent with the regulations as prescribed by the federal Elementary and Secondary Education Act (ESEA) 20 U.S. C.A. §6301 et seq. or Individuals with Disabilities Education Act (IDEA).

4.5 Schools with more than one tested grade shall receive a single accountability rating.

4.6 Student performance in a tested grade shall be apportioned in equal weights to each grade in a standards cluster, except that Kindergarten shall be weighted at 10% and grade 10 shall be weighted at 100%. Beginning with the school year 2005-2006 students in grades 4,5,6,7,8, and 10 will count 100%. Students in grade 3 will continue to be weighted to each grade in the K-3 standards cluster.

4.7 For AYP purposes the reading/language arts percent proficient shall be based on a combination of the reading and writing DSTP assessments. The reading percent proficient scores shall be weighted to count 90% and the writing percent proficient scores shall be weighted to count 10%.

4.8 For AYP purposes, the mathematics percent proficient shall be based on 100% of the DSTP mathematics assessment.

5.0 State Progress Determinations:

Each school and district shall receive a State Progress Determination of Above Target, Meets Target or Below Target. The State Progress shall be determined by improvement in the composite score of the reading, mathematics, science and social studies DSTP assessments combined. The composite score range shall be from 25 to 125 and is determined by the following formula: Composite Score = 25 [(reading score x reading weight) + (math score x math weight) + (science score x science weight) + (social studies score x social studies weight)] where: Reading score = [(5 x % of students in level 5 in reading) + (4 x % of students in level 4 in reading) + (3 x % of students in level 3 in reading) + (2 x % of students in level 2 in reading) + (1 x % of students in level 1 in reading)]; Math score = [(5 x % of students in level 5 in math) + (4 x % of students in level 4 in math) + (3 x % of students in level 3 in math) + (2 x % of students in level 2 in math) + (1 x % of students in level 1 in math)]; Science score = [(5 x % of students in level 5 in science) + (4 x % of students in level 4 in science) + (3 x % of students in level 3 in science) + (2 x % of students in level 2 in science) + (1 x % of students in level 1 in science)]; Social Studies = [(5 x % of students in level 5 in social studies) + (4 x % of students in level 4 in social studies) + (3 x % of students in level 3 in social studies) + (2 x % of students in level 2 in social studies) + (1 x % of students in level 1 in social studies)]. Each of the subject areas shall be weighted equally at 25%.

5.1 Above Target shall mean that the school or district has a minimum composite score of 75.00 for the current year; or the school or district has demonstrated a growth of

6.00 or more points when comparing last year's composite score to the current year's composite score provided the composite score is 45.00 or more.

5.2 Meets Target shall mean that the school or district with a composite score of 61.00 or less than 75.00 in the current year, shall demonstrate a growth of 2.00 or more points when comparing last year's composite score to the current year's composite score. For a school or district with a composite score of 45.00 but less than 61.00 in the current year, the school or district shall demonstrate a growth of 2.00 or more points when comparing last year's composite score to the current year's composite score.

5.3 Below Target shall mean that the school or district has a composite score of less than 45.00; or the school or district does not meet the criteria of 5.2.

5-0 6.0 Performance Classifications:

Schools and districts shall receive one of five levels of performance classification annually which shall be based on a combination of AYP determinations and State Progress determinations.

~~5-1 6.1 Superior: A school or district's performance is deemed excellent. Schools or districts in this category shall have met AYP while the school or district is not Under Improvement and additional rigorous state criteria are met and is a combination of Above Target for AYP and Above Target for State Progress or Above Target for AYP and Meets Target for State Progress or Meets Target for AYP and Above Target for State Progress. The additional state criteria shall be developed by the Department of Education with the consent of the State Board of Education.~~

~~5-2 6.2 Commendable: A school or district's performance is deemed above average. Schools or districts in this category shall have met AYP while the school or district is not Under Improvement. Combinations of Above Target for AYP and Below Target for State Progress or Meets Target for AYP and Meets Target for State Progress shall be rated as Commendable. A school or district with a combination of Meets Target for AYP and Below Target for State Progress shall be determined Commendable for no more than one year; if this same combination exists for the school or district in the following year, the school or district shall be rated Academic Review.~~

~~5-3 6.3 Academic Review: A school or district's performance is deemed acceptable. Schools or districts in this category shall not have met APY for one year and are not Under Improvement. Combinations of: Below Target for AYP and Above Target for State Progress; or Below Target for AYP and Meets Target for State Progress shall be rated as Academic Review for no more than one year; if the same combination exists for the school or district in the following year, the school or district shall be rated Academic Progress unless the provisions of 6.5 or 6.6 are met. A school or district with a combination of Below Target for AYP and~~

Below Target for State Progress shall be rated as Academic Review unless the provisions of 6.5 and 6.6 are met.

6.4 Academic Progress: A school or district's performance is deemed as needing improvement. Schools or districts in this category shall not be Under Improvement as defined in 2.11.5.

5.4-6.5 Academic Progress-Under Improvement: A school or district's performance is deemed as needing improvement. Schools or districts in this category shall have met AYP for one year while the school or district is Under Improvement. If a school or district was classified as Academic Watch the prior year, all accountability sanctions from that prior year remain in effect.

5.5 6.6 Academic Watch-Under Improvement: A school or district's performance is deemed as unsatisfactory. Schools or districts in this category shall not have met AYP for two or more years and shall be Under Improvement consecutive years in the same content area as described in 2.11.5 and shall be Under Improvement.

6.0 7.0 Schools and Districts that are classified as Under Improvement.

6.1 7.1 Accountability sanctions for schools that are classified as Under Improvement:

6.1.1 7.1.1 Under Improvement - Year 1 - A school shall review and modify its current School Improvement Plan outlining additional specific school improvement activities to be implemented beginning in this same year. A school designated as Title I shall implement federal ESEA Choice. The school shall follow the district Federal ESEA Choice Program.

6.1.2 7.1.2 Under Improvement - Year 2 - A school shall continue to review and modify the School Improvement Plan as needed. A school designated as Title I shall continue to offer federal ESEA Choice. In addition a Title I school shall provide supplemental services according to the federal ESEA requirements. Schools not designated as Title I shall give priority, as appropriate, within their extra time services to students in those subgroups that have not met the target for percent proficient in the reading/language arts and/or mathematics assessments.

6.1.3 7.1.3 Under Improvement - Year 3 - A school shall continue with the activities as per 6.1.2 7.1.2. In addition, all schools shall be subject to corrective action as outlined by federal ESEA requirements.

6.1.4 7.1.4 Under Improvement - Year 4 - A school shall continue with the activities as per 6.1.3 7.1.3. In addition, the school shall develop a plan for restructuring as outlined by federal ESEA requirements and submit such plan to the Secretary of Education. The Secretary of Education shall investigate the reasons for the continued deficiency of the school's performance and shall consult with the State Board of Education prior to making comment.

6.1.5 7.1.5 Under Improvement - Year 5 - A

school shall continue with the activities as per ~~6.1.2 7.1.2~~. In addition, the school shall implement the restructuring plan as outlined by federal ESEA requirements.

~~6.2 7.2~~ Accountability sanctions for districts that are classified as Under Improvement:

~~6.2.1 7.2.1~~ Under Improvement - Year 1 - A district shall develop and implement a District Improvement Plan.

~~6.2.2 7.2.2~~ Under Improvement - Year 2 - A district shall evaluate and modify the District Improvement Plan and shall incorporate such plan into the Consolidated Application.

~~6.2.3 7.2.3~~ Under Improvement - Year 3 - A district shall continue with the activities outlined in ~~6.2.2 7.2.2~~. In addition the district shall develop a corrective action plan as outlined by Federal ESEA requirements and submit such plan to the Secretary of Education. The Secretary of Education shall investigate the reasons for the continued deficiency of the district's performance and shall consult with the State Board of Education prior to making comment.

~~6.2.4 7.2.4~~ Under Improvement - Year 4 - A district shall continue with the activities as outlined in ~~6.2.3 7.2.3~~. In addition the district and the Department of Education shall evaluate the corrective action plan and make appropriate modifications as needed.

7.0 8.0 Review Process:

A school or district ~~deemed Under Improvement~~ may review school or district level data, including academic assessment data upon which the proposed classification is based. The school or district shall present statistical evidence or other substantive reasons why the classification should be changed before the final classification will be determined. All accountability schools that have a student or students who have been granted an exemption according to 4.4 shall automatically have their classification reviewed based on the evidence submitted in the exemption request.

~~7.1 8.1~~ The school or district must file a written notice of review with the Secretary no later than 15 calendar days after receiving preliminary notification of its ~~designation of Under Improvement~~ proposed classification. The request for review shall state with specificity the grounds for the review, and shall be signed by the principal or lead authority of the school, or the signature of the Superintendent of the district. This request for review shall include all supporting evidence and documentation and shall be clear and concise.

~~7.2 8.2~~ Upon receipt of a written notice of review, the Department of Education shall conduct a review of the evidence or other substantive reasons presented by the school or district.

~~7.3 8.3~~ The Department of Education shall make a final determination within 30 calendar days from the written notice of review on the ~~Under Improvement status~~ proposed

classification of the school or district based on the evidence or other substantive reasons presented by the school or district.

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

**1025 Delaware Interscholastic Athletic Association
(DIAA)**

1049 DIAA Definitions

1050 DIAA Sportsmanship

1051 DIAA Senior High School Interscholastic Athletics

**1052 DIAA Junior High/Middle School Interscholastic
Athletics**

1053 DIAA Waiver Procedure

1054 DIAA Investigative Procedure

1055 DIAA Appeal Procedure

1056 Recognition of Officials' Associations

A. Type of Regulatory Action Required

Amendment to Existing Regulation
Repeal and Replace Regulations

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend regulation 1050 DIAA Sportsmanship by changing the number of the regulation to 1007 in order to conform with other number changes for the DIAA regulations. Section 2.4.1 Appeals, is also amended in order to align it with the other changes in the DIAA regulations.

The Secretary of Education also seeks the consent of the State Board of Education to repeal and replace the other eight (8) DIAA regulations.

Regulation 1025 will be renumbered as 1006 and retain the same name, Delaware Interscholastic Athletic Association (DIAA). Regulation 1006 now includes the content of three previous regulations 1053 DIAA Waiver Procedure, 1054 DIAA Investigative Procedure and 1055 DIAA Appeal Procedure. In addition, regulation 1006 includes sections on: the organization's name and purpose; on membership; the Board of Directors; the Executive Director; responsibilities of the member schools; the reporting of violations and protests and complaints to DIAA and additional penalties and fines. The section on the reporting of violations and protests and complaints to DIAA and the section on additional penalties and fines were formally in the old regulations 1051 and 1052. Regulation 1006 has also been revised to reflect the changes in the Delaware Interscholastic Athletic Association processes and

procedures as found in the reorganization of DIAA through 14 Del.C. Ch.3.

Regulations 1051 DIAA Senior High School Interscholastic Athletics and 1052 DIAA Junior High/Middle School Interscholastic Athletics have been renumbered as 1008 DIAA Junior High/Middle School Interscholastic Athletics and 1009 DIAA Senior High School Interscholastic Athletics. Both 1008 and 1009 now include the content of two previous regulations 1049 DIAA Definitions and 1056 Recognition of Officials' Associations. Both 1008 and 1009 have been totally realigned. Instead of 36 and 38 sections respectively the regulations have ten (10) sections which are parallel in design. These regulations have also been revised to reflect the changes in the Delaware Interscholastic Athletic Association as found in the reorganization of DIAA through 14 Del.C. Ch.3.

This regulation is being re-advertised because changes have been made to Sections 2.3.2 in regulation 1008 and 2.3.3 in regulation 1009 in order to clarify issues for students with disabilities who are placed in special schools or programs administered by a school district or charter school which sponsors junior high/middle school and senior high school interscholastic athletics. This regulation was previously advertised in the March 1, 2004, Volume 7 Issue 9 of the *Delaware Register of Regulations*.

In addition to the realignment of regulations 1008 and 1009 they contain the following changes:

1. The term "Relative Caregiver" was added in all references to parents and guardians in order to include that type of student/adult relationship.

2. Under 2.2 Eligibility, Residence, "with the exception of boarding school students" was added to 2.2.1.

3. The status of students who are homeless was added in 2.2.1.6 and 2.4.2.6 in regulation 1008 and in 2.2.1.8 and 2.4.2.6 in regulation 1009.

4. In section 2.3.2 in regulation 1008 and 2.3.3 in regulation 1009 issues have been clarified for students with disabilities who are placed in special school or programs administered by a school district or charter school which sponsors junior high/middle school and senior high school interscholastic athletics.

5. In 2.5.1.5, under 2.5 Eligibility, Amateur Status, the permissible cash value of a gift was increased from \$50.00 to \$150.00.

6. In 2.7.1.2 and 2.7.1.2.1 the definition of the term "Hardship has been clarified as well as conditions for seeking a waiver under the hardship rule. Also, 2.7.2.1 was added in regulation 1009 only to clarify the eligibility status of eighth grade students who are in eighth grade for a second time.

7. Under 2.8, in 1009 only, the term "international students" was substituted for "foreign students" when referring to students who are not part of a foreign exchange program and these "international students" will now be

treated as transfer students under DIAA regulations.

8. Under 4.2 Practice Sessions, in 4.2.1 the minimum number of practice days has been changed from “(3) three weeks” to “21 calendar days”. In 4.2.3 the sentence “However, there shall be one day of no activity (practice, scrimmage or contests) during any seven day period” was added at the end.

9. Under 5.4 All-Star Contests in 5.4.5 (regulation 1009 only), the financial report now has to be filed in ninety (90) days not Thirty (30) days and the fine for not filing on time has been raised from \$50.00 to \$300.00.

10. Under 7.5 Coaching Out of Season, in 7.5.1 (regulation 1009 only), the status of eighth and ninth grade students has been clarified. In 7.5.2.4 the words “as well as to members of the student body” was added at the end of the sentence (in both regulations 1008 and 1009).

11. Under 9.1 Award in 9.1.1 “not more than \$150.00” was added after the word “symbolic” to place a cap on the value of awards. In 9.1.4 the retail aggregate value of the awards was increased from \$100.00 to \$150.00.

12. The reference to boxing was removed from both regulations.

C. Impact Criteria

1. Will the regulations help improve student achievement as measured against state achievement standards? The amended and replaced regulations are for the Delaware Interscholastic Athletic Program which compliments the academic program.

2. Will the regulations help ensure that all students receive an equitable education? The amended and replaced regulations are for the Delaware Interscholastic Athletic Program which is available to all students.

3. Will the regulations help to ensure that all students’ health and safety are adequately protected? The amended and replaced regulations for the Delaware Interscholastic Athletic Program are designed to ensure that all students’ health and safety are adequately protected.

4. Will the regulations help to ensure that all students’ legal rights are respected? The amended and replaced regulations for the Delaware Interscholastic Athletic Program are designed to respect students’ legal rights.

5. Will the regulations preserve the necessary authority and flexibility of decision making at the local board and school level? The amended and replaced regulations for the Delaware Interscholastic Athletic Program will preserve the necessary authority and flexibility of decision making at the local board and school level.

6. Will the regulations place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended and replaced regulations for the Delaware Interscholastic Athletic Program will not place any unnecessary 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 regulations 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 and replaced regulations for the Delaware Interscholastic Athletic Program will 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.

9. Is there a less burdensome method for addressing the purpose of the regulations? The statute, 14 Del.C. Ch.3, requires the Department of Education and the DIAA Board of Directors to promulgate regulations for the interscholastic athletics program.

10. What is the cost to the State and to the local school boards of compliance with the regulation? These regulations do not alter the existing costs.

1006 Delaware Interscholastic Athletic Association (DIAA)

1.0 Organization Name and Purpose: The organization shall be known as the Delaware Interscholastic Athletic Association (DIAA) and shall function as the official designee of the Secretary of Education with the authority to implement the Department of Education’s Rules and Regulations governing the conduct of interscholastic athletics.

2.0 Membership in DIAA

2.1 Full Member Schools: Any secondary school including private, public, vocational-technical, and charter schools, as authorized by 14 Del.C. Ch. 5, may become a full member school of DIAA by payment of dues and a signed affirmation of the obligations of membership.

2.1.1 A full member school is a non-voting member of DIAA and does not participate in its day-to-day governance. A full-member school may at any time make appropriate recommendations for policy action to the DIAA Board of Directors for its consideration.

2.2 Associate Member School: Any school, not a full member school, located within the boundaries of the state of Delaware and containing grades 6 through 8, or 8 through 12, or any grouping of such grade levels, may apply for status as an associate member school provided the applicant sets forth good cause and sufficient justification why such school cannot become a full member school. The initial

application may be submitted at any time but renewal applications shall be submitted to the DIAA office no later than May 1 of each year.

2.2.1 The membership application shall contain a statement that the school will abide by the Rules and Regulations of the Department of Education and the Delaware Interscholastic Athletic Association and in those cases wherein the school cannot comply, the application shall set forth the specific rule and regulation, and a sufficiently acceptable explanation of why the rule or regulation cannot be kept in force or why the school is incapable of compliance. Full compliance shall be made with all rules and regulations when an associate member school competes with a full member school of DIAA or a comparable state association; participates in DIAA sanctioned tournaments/meets in cross country, indoor track, wrestling (except dual-team tournaments), outdoor track, and golf involving the aforementioned full member schools; or participates in a state championship event.

2.2.2 Such associate member schools, after initial approval, shall be reviewed each year by the DIAA Board of Directors for the purpose of approving, rejecting, or modifying their application for renewal of associate member status.

2.3 Membership Dues Schedule: Yearly dues for full member and associate member schools shall be as follows:

2.3.1 \$400 for middle schools.

2.3.2 \$600 for high schools with enrollments of 499 or less.

2.3.3 \$800 for high schools with enrollments of 999 or less.

2.3.4 \$1,000 for high schools with enrollments of 1,499 or less.

2.3.5 \$1,200 for high schools with enrollments of 1,999 or less.

2.3.6 \$1,400 for high schools with enrollments of 2,000 or more.

2.3.7 Membership dues shall be paid each year by August 1. Full member and associate member schools which fail to comply may be subject to penalties as determined by the DIAA Board of Directors.

2.4 Participation in State Championship Tournaments/Meets: Any member high school in good standing, is sponsoring a team in a given sport, and is in compliance with all applicable DIAA Rules and Regulations shall be eligible for the DIAA approved state championship tournament/meet in that sport.

2.5 Member schools shall comply with the regulations of the Delaware Interscholastic Association and acceptance of membership shall be construed as an agreement to that effect.

3.0 DIAA Board of Directors

3.1 Conflict of Interest: Any member of the Board of

Directors who may be directly affected or whose school or school district may be directly affected by a potential decision related to an appeal or waiver request shall recuse himself or herself from consideration of the matter and shall not vote on that appeal or waiver request. The Chairperson of the Board is responsible for maintaining the integrity of the decision making process.

3.2 Committees of the DIAA Board of Directors

3.2.1 DIAA Board standing committees include: Rules and Regulations, Officials, Sports Medicine; Sportsmanship and one for each DIAA recognized sport. The Chairperson of the DIAA Board may appoint additional short term committees with specific assignments when deemed necessary.

3.2.1.1 The committee for each DIAA recognized sport shall have, in writing, procedures for determining tournament berths and selecting tournament sites. Such procedures shall be on file with the Executive Director and sent to the administrative head of each member school.

3.3 Committee Membership

3.3.1 The Chairperson of the DIAA Board of Directors and the Executive Director shall be ex-officio members of all committees. Committee membership shall be geographically representative and committee membership may include administrators, athletic directors, coaches, local school board members, officials and public members.

3.3.2 The Chairperson of the DIAA Board of Directors shall appoint individuals to serve as committee chairpersons. The individuals appointed shall serve for an indefinite period of time. The Chairperson of the Board, however, with the advice of the Executive Director, in his or her discretion, may remove a committee chairperson.

3.3.3 The Committee Chairperson, with the advice and consent of the Executive Director, shall appoint individuals to serve on the committee. The individuals so appointed shall serve for an indefinite period of time. The Committee Chairperson, however, with the advice and consent of the Executive Director, may, in his or her discretion, remove individuals from the committee.

4.0 Responsibilities of the Executive Director

4.1 Interpret the rules and regulations and grant waivers of rules and regulations: Any waiver granted shall be temporary and shall be subject to review and approval by the DIAA Board at a subsequent or special meeting. All decisions or actions as noted above shall be documented and shall be a part of any hearing or appeal procedure.

4.2 Decide issues between meetings of the Board of Directors. The Executive Director shall initiate a review of or fully investigate an alleged violation of the Rules and Regulations that he/she has seen, heard or read about, or which has been reported to him/her. Subsequent action by the Executive Director may include an official reprimand.

placement on probation, a fine, the imposing of sanctions, or the suspension from participation for a designated period of time of a player, team, coach or official to ensure the necessary, orderly, and proper conduct of interscholastic competition.

4.3 Carry on the business of the DIAA Board and DIAA between meetings: Waiver requests decided by the Executive Director shall be temporary and shall be subject to review and final approval by the Board of Directors. No school or individual shall be penalized in any case in which the DIAA Board reverses an earlier ruling of the Executive Director. In addition, the Executive Director shall administer the day-to-day operation of the organization.

5.0 Responsibilities, Powers, and Duties of the Administrative Head of School

5.1 Responsibilities of Administrative Head of School

5.1.1 The administrative head of middle level and high school member schools shall be responsible for the conduct of the interscholastic athletic program in which representative teams participate including the organization and scheduling of individuals and teams. The administrative head may delegate his or her authority, but such delegation will not negate the responsibility for a violation of the DIAA Regulations by his/her school.

5.2 Powers and Duties of Administrative Head of School

5.2.1 The administrative head of each member school shall exercise general control over all of the interscholastic athletic matters of his/her school which include but are not limited to the following:

5.2.1.1 Sanctioning all interscholastic athletic contests in which his/her school participates.

5.2.1.2 Excluding any contestant because of improper conduct.

5.2.1.3 Excluding any contestant whose physical health would be jeopardized by such participation, because of illness or injury suffered, until such time as the contestant is declared physically fit by the school or attending physician.

5.2.1.4 Protecting the well-being of all visitors and officials attending interscholastic athletic contests conducted by his/her school. Administrative heads of member schools shall be expected to provide adequate security and, in the absence of such provisions, penalties may be imposed.

5.2.1.4.1 When a contest is conducted at a neutral site, the administrative heads of the participating schools shall be held jointly responsible for the protection and well-being of all visitors and officials. In the absence of adequate security, penalties may be imposed upon either or both of the schools.

5.2.1.5 Protecting the well-being of the school's participants by providing them with safe and

suitable uniforms and equipment.

5.2.1.6 Ensuring that all required contracts for athletic contests in which the school participates are in writing and bear the proper signatures.

5.2.1.7 Designating a staff member of the school as the faculty manager for the teams representing the school or to serve as the faculty manager.

5.2.1.8 Ensuring that an authorized representative accompanies the school's teams to all contests.

5.2.1.9 Certifying in writing the eligibility of his/her school's contestants in accordance with the Regulations of the Department of Education.

5.2.1.10 Exercising such other powers regarding the interscholastic athletic program of the school as are consistent with the needs of the school and with the provisions and spirit of the Regulations of the Department of Education.

5.2.1.11 Urging all students competing on the school's teams to obtain medical accident insurance which covers athletic participation.

6.0 Amendments to Department of Education Regulations

6.1 The DIAA Board, The Secretary of Education, the Executive Director of DIAA or any member school may propose changes, additions or deletions to the Department of Education regulations.

6.1.1 Proposed changes shall be submitted in writing by a member school(s) to the Executive Director and these proposed changes and any other changes submitted by the Secretary of Education or the Executive Director of DIAA or the DIAA Board of Directors shall be reviewed by the Rules and Regulations Committee.

6.1.2 Any proposed changes to the Regulations along with comments received from the Rules and Regulations Committee, shall be considered at a scheduled meeting of the DIAA Board. Proposed changes adopted by the Board shall thereafter be submitted to the Secretary of Education who will place them on the State Board of Education agenda for review and final approval.

6.1.2.1 All member schools shall then be advised in writing of any proposed changes. The member schools and the public shall have an opportunity to review and comment on the proposed changes during the thirty day period that the regulations are advertised in the Register of Regulations (as per the Administrative Procedures Act).

7.0 Reporting Violations of Department of Education Regulations and Protests and Complaints to DIAA

7.1 Reporting violations of Department of Education regulations

7.1.1 If a school violates a provision of the Department of Education regulations the administrative head

or his/her designee shall notify the Executive Director in writing of the violation. All violations shall be reviewed by the DIAA Board of Directors which may impose additional penalties.

7.1.1.1 Additional penalties may be imposed for repeat offences or as deemed necessary to assure proper conduct of interscholastic athletics.

7.2 Reporting Protests and Complaints

7.2.1 All protests and complaints brought before DIAA shall be in writing and shall be acted on only after the administrative head of the school involved has been given an opportunity to appear before the Board of Directors.

8.0 DIAA Board of Directors Investigative Procedure

8.1 The following investigative procedure shall be followed when the DIAA office receives information indicating that an incident has occurred which is not in the best interests of the interscholastic athletic programs of the member schools of DIAA.

8.1.1 The administrative head of the member school involved shall be notified by telephone and confirmed by letter of the pending investigation (copy to be forwarded to the chief school officer). The notification shall contain an explanation of the nature of the investigation and identify the person(s) conducting the investigation.

8.1.2 Permission shall be obtained from the administrative head of the member school to interview students and/or staff members and each person interviewed shall be informed of the nature of the investigation.

8.1.3 Upon completion of the investigation, a written statement of charges shall be presented to the administrative head of the charged school (copy to be forwarded to the chief school officer).

8.1.4 When immediate punitive action by the Executive Director is necessary, the action taken shall be stated in writing.

8.1.5 When charges are to be presented to the DIAA Board of Directors, the charged school shall be advised of the meeting date, time, and location and shall be provided with an opportunity to respond to the charges.

9.0 Waiver of DIAA Rules and Regulation

9.1 General

9.1.1 The DIAA Board has the authority to set aside the effect of any athletic rule or regulation, subject to any limitations set forth in the specific rule or regulation, when the affected party establishes by the preponderance of the evidence, all of the following conditions:

9.1.1.1 In the case of eligibility waiver requests, there exists a hard ship as defined by 9.2.1;

9.1.1.2 Strict enforcement of the rule in the particular case will not serve to accomplish the purpose of the Rule;

9.1.1.3 The spirit of the rule being waived

will not be offended or compromised;

9.1.1.4 The principal of educational balance over athletics will not be offended or compromised; and

9.1.1.5 The waiver will not result in a safety risk to teammates or competitors.

9.1.2 Waivers are exceptional and extraordinary relief from the athletic rules and regulations. Ignorance of any rule alone, whether by the student athlete, his/her family or school, shall not be sufficient reason for waiving a rule. The burden of proof rests on the applicant (the student, his/her parents or guardians, principal, headmaster or other affected party) to show extenuating circumstances warranting waiver.

9.1.3 The waiver request shall contain all facts pertaining to the case, including sufficient data to make it possible to reach a decision without further investigation. It is not the duty of the Executive Director or the DIAA Board to produce or collect information.

9.1.4 Waiver requests would be filed promptly when it becomes apparent to the student, principal, headmaster or other affected party, that a waiver will be required. In any event, all requests for a waiver of the rules, with all documentation complete, must be received by the Executive Director at least 21 calendar days before the next regularly scheduled meeting of the DIAA Board in order to be placed on the agenda for that meeting.

9.1.4.1 Notwithstanding this requirement, the Chairperson of the DIAA Board may at his/her discretion add a waiver request to an agenda in an emergency situation. Failure to file a waiver request in a timely manner when all information is available shall not be considered an emergency situation.

9.1.5 The applicant is entitled to a hearing on his/her waiver request. Waiver hearings shall be conducted in an informal manner that affords all parties the opportunity to present all information and all relevant arguments.

9.1.5.1 The DIAA Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. Testimony at any hearing shall be under oath or affirmation.

9.1.5.2 Any party to a proceeding before the DIAA Board may be represented by counsel. An attorney representing a party in a proceeding before the Board shall notify the Executive Director of the representation in writing as soon as practicable.

9.1.5.3 Strict rules of evidence do not apply. Evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs may be admitted into evidence.

9.1.5.4 Any document introduced into evidence at the hearing shall be marked by the Board and shall be a part of the record of the hearing. The party offering the document into evidence shall provide a copy of the document to each of the other parties, if any, and to each

of the Board members present for the hearing unless otherwise directed.

9.1.5.5 Any request by the DIAA Board for additional information pertaining to a waiver request shall be promptly supplied by the affected students, coaches, and member schools.

9.1.5.6 DIAA shall provide a stenographic reporter at a hearing at its own expense.

9.1.6 The DIAA Board shall consider the entire record of the case in reaching its final decision. Unless otherwise provided, a decision made on a waiver request shall be effective immediately.

9.1.7 The DIAA Board's decision shall be incorporated into a final order, which shall be signed and mailed to the parties within twenty (20) days of the hearing.

9.2 Eligibility Rule Waiver Request

9.2.1 Unless specifically defined in the eligibility rule in question, "hardship" means a hardship peculiar to the student athlete caused by unforeseen events beyond the election, control or creation of the student athlete, his/her family, or school, which deprive him or her of all or part of one of his or her opportunities to participate in a particular sports season. Ignorance of any rule alone, whether by the student athlete, his/her family or school, shall not be sufficient reason for waiving a rule. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.

9.2.2 All eligibility hardship waiver requests shall be processed on forms approved by the DIAA Board and in accordance with the following procedures:

9.2.2.1 A request for a waiver of the eligibility rules must be directed by the student to the involved member school's principal, headmaster or their designee who shall then file a written request stating the full particulars of the case and the reasons felt by the student or the administrator, or both, for granting the waiver.

9.2.2.1.1 All requests for eligibility rule waivers must be signed by the Principal or Headmaster of the school requesting the waiver and must include a letter from the Principle or Headmaster indicating whether the school supports the waiver request.

9.2.2.1.2 The school shall submit a waiver request form when requested by individual student athletes. The DIAA Board, however, may take into consideration the school's position on the waiver request when rendering its decision.

9.2.2.2 To aid the DIAA Board in making an informed decision, the waiver request shall include the student's:

9.2.2.2.1 Official transcripts from the sixth grade through the current school year and semester

grades for the current school year;

9.2.2.2.2 Attendance records for the last two (2) years;

9.2.2.2.3 A letter from the Principal or Headmaster either supporting or not supporting the waiver request;

9.2.2.2.4 Medical records (if applicable);

9.2.2.2.5 Legal documentation (if applicable);

9.2.2.2.6 IEP's (if applicable); and

9.2.2.2.7 Any documentation/evidence to substantiate a hardship or extenuating circumstance exists.

9.2.3 An appearance by the student and their parent, guardian or Relative Caregiver before the DIAA Board is mandatory on requests for an eligibility waiver. An appearance by a school representative is strongly encouraged.

9.3 Waiver Requests of Non-eligibility Rules

9.3.1 The Principal or Headmaster of a member school, or any other individual may request a waiver of a rule, regulation, guideline, policy or procedure of DIAA not directly related to student eligibility when special circumstances arise that, in the Principal or Headmaster's opinion, or in the opinion of the individual, call for relief from, or modification of the effects of the rule.

9.3.2 All requests for non-eligibility waivers must be in writing, signed by the Principal or Headmaster.

9.3.3 An appearance by the Principal or Headmaster or his/her designee or other individual requesting the non-eligibility waiver is optional. If the Principal or Headmaster or his/her designee or other individual requesting the non-eligibility waiver choose to appear before the DIAA Board he/she must notify the Executive Director of his/her intent to do so at the time the request for waiver is filed. Otherwise, the principal or his/her designee, or other individual, may attend the meeting but may not be permitted to address the DIAA Board.

9.3.4 If the waiver requested would affect more than one member school, the waiver applicant shall provide the position of the other affected member schools on the waiver request in their written application. The failure to provide this information may result in a delay in the Board's consideration of the waiver request.

10.0 Appeal Procedure to the DIAA Board of Directors

10.1 Decisions of the Executive Director, with the exception of those to uphold or rescind the suspension resulting from a game ejection, may be appealed de novo to the DIAA Board of Directors. The Board of Directors has been designated by the Secretary of Education to conduct fact finding hearings or conferences in matters regarding

interscholastic athletics.

10.1.1 Initiation of an Appeal to the DIAA Board

10.1.1.1 Whenever a right of appeal of a decision to the DIAA Board of Directors is provided, an aggrieved person who is under the regulatory authority of DIAA and who has, in fact, suffered a direct injury due to the decision, may initiate an appeal by filing a Notice of Appeal with the Executive Director. The notice shall be in writing, shall be signed by the person making the request (or by the party's authorized representative), and shall be delivered to the Executive Director by certified mail.

10.1.1.2 The notice of appeal shall briefly state the decision from which the appeal is taken, the law, rule or regulation involved in the decision, the names of the parties, and the grounds for the appeal.

10.1.1.3 The notice of appeal shall be filed within a reasonable time after the controversy arises, but in no event shall a notice be filed more than thirty (30) calendar days after the appellant's receipt of written notice that official action has been taken by the Executive Director or other authorized person or body.

10.1.1.3.1 Notwithstanding the above, the notice of appeal shall be served ten (10) calendar days after appellant's receipt of written notice that official action has been taken by the Executive Director or the Sportsmanship Committee pursuant to 14 DE Admin. Code 1007.

10.1.1.4 A copy of the notice of appeal shall be delivered to all other parties to the proceeding at the same time it is sent to the Executive Director. A copy of any other paper or document filed with DIAA shall also be provided to all other parties to the proceeding. If a party is represented by legal counsel, delivery to legal counsel is sufficient.

10.1.1.5 Upon receipt of an adequately detailed notice of appeal, the Executive Director shall place the appeal on the on the next meeting agenda of DIAA.

10.1.2 Record of Prior Proceedings

10.1.2.1 If proceedings were previously held on the matters complained of in the notice, the committee which conducted those proceedings shall file a certified copy of the record of the proceedings with the Executive Director.

10.1.2.2 The record shall contain any written decision, a copy of the rule or regulation involved, any minutes of the meetings(s) at which a disputed action was taken, a verbatim transcript of the hearing conducted by the party below, and all exhibits presented at the agency.

10.1.2.3 The record shall be filed with the Executive Director within ten (10) days of the date the Executive Director notifies the committee that the notice was filed, unless directed otherwise. A copy of the record shall be sent to the appellant when it is submitted to the Executive Director.

10.1.3 DIAA Board Hearing Procedures for Appeals

10.1.3.1 Record Review

10.1.3.1.1 If a hearing was previously held on the matters complained of in the notice, the parties to the proceeding before the DIAA Board may agree to submit the matter to the Board on the existing record without the presentation of additional evidence. The parties shall inform the Executive Director in writing of their agreement to submit the matter to the Board on the existing record no later than ten (10) days after the notice was filed.

10.1.3.1.2 If the parties agree to submit the matter for decision on the existing record, they shall support their positions in written statements limited to matters in the existing record. The written statements shall be filed no later than ten (10) days before the consideration date, unless otherwise directed.

10.1.3.1.3 If the parties agree to submit the matter for decision on the existing record, they may nonetheless request oral argument be heard on the consideration date. A request for oral argument shall be submitted with the written statement of appeal. There will be no oral argument unless it is requested when the written statement of appeal is submitted. Oral argument shall be limited to the matters raised in the written statements and shall be limited to fifteen (15) minutes per side with an additional five (5) minutes for rebuttal.

10.1.3.1.4 If the parties agree to submit the matter for decision on the existing record, the DIAA Board's decision shall be based on the existing record, the written statements and oral argument, if any.

10.1.3.2 Evidentiary Hearings

10.1.3.2.1 Evidentiary hearings will be held when there has not been a prior hearing, when the parties do not agree to rest on the existing record, or when the DIAA Board otherwise decides to receive additional evidence.

10.1.3.2.2 The Chairperson or his/her designated representative shall be the hearing officer. The hearing officer shall conduct the hearing and make rulings on the admissibility of evidence.

10.1.3.2.3 The DIAA Board of Directors may continue, adjourn, or postpone a hearing for good cause on motion of a party or upon its own motion.

10.1.3.2.4 Objections to the admission of evidence shall be brief and shall state the grounds for such objections. Objections with regard to the form of question will not be considered.

10.1.3.2.5 The hearing will proceed with the appellant first presenting its evidence and case. The responding party may then present its case. The appellant will have an opportunity to present rebuttal evidence.

10.1.3.2.6 Opening and closing arguments and post hearing submissions of briefs or legal

memoranda will be permitted in the discretion of the DIAA Board.

10.1.3.2.7 Any person who testifies as a witness shall also be subject to cross examination by the other parties to the proceeding. Any witness is also subject to examination by the DIAA Board.

10.1.3.2.8 The Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. Testimony at any hearing shall be under oath or affirmation.

10.1.3.2.9 Any party to a proceeding before the DIAA Board may be represented by counsel. An attorney representing a party in a proceeding before the Board shall notify the Executive Director of the representation in writing as soon as practicable.

10.1.3.2.10 Strict rules of evidence do not apply. Evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs may be admitted into evidence.

10.1.3.2.11 Any document introduced into evidence at the hearing shall be marked by the DIAA Board and shall be a part of the record of the hearing. The party offering the document into evidence shall provide a copy of the document to each of the other parties, if any, and to each of the DIAA Board members present for the hearing unless otherwise directed.

10.1.3.2.12 DIAA shall provide a stenographic reporter at a hearing at its own expense.

10.1.3.2.13 The Board's decision shall be incorporated into a final order, which shall be signed and mailed to the parties within twenty (20) days of the hearing.

11.0 Appeal to the State Board of Education: Any party to a controversy involving the athletic rules and regulations, including a waiver thereof, may appeal to the State Board of Education by setting forth such grievance in a petition. The petition or notice of appeal shall be served on the Secretary of Education no later than thirty (30) calendar days after receipt of the decision. In addition, a copy of the petition or notice of appeal shall be served on the Executive Director of DIAA by certified or registered mail. Any decision shall otherwise be final. All appeals to the State Board of Education shall be on the basis of the record. (See 14 Del.C. §312 and the State Board of Education Manual for the Conduct of Hearings Before the State Board of Education).

1050 1007 DIAA Sportsmanship

1.0 Member schools are required to conduct all of their athletic affairs with other schools in a spirit of good sportsmanship. Acts which are prima facie evidence of a failure to abide by this rule are those which are noted below and others of a similar nature which transgress the usually accepted code for good sportsmanship.

1.1 Failure to provide for proper control of spectators at

a contest. When the number of spectators is expected to be large in relation to the seating capacity of the facility, uniformed state, county, or local police shall be provided for crowd control. The host school is expected to take reasonable and proper steps to assure crowd control under any foreseeable conditions.

1.2 Failure of a team or competitor to stay in a contest until its normal end when failure to do so is related to dissatisfaction with the officiating of the contest, unless the physical safety of the team or competitor would have been endangered by continuing the contest.

1.3 Harassment of game officials by a coach. Going onto the playing surface to interrupt a contest in protest of a decision by an official; conduct by a coach, team member, or any individual in the official party which invokes a penalty against the team; continued and visible actions by a coach which indicate to the team and/or to the spectators that the coach believes the game is being improperly officiated; public demonstrations with game officials which indicate to others extreme dissatisfaction with the officiating; and such related actions when exhibited in aggravated form are evidence of poor sportsmanship.

1.4 Failure of a school to use every means at its disposal to impress upon its faculty, student body, team members, coaching staff, and spectators the importance of good sportsmanship before, during, and after athletic contests. The host school is encouraged to read a brief statement concerning sportsmanship prior to the start of each athletic contest.

1.5 Failure of an administrator, athletic director, coach, athlete, official, or spectator to comply with the directions stipulated in the following Code of Interscholastic Athletics:

1.5.1 The School Administrator and Athletic Director shall:

1.5.1.1 Encourage and promote friendly relations and good sportsmanship throughout the school by requiring courtesy and proper decorum at all times, by familiarizing students and others in the community with the ideals of good sportsmanship, and by publicizing these concepts and attitudes so that all members of the school community understand and appreciate their meaning.

1.5.1.2 Review the Sportsmanship Rule with all athletic staff.

1.5.1.3 Insist upon strict compliance with all DIAA rules and regulations.

1.5.1.4 Insist upon adequate safety provisions for both participants and spectators in all activities.

1.5.1.5 Encourage all to judge the success of the interscholastic athletic program based on the attitude of the participants and spectators rather than on the number of games won or lost.

1.5.1.6 Insist that all participants adhere to the highest standards of good sportsmanship as a means of ensuring desirable spectator attitudes.

1.5.1.7 Provide sanitary and attractive facilities for the dressing and housing of visiting teams and officials.

1.5.2 The Coach shall:

1.5.2.1 Demonstrate high ideals, good habits, and desirable attitudes in his/ her personal and professional behavior and demand the same of his/her players.

1.5.2.2 Recognize that the purpose of competition is to promote the physical, mental, social, and emotional well-being of the individual players and that the most important values of competition are derived from playing the game fairly.

1.5.2.3 Be a modest winner and a gracious loser.

1.5.2.4 Maintain self-control at all times and accept adverse decisions without public display of emotion or dissatisfaction with the officials. Register disagreement through proper channels.

1.5.2.5 Employ accepted educational methods in coaching and give his/her players an opportunity to develop and use initiative, leadership, and judgement.

1.5.2.6 Pay close attention to the physical well-being of his/her players, refusing to jeopardize the health of an individual for the sake of improving his/her team's chances to win.

1.5.2.7 Teach athletes that it is better to lose fairly than to win unfairly.

1.5.2.8 Discourage gambling, profanity, abusive language, and similar violations of the true sportsman's or sportswoman's code.

1.5.2.9 Refuse to disparage an opponent, an official, or others associated with interscholastic athletics and discourage gossip and rumors about them.

1.5.2.10 Properly supervise the athletes under his/her immediate care.

1.5.3 The Participant (athletes and cheerleaders) shall:

1.5.3.1 Be responsible for the perpetuation of interscholastic athletics. Strive to enhance the image of athletics not only as a member of a team but also as a member of your school and community.

1.5.3.2 Be courteous to the visiting team. Your opponents wish to excel as much as you do. Respect their efforts.

1.5.3.3 Play hard to the limit of your ability regardless of discouragement. The true athlete does not give up, quarrel, cheat, bet, or grandstand.

1.5.3.4 Be modest when successful and be gracious in defeat. A true sportsman or sportswoman does not offer excuses for failure.

1.5.3.5 Understand and observe the playing rules of the game and the standards of eligibility.

1.5.3.6 Respect the integrity and judgement of the officials and accept their decisions without complaint.

1.5.3.7 Respect the facilities of the host school and do not violate the trust entailed in being a guest.

1.5.4 The Official shall:

1.5.4.1 Know the rules and interpretations and be thoroughly trained to administer them.

1.5.4.2 Maintain self-control in all situations.

1.5.4.3 When enforcing the rules, do not make gestures or comments that will embarrass the players or coaches.

1.5.4.4 Be impartial and fair, yet firm, in all decisions. A good official will not attempt to compensate later for an unpopular decision.

1.5.4.5 Refrain from commenting upon or discussing a team, player, or game situation with those not immediately concerned.

1.5.4.6 Conduct the game so as to enlist the cooperation of the players, coaches, and spectators in promoting good sportsmanship.

1.5.5 The Spectator shall:

1.5.5.1 Realize that he/she represents the school just as definitely as does a member of the team, and that he/she has an obligation to be a true sportsman or sportswoman and to encourage through his/her behavior the practice of good sportsmanship by others.

1.5.5.2 Recognize that good sportsmanship is more important than victory by approving and applauding good team play, individual skill, and outstanding examples of sportsmanship and fair play exhibited by either team. The following are some examples of poor sportsmanship which shall not be tolerated:

1.5.5.2.1 Profanity, vulgarity, obscene gestures, abusive language, and/or derogatory remarks.

1.5.5.2.2 Throwing objects.

1.5.5.2.3 Going onto the playing surface and interrupting a contest.

1.5.5.2.4 Use of alcohol or other controlled substances.

1.5.5.3 Respect the judgement and integrity of the officials, recognizing that their decisions are based upon game conditions as they observe them.

1.5.5.4 Treat visiting teams and officials as guests extending to them every courtesy.

1.5.5.5 Be modest in victory and gracious in defeat.

2.0 Processing Violations

2.1 Procedures

2.1.1 The Executive Director is specifically authorized to pursue any matter which, on the surface, has indications of being a sportsmanship violation.

2.1.2 Within twenty (20) calendar days of the incident, an alleged sportsmanship violation must be reported in writing to the Executive Director by the administrative head of a member school or by the Executive

Board of an officials' association.

2.1.3 The Executive Director shall transmit a copy of the report to the principal of the school(s) involved.

2.1.4 Each principal concerned shall investigate and provide such information or answers to the report as are appropriate.

2.1.5 The Executive Director shall provide member schools and officials' associations with a specially designed form to facilitate the proper reporting of sportsmanship related incidents.

2.1.6 Upon receipt of all reports, the Executive Director shall review the documents and inform the school(s) involved of his/her disposition of the matter. The Executive Director may, in turn, refer the matter to the Sportsmanship Committee to investigate and adjudicate what appears to be a violation of the Sportsmanship Rule.

2.1.7 The Sportsmanship Committee shall review such available evidence as it deems necessary to reach a conclusion. Actions such as requesting reports and conducting interviews should not be interpreted as casting aspersions on a school adhering to DIAA regulations, but as an effort to keep all parties properly informed. Penalties up to and including suspensions of member schools may be imposed by the Sportsmanship Committee.

2.1.8 A copy of the Sportsmanship Committee's action shall be filed with the Executive Director and the administrative head of the school(s) involved.

2.2 Policies

2.2.1 The basis for the following policy statement is that a member school shall not be represented by individuals whose conduct reflects discredit upon the school. Insofar as unsportsmanlike actions by participants and spectators are concerned, the Sportsmanship Committee shall refer to the items previously identified in the Code of Interscholastic Athletics as well as the following guidelines:

2.2.1.1 The school whose administrator or athletic director behaves in a manner likely to have an adverse influence on the attitudes of the players or spectators may be provided with a choice of:

2.2.1.1.1 Reprimanding _____ its administrator or athletic director and providing written documentation to the Executive Director, or

2.2.1.1.2 Suspending its administrator or athletic director from representing the school in athletic events for a specified period of time not to exceed 180 school days, or

2.2.1.1.3 Having the entire school disciplined by DIAA.

2.2.1.2 An athlete shall not strike an official, opponent, coach, or spectator or display gross misconduct before, during, or after an athletic event. The athlete, depending on the seriousness of the act, may be declared ineligible by the principal, Executive Director, or Sportsmanship Committee for a specified period of time not

to exceed 180 school days.

2.2.1.3 In the case of spectators physically assaulting an official, coach, or player, the school may be given the option of either taking punitive action against the offender or accepting discipline from DIAA.

2.2.1.4 Schools that do not fully cooperate in promoting the spirit of the Sportsmanship Rule may be disciplined by DIAA.

2.2.1.5 The school whose coach behaves in a manner likely to have an adverse influence on the attitudes of the players or spectators may be provided with a choice of:

2.2.1.5.1 Reprimanding its coach and providing written documentation to the Executive Director, or

2.2.1.5.2 Suspending its coach from representing the school in athletic events for a specified period of time not to exceed 180 school days, or

2.2.1.5.3 Having the entire school disciplined by DIAA.

2.2.1.6 An administrator, athletic director, or coach may be considered as having committed an unsportsmanlike act if:

2.2.1.6.1 He/she makes disparaging remarks about the officials during or after a game either on the field of play, from the bench, or through any public news media, or

2.2.1.6.2 He/she argues with the official or indicates with gestures or other physical actions his/her dislike for a decision, or

2.2.1.6.3 He/she detains the official on the field of play following a game to request a ruling or explanation of some phase of the game, or

2.2.1.6.4 He/she makes disparaging or unprofessional remarks about another school's personnel.

2.2.1.7 All actions by a member school resulting from an investigation relative to the above policies shall be subject to approval by the Executive Director and/or the Sportsmanship Committee.

2.3 Penalties

2.3.1 Game Ejection

2.3.1.1 A player or coach disqualified before, during, or after a contest for unsportsmanlike and flagrant verbal or physical misconduct shall be suspended from the next complete (a winner is determined or a tie is declared) contest at that level of competition and all other complete or suspended contests in the interim at any level of competition in addition to any other penalties which DIAA or a conference may impose.

2.3.1.1.1 A player who leaves the team bench area and enters the playing field, court, or mat during a fight or other physical confrontation shall be ejected from the contest. A player who commits such an offense and is ejected by the game officials shall also be suspended from

the next complete contest at that level of competition and all other complete or suspended contests at any level of competition in the interim. Additional penalties may be imposed if a player leaving the bench area becomes involved in the altercation.

2.3.1.2 A disqualified player or coach may not be physically present at any contest in that sport during his/her suspension.

2.3.1.3 If a coach is disqualified from the final contest of the season, his/her suspension shall carry over to the next year in that sport. In the case of an athlete, the same penalty shall apply if said athlete retains eligibility in that sport.

2.3.1.3.1 Coaches who do not fulfill their penalty in the same sport shall be disqualified for the appropriate length of time in their subsequent coaching assignment.

2.3.1.3.2 Seniors shall fulfill their penalty in the post-season all-star game in that sport. If not chosen to participate in the all-star game, they shall fulfill their penalty in another sport during the same season or another sport during a subsequent season. When a senior is disqualified from the last game of his/her high school career, the member school is requested to take appropriate administrative action to discipline the offending student.

See 3 DE Reg. 436 (9/1/99)

2.3.1.4 A player or coach ejected for a second time during the same season shall be subjected to a two-game suspension and meet, in a timely fashion, with the Sportsmanship Committee accompanied by his/her principal or designee and, in the case of an athlete, by his/her coach.

2.3.2 The following penalties represent degrees of discipline in enforcing the Sportsmanship Rule:

2.3.2.1 Reprimand - a reprimand may be given by the Executive Director or the Sportsmanship Committee. It is official notice that an unethical or unsportsmanlike action has occurred, is a matter of record and that such an occurrence must not be repeated.

2.3.2.2 Probation - probation is a more severe penalty and may be imposed by the Executive Director or the Sportsmanship Committee on a member school, a particular team of a member school, a particular coach or athlete of a member school, or an official. Probation may be expressed in one of the following ways:

2.3.2.2.1 Conditional _____ probation wherein the offending party may participate in regular season contests, sanctioned events, and conference and state championships provided he/she/the school files with DIAA a plan indicating the measures that shall be taken to alleviate the problem which caused him/her/the school to be placed on probation, or

2.3.2.2.2 Restrictive _____ probation wherein a member school or a particular team of a member school may engage in its regular season schedule but may

not enter any sanctioned events, participate in any playoff toward a conference or state championship, or be awarded a conference or state championship.

2.3.2.3 Suspension - a member school, a particular team of a member school, a particular coach or athlete of a member school, or an official may not participate in any DIAA sanctioned interscholastic competition.

2.4 Appeals

2.4.1 Decisions of the Executive Director or Sportsmanship Committee may be appealed to the DIAA Board of Directors in accordance with the procedure found in Regulation 1055 DIAA Appeal Procedure. However, Notice of Appeal shall be served by certified mail within ten (10) calendar days after receipt by the appellant written notice of the action of the Executive Director or Sportsmanship Committee.

2.4.2 Decisions of the Executive Director or Sportsmanship Committee may be appealed to the DIAA Board of Directors in accordance with the procedure found in 14 DE Admin. Code 1006.10. In accordance with subsection 1006.10.1.1.3.1, the notice of appeal shall be served by certified mail within ten (10) calendar days after the appellant's receipt of the written notice that official action has been taken by the Executive Director or Sportsmanship Committee.

1008 DIAA Junior High/Middle School Interscholastic Athletics

1.0 National Federation of State High Schools, Conferences, Contracts and Equivalency Rules

1.1 National Federation of High School Associations

1.1.1 DIAA is affiliated with the National Federation of State High School Associations (NFHS). The playing codes, sanctions, and other rules of the NFHS are adopted except as modified by the DIAA Board of Directors.

1.1.1.1 The playing rules of the United States Tennis Association, the United States Golf Association and the United States Lacrosse Association are adopted for the sports of tennis, golf and girls' lacrosse respectively except as modified by the DIAA Board of Directors.

1.2 Conferences

1.2.1 Member schools may establish voluntary conference organizations that may be composed of public and non-public schools. When established they must submit its proposed membership and its constitution and bylaws to the DIAA Board of Directors and must be approved by the DIAA Board of Directors before the schools may enter into any contractual agreements.

1.2.1.1 All subsequent amendments to the constitution and bylaws of the conference must be compatible with all provisions of the DIAA Regulations; interpretations and rulings of the Executive Director, Sportsmanship Committee, and Board of Directors; state tournament regulations; and DIAA approved playing codes.

1.3 Contracts

1.3.1 Contracts between DIAA member schools or between DIAA member schools and full member schools of comparable state associations are encouraged but not required.

1.3.1.1 Conference master contracts are approved substitutes for individual contracts.

1.3.1.2 In the case of a dispute and provided either a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question, appeal may be made to the Executive Director or the DIAA Board of Directors which, after review of the circumstances, may assign an appropriate penalty.

1.3.1.2.1 Without a signed individual contract or conference master contract, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors.

1.3.2 Contracts between DIAA member schools and non-member or associate member schools of comparable state associations are required.

1.3.2.1 A copy of the signed contract must be either received by the Executive Director or postmarked prior to the contest for which the agreement was drawn up. Failure to file a signed contract as prescribed shall result in the DIAA member school being assessed a \$15.00 fine.

1.3.2.2 In the case of a dispute, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors unless a signed individual contract is in place.

1.3.3 Contracts shall be interchanged according to the following provisions:

1.3.3.1 Contracts on the accepted form shall be arranged by the competing schools for each season's interscholastic athletic contests.

1.3.3.2 Contracts shall be drawn up by the faculty manager or other designated staff member of the home school of the earlier contest.

1.3.3.3 A signed contract or any part thereof may not be nullified or modified except by mutual agreement of both schools involved.

1.3.4 If a game is not played, it shall be considered "no contest" unless a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question and one of the participating schools breached the agreement in which case appeal may be made to the Executive Director or the DIAA Board of Directors.

1.4 Equivalent Rules

1.4.1 A full member school shall not participate in a scrimmage or contest with an instate school that is not a member in good standing of DIAA.

1.4.1.1 Scrimmage is defined as: an informal competition between schools in which officials are not

compensated, a score is not kept, the time periods are modified, the results of the competition are not reported to the media, the coaches may interrupt the play to provide instruction and the competition is strictly for practice purposes.

1.4.2 A full member school shall not participate in a scrimmage or contest with an associate or non-member school of another state association unless the opposing school, as part of a written contract, certifies that its contestants are eligible under the rules of its home state association.

1.4.3 An associate member school shall not participate in a scrimmage or contest with an in-state school that is not a member in good standing of DIAA unless the opposing school complies with the conditions specified in 1.4.2. However, the opposing school shall be exempt from those rules which DIAA has waived for its associate member school.

1.4.4 Member schools shall not participate in a practice, scrimmage, or contest with a non-school sponsored team.

1.4.5 Member schools shall not participate in a practice, scrimmage, or contest with college students. This provision shall not apply to games played against the alumni or faculty of the school when the game is sponsored by school authorities.

1.4.6 A school which participates in a game against an illegal opponent shall be required to forfeit the contest and be assessed a \$100.00 fine.

2.0 Eligibility: No student shall represent a school in an interscholastic scrimmage or contest if he/she does not meet the following requirements.

2.1 Eligibility, Grades and Age

2.1.1 The junior high /middle school interscholastic program shall include grades 6-8, inclusive. No junior high/middle school student who has completed a season at the junior high/middle school level shall compete in the same sport at the senior high school level during the same school year. A junior high/middle school student who participates in a varsity or sub-varsity game at the high school level shall be ineligible to participate at the junior high/ middle school level in the same sport.

2.1.1.1 Eighth-grade students who become 15 years of age on or after June 15 in a school terminating in the eighth grade shall be eligible for all sports during the current school year provided all other eligibility requirements are met.

2.1.1.2 Permission shall be granted for 15-year old eighth-grade students in a school terminating in the eighth grade who are ineligible for junior high/middle school competition to participate in the district high school athletic program provided they meet all other eligibility requirements. In determining the age of a contestant, the

birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.

2.1.2 Requests for waiver of the age requirement shall be considered only for participation on an unofficial, non-scoring basis in non-contact sports.

2.2 Eligibility, Residence

2.2.1 With the exception of boarding school students, a student must be living with his/her custodial parent(s) legal guardian(s) or Relative Caregiver in the attendance zone of the school which he/she attends in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court action. In the case of shared custody the parents must commit to sending the student to a particular school for the year. Maintaining multiple residences to circumvent this requirement shall render the student ineligible.

2.2.1.1 A student who, pursuant to established school board policy or administrative procedure, remains in a school he/she has been attending after his/her legal residence changes to the attendance zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at his/her current school and thereby not lose athletic eligible. If a student chooses to remain at his/her current school and then transfers to the school in his/her new attendance zone on or after the first official student day of the subsequent academic year, he/she shall be ineligible for ninety (90) school days.

2.2.1.2 A student who changes residence to a different attendance zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, is granted permission to continue attending his/her present school, the student shall retain his/her athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.

2.2.1.3 A student may be residing outside of the attendance zone of the school which he/she attends if the student is participating in the Delaware School Choice Program as authorized by 14 Del.C., Ch.4.

2.2.1.4 A student who is a non-resident of Delaware shall be eligible to attend a public school, charter school or career-technical school if, in accordance with 14 Del.C. §607, his/her custodial parent, legal guardian or Relative Caregiver is a full-time employee of that district.

2.2.1.5 Notwithstanding 2.2.1, a student shall be eligible at a public school, charter school or vocational-technical school if he/ she is enrolled in accordance with 14 Del.C. §202(f), the Caregivers School Authorization.

2.2.1.5.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers' School

Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the Relative Caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

2.2.1.6 Notwithstanding 2.2.1, a student who is homeless as defined in the McKinney-Vento Act, 42 U.S.C. 11434a(2) shall be eligible to participate at the public school in which he/she is enrolled.

2.3 Eligibility, Enrollment and Attendance

2.3.1 A student must be legally enrolled in the junior high/middle school which he/she represents in order to participate in a practice, scrimmage, or contest.

2.3.2 Students with disabilities who are placed in special schools or programs administered by a school district or charter school which sponsors junior high/middle school interscholastic athletics.

2.3.2.1 Definitions:

"Campus" means a contiguous land area containing one or more school buildings.

"Special School or Program" means a school or program approved by the Department of Education with the approval of the State Board of Education to serve students with disabilities, but does not include alternative schools.

"Student With a Disability" means a "child with a disability" as that term in the Administrative Manual for Special Education Services (AMSES), 14 DE Admin. Code 925.

2.3.2.2 A student with a disability who is placed in a special school or program administered by a school district or charter school which sponsors junior high/middle school interscholastic athletics shall be eligible to participate in interscholastic athletics as follows:

2.3.2.2.1 If the special school or program sponsors the interscholastic sport in question, the student shall be eligible to participate only at the school or program.

2.3.2.2.2 If the special school or program does not sponsor the interscholastic sport in question and the student is served in a regular junior high/middle school for all or part of the school day, the student shall be eligible only at that regular junior high/middle school.

2.3.2.2.3 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is located on the campus of a regular junior high/middle school, the student shall be eligible only at the regular junior high/middle school on the same campus.

2.3.2.2.4 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is not located on the campus of a regular junior high/middle school the student shall be eligible only at the regular junior high/middle school designated to serve the special school's or program's students.

2.3.2.2.4.1 School districts or charter schools which administer special schools or programs and have multiple middle schools shall decide which of its regular middle schools shall be designated to serve special school or program students in these circumstances.

2.3.3 A student who is participating in the Delaware School Choice Program, as authorized by 14 **Del.C.** Ch.4, is obligated to attend the choice school for a minimum of two (2) years unless the student's custodial parent(s), legal guardian(s) or Relative Caregiver relocate to a different school district or the student fails to meet the academic requirements of the choice school. If a student attends a choice school for less than two (2) years and subsequently returns to his/her home school, the student must receive a release from the choice district in order to legally enroll at his/her home school. Without a release, the student would not be legally enrolled and consequently would be ineligible to participate in interscholastic athletics.

2.3.4 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in-school or out-of-school, is in effect or during the time he/she is assigned to an alternative school for disciplinary reasons.

2.3.5 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.

2.3.6 A Student who fails to complete a semester or absence for one or more semesters for reasons other than personal illness or injury shall be ineligible for ninety (90) school days from his/her reentry to school.

2.3.7 An eligible student who practices in violation of 2.2.2 through 2.2.5 shall. When he/she regains her eligibility, be prohibited from practicing, scrimmaging or competing for an equivalent number of days.

2.4 Eligibility-Transfers

2.4.1 A student who has not previously participated in interscholastic athletics (previous participation is defined as having practiced, scrimmaged or competed in grades 6 through 8), is released by a proper school authority from a sending school, has completed the registration process at the receiving school, and is pursuing an approved course of study shall be eligible immediately upon registration provided he/she meets all other DIAA eligibility requirements.

2.4.2 If a student has previously participated in

interscholastic athletics, he/she shall be ineligible for a period of ninety (90) school days commencing with the first day of official attendance in the receiving school unless one of the following exceptions applies:

2.4.2.1 The transfer is within a school district and is approved by the district's superintendent pursuant to established school board policy or administrative procedure. This provision shall not apply to a student who transfers to his/her home school from a "choice school" within the district and who has not completed the two-year attendance requirement unless he/she satisfies the conditions stipulated in 2.4.2.5.1 through 2.4.2.5.4. This provision shall also not apply to a student who transfers from a "choice school" to another "choice school" within the district (see 1.4.6.1).

2.4.2.2 The transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship/custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship/custody, an affidavit, (except as permitted by 2.4.2.3) or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.

2.4.2.3 The transfer is in accordance with 14 **Del.C.** §202(f), the Caregivers School Authorization.

2.4.2.3.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers School Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the Relative Caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

2.4.2.4 The transfer is the result of a change in residence by the custodial parent(s) legal guardian(s) or Relative Caregiver from the attendance zone of the sending school to the attendance zone of the receiving school. A change in residence has occurred when all occupancy of the previous residence has ended. A student who transfers shall be eligible in the receiving school immediately when the custodial parent(s) legal guardian(s) or Relative Caregiver has established a new legal residence in another public school attendance zone.

2.4.2.5 The transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year provided:

2.4.2.5.1 The student has completed the registration process at the receiving school prior to the first official student day of the academic year. The first

official student day shall be defined as the first day on which students in any grade in that school are required to be in attendance.

2.4.2.5.2 The student has not attended class, excluding summer school, or participated in a scrimmage or contest at the sending school since the close of the previous academic year.

2.4.2.5.3 The student's legal residence is located in the attendance zone of the receiving school.

2.4.2.5.4 All other DIAA eligibility requirements have been met.

2.4.2.6 The transfer is the result of the student being homeless as defined in the McKinney-Vento Act, 42 U.S.C. 11434a(2).

2.4.2.6.1 Notwithstanding the above, the student shall be ineligible under the ninety (90) school day ineligibility clause where the student's homeless status is created by the student or his/her family for the primary reason of:

2.4.2.6.1.1 Seeking a superior team;

2.4.2.6.1.2 Seeking a team more compatible with the student's abilities; or

2.4.2.6.1.3 Dissatisfaction with the philosophy, policies, methods or actions of a coach or administrator pertaining to interscholastic athletics; or

2.4.2.6.1.4 Avoiding disciplinary action imposed by the school of origin related to affecting interscholastic athletic participation.

2.4.3 Transfer Because of a Change in the Program of Study or Financial Hardship If a waiver of the ninety (90) school day ineligibility clause is requested due to a desired change in the program of study or financial hardship, the parent(s), legal guardian(s) or Relative Caregiver is responsible for providing documentation to the DIAA Board of Directors to support the request.

2.4.3.1 Documentation for Change in Program of Study: Documentation for change in program of study (a multi-year hierarchical sequence of courses with a common theme or subject matter leading to a specific outcome) shall include:

2.4.3.1.1 The student's schedule;

2.4.3.1.2 The student's transcript;

2.4.3.1.3 Current course descriptions from both the sending and receiving schools;

2.4.3.1.4 A statement from the principal of the sending school indicating that a significant part of the student's desired program of study will not be offered and that it will place the student at a definite disadvantage to delay transfer until the end of the current school year; and

2.4.3.1.5 A statement from the principals of both the sending and receiving school that the student is not transferring for athletic advantage (see 2.4.5).

2.4.3.2 Documentation for Financial

Hardship: Documentation for financial hardship shall include:

2.4.3.2.1 Proof of extreme financial hardship caused by significant loss of income and/or increased expenses; and

2.4.3.2.2 A statement from the principal of both the sending and receiving schools that the student is not transferring for athletic advantage (see 2.4.5).

2.4.4 Transfer Because of a Custody Change: In cases of joint or shared custody when a primary residence is established, a change in a student's primary residence without court action subjects the student to the ninety (90) school day ineligibility clause.

2.4.5 A change of custody or guardianship for athletic advantage shall render a student ineligible under the ninety (90) school-day ineligibility clause if the reason for his/her transfer is one of the following: to seek a superior team, to seek a team more compatible with his/her abilities, dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics, or to avoid disciplinary action imposed by the sending school related to or affecting interscholastic athletic participation.

2.4.6 A student who transfers from a public, private, career-technical school or charter school to a school of choice, as authorized by 14 Del.C., Ch.4 shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year.

2.4.6.1 A student who transfers from a school of choice to another school of choice shall be ineligible to participate in interscholastic athletics during his/ her first year of attendance at the receiving school unless the receiving school sponsors a sport(s) not sponsored by the sending school in which case the student shall be eligible to participate in that sport only.

2.4.7 A student who transfers from a school of choice to either a private school, public school, career technical school or, after completing his/her two year commitment, to a public charter school, shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year.

2.4.8 If a student transfers with fewer than ninety (90) school days left in the academic year, he/she shall be ineligible for the remainder of the school year but shall be eligible beginning with the subsequent fall sports season provided he/she is in compliance with all other eligibility requirements.

2.5 Eligibility, Amateur Status

2.5.1 A student may not participate in an interscholastic sport unless he/she is considered an amateur in that sport. A student forfeits his/her amateur status if he/she does any of the following:

2.5.1.1 Knowingly plays on or against a

professional team which is defined as a team having one or more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.

2.5.1.2 Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

2.5.1.3 Enters competition under an assumed name. The surname and given name used by any player in the first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the principal of the school.

2.5.1.4 Receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp/clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

2.5.1.5 Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by 9.1.4) or a merchandise discount (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of his/her participation in an organized competition or instructional camp/clinic. Accepting an event program and/or a complimentary item(s) (t-shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150.00, and is provided to all of the participants, shall not jeopardize his/ her amateur status.

2.5.1.6 Sells or pawns awards received.

2.5.1.7 Uses his/her athletic status to promote or endorse a commercial product or service in a newsprint, radio, or television advertisement or personal appearance.

2.5.2 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize his/her amateur status.

2.5.3 A student who forfeits his/her amateur status under the provisions of this rule is ineligible to participate at the interscholastic level in the sport in which the violation occurred. He/she may be reinstated after a period of up to 180 school days provided that during the suspension, he/she complies with all of the provisions of this rule. The suspension shall date from the time of the last offense.

2.6 Eligibility, Passing Work

2.6.1 In order to be eligible for participation in interscholastic athletics, including practices, a student must pursue a regular course of study or its equivalent as approved

by the local governing body, and must be passing at least four (4) courses. Two (2) of those courses must be in the areas of English, Mathematics, Science, or Social Studies.

2.6.1.1 A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study, shall be adjudged eligible by the principal if he/she is making satisfactory progress in accordance with the requirements of his/her individualized education plan (IEP).

2.6.2 A student whose work in any regular marking period does not meet the above standards shall be ineligible to participate in interscholastic athletics, including practices, for the next marking period.

2.6.2.1 In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.

2.6.2.2 The final accumulation of credits shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required credit(s) during the summer, he/she shall become eligible provided he/she successfully completes the course work prior to the first official student day of the school year.

2.6.2.3 Written verification of the successful completion of a correspondence course must be received before a student shall regain his/her eligibility.

2.6.3 A student forfeits or regains his/her eligibility, in accordance with the provisions of this rule, on the day report cards are issued.

2.6.4 Local school boards and non-public schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.

2.6.5 An ineligible student who practices in violation of 2.6.1, 2.6.2 or 2.6.3, shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

2.7 Eligibility, Years of Participation

2.7.1 No student shall represent a school in athletics after four (4) consecutive semesters from the date of his/her first entrance into the seventh grade in schools which restrict participation in interscholastic athletics to students in grades 7 and 8 unless a waiver is granted for hardship reasons.

2.7.1.1 No student shall have more than two (2) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

2.7.1.2 "Hardship" shall be defined as extenuating circumstances peculiar to the student athlete caused by unforeseen events beyond the election, control or creation of the student athlete, his/her family, or school

which (1) deprive him/her of all or part of one of his/her opportunities to participate in a particular sports season; (2) preclude him/her from completing the academic requirements for graduation within the normal period of eligibility; and (3) deprive him/her of all or part of one of his/her opportunities to participate in a particular sport. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.

2.7.1.2.1 A waiver shall not be granted under this section where DIAA finds that the student was academically eligible pursuant to DIAA's minimum passing work standards but was ineligible to participate under more stringent locally adopted academic standards and where the local school board has adopted its own waiver or exemption policy.

2.7.1.2.2 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for promotion within the normal period of eligibility and the loss of all or part of one of his/her opportunities to participate in a particular sports season.

2.7.1.2.3 The burden of proof rests with the student in conjunction with the waiver process as described in 14 **DE Admin. Code** 1006. Claims of extended illness, debilitating injury, emotional stress, etc., must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student or his/her parent(s) or court appointed legal guardian(s) sought assistance to ameliorate the effects of the hardship condition.

2.7.2 No student shall represent a school in athletics after six (6) consecutive semesters from the date of his/her first entrance into the sixth grade in schools which permit students in grades 6, 7 and 8 to participate in interscholastic athletics unless a waiver is granted for hardship reasons

2.7.2.1 No student shall have more than three (3) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

2.7.2.2 Participation on the part of a sixth-grade student shall be at the discretion of the individual school.

2.7.2.3 Sixth-grade students shall not be permitted to participate in football unless the conference develops a classification system that is approved by the DIAA Board of Directors.

2.7.3 Students below the sixth grade shall not be permitted to practice, scrimmage, or compete on junior high/middle school interscholastic teams.

2.7.4 Participation shall be defined as taking part in a school sponsored practice, scrimmage, or contest on

or after the first allowable date for practice in that sport.

2.8 Student Eligibility Report Forms

2.8.1 Member schools shall use eligibility forms approved by the Executive Director. A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$15.00 fine against the school.

2.8.1.1 In the case of a student who met all DIAA eligibility requirements but was omitted from the eligibility report due to administrative or clerical error, he/she shall be adjudged eligible and the school assessed a \$10.00 fine.

2.9 Use of an Eligible Athlete:

2.9.1 If a school uses an ineligible athlete, the administrative head or his/her designee shall notify the opposing school(s) or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate game(s), match(es) and/or point(s) won.

2.9.2 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contest(s) in which the ineligible athlete participated.

2.9.2.1 If the infraction occurs during a tournament, the offending school shall be replaced by its most recently defeated opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament. Team and/or individual awards shall be returned to the event sponsor and team and/or individual records and performances shall be nullified.

2.9.2.2 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty. If the forfeiture penalty is waived, the offending school shall be reprimanded and fined \$200.00 unless the athlete or his/her parent(s) or court appointed legal guardian(s) knowingly withheld information or provided false information that caused him/her to be eligible for interscholastic competition. The burden of proof, in both cases, rests entirely with the offending school. A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings. A forfeit shall be automatic and not subject to refusal by the offending school's opponent.

2.9.3 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and/or points earned by the ineligible athlete or by a relay team of which he/she was a member. The points contributed by an ineligible athlete to his/her team score shall be deleted-and the contest score as well as any affected placements will be adjusted according to

the rules of that sport.

2.9.3.1 If the infraction occurs during a tournament, the ineligible athlete shall be replaced by his/her most recently defeated opponent or next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

2.9.3.2 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event sponsor. Individual records and performances by the ineligible athlete shall be nullified.

2.9.4 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules but in accordance with a temporary restraining order or injunction against his/her school and/or DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties as stipulated in 2.9.1 and 2.9.2 shall be imposed.

2.9.5 The intentional use of an ineligible athlete by a member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for the number of days up to the length of the school year from the date the charge is substantiated.

2.9.6 If a coach knowingly withholds information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA member school for up to the number of days up to the length of the school year from the date the charge is substantiated.

2.9.7 If an athlete or his/her parent(s), legal guardian(s), or Relative Caregiver knowingly withholds information or provides false information that causes him/her to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA member school for up to the number of days up to the length of the school year from the date the charge is substantiated.

2.10 Determination of Student Eligibility and the Appeal Procedures

2.10.1 In cases of uncertainty or disagreement, the eligibility of a student shall be determined initially by the Executive Director. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.

2.10.2 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DIAA Board of Directors.

2.10.3 Decisions of the DIAA Board of Directors to affirm, modify, or reverse the eligibility rulings of the

Executive Director may be appealed to the State Board of Education in accordance with the procedure described in Regulation 1006 Section 10.1.3.

3.0 Physical Examinations, Weight Control Programs for Wrestling and Required Medical Personnel in Attendance at All Football Games

3.1 Physical Examinations

3.1.1 A student shall not be eligible to practice, scrimmage, or compete in an interscholastic contest unless he/she has been adequately examined by a licensed physician (M.D. or D.O.), a certified nurse practitioner, or a certified physician's assistant on or after May 1 and before beginning such athletic activity for the current school year.

3.1.2 A certificate to that effect, as well as the parent's, legal guardian's or Relative Caregiver's consent, shall be on file with the administrative head of the school prior to the student participating in a practice, scrimmage, or game.

3.1.3 For any subsequent sports season in the school year, a limited reexamination shall be performed if any of the following circumstances exist: the athlete has been treated for an injury during the preceding sports season, the athlete has been out of school during the preceding sports season with an illness other than the usual minor upper respiratory or gastrointestinal upset, an operation has been performed on the athlete during the preceding term, or the athlete has a remedial defect.

3.1.4 The medical history of the student should be available at the time of each examination.

3.1.5 A player who is properly certified to participate in interscholastic athletics but is physically unable to participate for five (5) consecutive days on which a practice, scrimmage, or contest is held due to illness or injury, must present to the administrative head of the school or designee, a statement from a qualified physician that he/she is again physically able to participate.

3.2 Wrestling Weight Control Program

3.2.1 Each year, four (4) weeks from the first day he/she appears at practice, a wrestler must establish his/her minimum weight class at a weigh-in witnessed by and attested to in writing by the athletic director or a designated staff member (excluding coaches) of the school the wrestler attends. A wrestler may re-certify at a lower weight during the 4 weeks from the first day he/she appears at practice. However, once certified at a weight, a wrestler may not weigh-in more than one class above the weight of the certification without automatically re-certifying at a higher weight. Once re-certified to a higher weight class the wrestler can no longer re-certify lower. After 4 weeks from the first practice day a wrestler may not compete in a weight class below his duly established weight class.

3.2.2 The weight classifications shall be as follows:

76 lbs. 100 lbs. 124 lbs. 148 lbs.
82 lbs. 106 lbs. 130 lbs. 155 lbs.
88 lbs. 112 lbs. 136 lbs. 165 lbs.
94 lbs. 118 lbs. 142 lbs. 250 lbs.
(minimum weight 164 lbs.)

3.2.3 With the exception of the above weight classifications, the current edition of the NFHS Wrestling Rules Book shall apply.

3.2.4 By the end of four (4) weeks of practice, a certified team roster listing the established minimum weight class of each wrestler shall be sent to the Executive Director of DIAA. Further, duly attested notices of additions to the certified roster shall be sent to the Executive Director without delay.

3.2.5 Schools which desire to conduct their wrestling program at a time other than the specified season must request permission from the Executive Director.

3.2.5.1 A team which begins its season in October shall receive a one-pound growth allowance in November and an additional pound in December. A team which begins its season in November shall receive a one-pound growth allowance in December, an additional pound in January, and a third pound in February.

3.3 Required Medical Personnel In Attendance at All Football Games

3.3.1 Provision shall be made for a licensed physician, a NATA certified athletic trainer, or a registered nurse to be present at all interscholastic football games in which a member school participates. The host school shall provide this service. Failure by the host school to provide this service shall result in a \$100.00 fine.

4.0 Sports Seasons, Practice Sessions and Maximum Game Schedules and designated Sports Seasons

4.1 Sports Seasons

4.1.1 The fall sports season shall begin on August 25 and end not later than December 1. Practice for any fall sport shall not begin earlier than August 25.

4.1.1.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to non-contact activities. Coaches may introduce offensive formations and defensive alignments, run plays on "air", practice non-contact phases of the kicking game, and teach non-contact positional skills. Protective equipment shall be restricted to helmets, mouth guards and shoes. The use of dummies, hand shields, and sleds in contact drills is prohibited. Blocking, tackling, and block protection drills which involve any contact between players are also prohibited.

4.1.1.2 No member school shall participate in spring football games nor shall a member school conduct football practice of any type outside of the regular fall sports season except when participating in the state tournament." Organized football" or "organized football practice" shall be

defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. Touch football, featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule

4.1.2 The winter sports season shall begin 21 days before the first Friday in December and end not later than March 1. Practice for any winter sport shall not begin earlier than 21 days before the first Friday in December

4.1.3 The spring sports season shall begin on March 1 and end not later than the last school day. Practice for any spring sport shall not begin earlier than March 1.

4.1.4 A school which conducts practice prior to the first allowable date shall pay a \$100.00 fine per each illegal practice day and a school which participates in a game prior to the first allowable date shall be required to forfeit the contest and pay a \$100.00 fine.

4.1.5 No member school shall participate in a post season contest without the written approval of the Executive Director.

4.2 Practice Sessions

4.2.1 A practice session shall be defined as any instructional or conditioning activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, chalkboard sessions, warm-up and cool down exercises, drills, and mandatory strength training, etc. Member schools shall conduct a minimum of 21 calendar days of practice under the supervision of the school's coaching staff prior to the first scheduled contest in all sports.

4.2.2 Practice sessions shall be limited to two (2) hours on official school days. Split sessions may be conducted, but practice time shall not exceed two (2) hours for any individual athlete. The two-hour practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.

4.2.3 Practicing on holidays and weekends shall be left to the individual schools and conferences. However, there shall be one day of no activity (practice, scrimmage or contests) during any seven day period.

4.2.4 A student shall be required to practice for a period of at least seven (7) calendar days prior to participating in a contest. However, if an eighth grade student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven (7) calendar days before his/her team's first contest, he/she shall be exempt from this requirement.

4.2.5 A school which exceeds the two-hour practice limitation shall pay a \$100.00 fine.

4.3 Maximum Game Schedules and Designated Sports Seasons:

4.3.1 The maximum number of regularly scheduled interscholastic contests/competition dates for each team and individual in the recognized sports and their

PROPOSED REGULATIONS

designated season shall be as follows:

Team Limitations

Individual Limitations

<i>Sport</i>	<i>Season</i>	<i>Week</i>	<i>Week</i>	<i>Day</i>
Fall				
Cross Country (boys and girls)	12 competition dates	+2 competition dates	+2 competition dates	
Field Hockey (girls)	12 contests	2 contests	2 competition dates	2 halves
Football (boys)	8 contests	1 contest	4 quarters	
Soccer (boys)	12 contests	2 contests	2 competition dates	2 halves
Volleyball (girls)	12 competition dates	2 competition dates	2 competition dates	
	of which one date may			
	involve more than			
	2 teams			
Winter				
Basketball (boys and girls)	14 contests	2 contests	2 competition dates	4 quarters
Wrestling (boys)	* 12 contests	2 competition dates	2 competition dates	5 matches
Spring				
Baseball (boys)	12 contests	2 contests	2 contests	
Softball (girls)	12 contests	2 contests	2 contests	
Outdoor Track (boys and girls)	10 competition dates	+2 competition dates	+2 competition dates	
Tennis (boys and girls)	12 contests	2 contests	2 contests	2 halves
Outdoor Track (boys and girls)	10 competition dates +	2 competition dates	+ 2 competition dates	

+ A team may not participate in two different cross country or outdoor track meets on the same day.

*Participation in a triangular meet shall count as two contests and participation in a quadrangular meet shall count as three contests toward the seasonal limitation.

Participation in any part of a quarter/half shall count as a quarter/half toward the weekly and daily limitations in that sport. However, in the case of football, participation on a free kick or a play from a scrimmage kick formation shall not count as a quarter. Overtime periods shall be considered as part of the fourth quarter or second half.

4.3.2 The preceding game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting

team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than three (3) contests/competition dates in a week.

4.3.3 A student shall participate in a particular sport for only one season during each academic year.

4.3.4 A school which participates in more than the allowable number of contests in a season shall be fined \$200.00.

4.3.5 A school which exceeds the weekly contest limitation shall forfeit the contest and pay a \$100.00 fine.

4.3.6 A student who exceeds the weekly or daily contest limitation shall be considered an ineligible athlete and the school subject to the penalties stipulated in 2.10.

5.0 School/Team Competition, Sanctioning of Competitions and All Star Contests

5.1 School/Team Competition**5.1.1 Sponsoring Interscholastic Teams:**

Interscholastic competition is defined as any athletic contest between students representing two (2) or more schools. Member of school clubs who participate in non-competitive, recreational activities or compete unattached are not considered to be engaged in interscholastic competition. Students are considered to be representing a school if the school does any of the following:

5.1.1.1 Partially or wholly subsidizes the activity (providing equipment, uniforms, transportation, entry fees, etc.).

5.1.1.2 Controls and administers the funds, regardless of their source, needed to conduct the activity.

5.1.1.3 Permits the students to compete under the name of the school.

5.1.1.4 Publicizes or promotes the activity through announcements, bulletins, or school sponsored publications in excess of what is customarily done for "outside" organizations.

5.1.1.5 Presents or displays individual/ team awards.

5.1.2 Schools may sponsor teams for interscholastic competition in a sport provided the following criteria are met:

5.1.2.1 The governing body of the participating district or non-public school approves participation in the sport. The administrative head of the school shall notify the Executive Director in writing of the school's intent to sponsor a team in a new sport.

5.1.2.2 The governing body of the participating district or non-public school controls the funds needed to support the proposed team, regardless of their source, in the same manner as existing teams (coaches' salaries, purchase and repair of equipment, medical supervision, transportation, preparation and maintenance of practice and game facilities, awards, etc.). Requests from outside sources to make financial contributions or to donate equipment or services must be submitted in writing and must include an acknowledgment that the equipment becomes the property of the school. The contribution or donation must be approved in writing by the administrative head of the school.

5.1.2.3 The participating schools agree to comply with all applicable DIAA rules and regulations as stated in the current DIAA Official Handbook.

5.1.3 Levels of Participation

5.1.3.1 Level 1 or developmental sport - less than seven (7) participating schools. DIAA rules and regulations shall not be in effect.

5.1.3.2 Level 2 or recognized sport - seven (7) or more participating schools. Participating schools must petition the DIAA Board of Directors for official recognition of the sport.

5.1.3.2.1 At the time of official

recognition, DIAA shall provide rules publications to the participating schools, designate an approved official's association, conduct an annual or biannual rules clinic for coaches and officials, and establish a maximum game schedule. DIAA rules and regulations shall then be in effect.

5.1.3.2.2 Withdrawal of level 2 status:

If, for two (2) consecutive years, less than the required number of schools participate in a sport, DIAA may withdraw official recognition for a period of time as determined by the Board of Directors.

5.1.4 Membership on Coed Teams

5.1.4.1 If a school sponsors a boys' team and a girls' team in a particular sport, boys shall participate on the boys' team and girls shall participate on the girls' team even if the teams compete during different seasons. If a school sponsors only a boys' team in a particular sport, girls shall be permitted to participate on the boys' team but if a school sponsors only a girls' team in a particular sport, boys shall not be permitted to participate on the girls' team.

5.2 Sanctioning of Competitions

5.2.1 Member schools may participate in tournaments/meets involving four (4) or more schools only if the event has been sanctioned by DIAA and, if applicable, by the NFHS. Tournaments/meets shall be sanctioned in accordance with the following criteria:

5.2.1.1 The event shall not be for determining a regional or national champion.

5.2.1.2 The event shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.

5.2.1.3 Non-symbolic competition awards shall have a value of not more than \$50.00 per recipient and shall require the prior approval of the Executive Director.

5.2.1.4 Non-school event organizers shall submit a full financial report to the DIAA office within ninety (90) calendar days of the completion of the event.

5.2.1.5 The event organizer shall submit a list of out-of-state schools which have been invited to participate and such schools shall be subject to approval by the Executive Director.

5.2.1.6 Out-of-state schools which are not members of their state athletic association shall verify in writing that their participating athletes are in compliance with their state athletic association's eligibility rules and regulations.

5.2.1.7 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.

5.2.1.8 The event organizer shall comply with all applicable NFHS sanctioning requirements.

5.2.2 Participation in a non-sanctioned event shall result in payment of a \$25.00 fine. A second offense

shall result in a \$50.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the sport season. A third offense shall result in a \$100.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the school year.

5.3 All-Star Contests: Junior high/middle school students shall not participate in an all-star event until they have completed their high school eligibility in that sport.

6.0 Out of Season Athletic Camps and Clinic Sponsorship, Commercial Camps and Clinics and Open Gyms, Conditioning Programs and Non School Competition

6.1 Out of season Athletic Camps and Clinic Sponsorship

6.1.1 DIAA does not restrict a student's decision to attend an out of season athletic camp/clinic. However, schools, school organizations, coaches, or school related groups, such as booster clubs, may not sponsor an athletic camp/clinic which limits membership to their own district, locale, or teams. Coaches employed by an out of season athletic camp/clinic may only instruct their own athletes in accordance with 7.5.

6.1.1.1 School related groups, such as booster clubs, which desire to sponsor the attendance of their school's enrolled students at out of season athletic camp/clinic, may do so with the approval of the local school board or governing body. The disbursement of funds to pay for camp/clinic related expenses (fees, travel costs, etc.) shall be administered by the principal or his/her designee and the funds shall be allocated according to the following guidelines:

6.1.1.1.1 All students and team members shall be notified of the available sponsorship by announcement, publication, etc.

6.1.1.1.2 All applicants shall share equally in the funds provided.

6.1.1.1.3 All applicants shall be academically eligible to participate in interscholastic athletics.

6.1.1.1.4 All applicants shall have one year of prior participation in the sport for which the camp is intended or, absent any prior participation, he/she shall be judged by the coach to benefit substantially from participation in the camp/clinic.

6.2 Commercial Camps and Clinics

6.2.1 Commercial; camps and clinics are defined as a camp/clinic operated for profit which provides coaching or other sports training for a fee.

6.2.2 A student may participate in a commercial camp or clinic, including private lessons, both during and out of the designated sport season provided the following conditions are observed:

6.2.2.1 The student must participate unattached and may not wear school uniforms.

6.2.2.2 The student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

6.2.2.3 The school may not provide transportation or pay fees.

6.2.2.4 The school coach may not require his/her athletes to participate in a camp or clinic or provide instruction to his/her returning athletes in a camp or clinic except as in accordance with 7.5.

6.3 Open Gym Programs

6.3.1 A member school may open its gymnasium or other facility for informal, recreational activities in accordance with the following provisions:

6.3.1.1 The open gym must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

6.3.1.2 Student participation must be voluntary and the open gym must not be a prerequisite for trying out for a particular team.

6.3.1.3 The activities must be unstructured and student-generated. Organized drills in the skills or techniques of a particular sport are prohibited. Organized competition with fixed team rosters is also prohibited.

6.3.1.4 A coach may not predetermine that the open gym will include only his/her sport and publicize the open gym as being restricted to that sport. It is the responsibility of the adult supervisor to permit as many different activities as the facility can effectively and safely accommodate.

6.3.1.5 A coach may open the facility and distribute playing equipment but may not instruct, officiate, participate, organize the activities, or choose teams in his/her assigned sport.

6.3.1.6 Playing equipment is restricted to that which is customarily used in a contest in a particular sport. Playing equipment which is only used in a practice session is prohibited.

6.3.1.7 The participants must provide their own workout clothing.

6.4 Conditioning Programs

6.4.1 A member school may conduct a conditioning program in accordance with the following provisions:

6.4.1.1 The conditioning program must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

6.4.1.2 Student participation must be voluntary. The conditioning program must not be a prerequisite for trying out for a particular team.

6.4.1.3 Permissible activities include stretching, lifting weights, jumping rope, running, calisthenics, aerobics, and similar generic conditioning activities. Organized drills in the skills or techniques of a

particular sport are prohibited.

6.4.1.4 A coach may not provide instruction in sport specific skills or techniques.

6.4.1.5 Sport specific equipment is prohibited.

6.4.1.6 The participants must provide their own workout clothing.

6.5 Non School Competition in which Participates are Competing Unattached and are Not Representing Their Schools

6.5.1 A student may participate on a non-school team or in a non-school individual event both during and out of the designated sport season. However, the student owes his/her primary loyalty and allegiance to the school team of which he/she is a member. A school shall have the authority to require attendance at practices and contests and students not in compliance shall be subject to disciplinary action as determined by the school.

6.5.2 Participation on a non-school team or in a non-school individual event shall be subject to the following conditions:

6.5.2.1 With the exception of organized intramurals, the student may not wear school uniforms.

6.5.2.2 With the exception of organized intramurals, the student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

6.5.2.3 The school or a school affiliated support group may not provide transportation.

6.5.2.4 The school or a school affiliated support group may not pay entry fees or provide any form of financial assistance.

6.5.2.5 The school coach may not require his/her athletes to participate in non-school competition or provide instruction to his/her athletes in non-school competition except as in 7.5.

6.5.3 14 Del.C. §122 (15) requires written parental permission prior to participation on a similar team during the designated sport season. Written authorization must be on file in the student's school prior to engaging in a tryout, practice, or contest with a similar team. Consent forms shall be available in all member schools. Similar teams shall include organized intramural teams as well as non-school teams in that sport.

7.0 Certified and Emergency and Volunteer Coaches, Student Teaching and Coaching Out of Season

7.1 Certified Coaches

7.1.1 Only those professional employees certified by the Department of Education and whose salary is paid by the State and/or local Board of Education, or in the case of charter and non-public schools by a similar governing body, if acceptable as a coach by the governing body, shall coach, assist in coaching, or direct member

school teams in any district. The terms of employment must be for the regular school year and the professional assignment shall be no less than 1/2 of the school day, exclusive of coaching duties.

7.1.2 All head coaches shall be required to attend the DIAA rules clinic for their sport or, if applicable, pass an open book rules examination supplied by the DIAA office. A school shall pay a \$50.00 fine and the head coach shall be placed on probation if he/ she fails to attend the DIAA rules clinic or pass the open book rules examination in his/her sport. Failure to comply for a second consecutive year shall result in the school paying a \$50.00 fine and the coach being suspended for up to five contests as determined by the Executive Director.

7.1.2.1 Certified coaches at all levels of competition shall be required to hold a current certification in adult CPR.

7.2 Emergency Coaches

7.2.1 An emergency coach shall be defined as an individual who is either not certified by the Department of Education, or is certified by the Department of Education but is not employed for the school year or whose professional assignment is less than 1/2 of the school day. An individual who meets the requirements of a certified coach as specified in 21.1, but whose professional assignment is located in a different school or district than his/her coaching assignment shall not be considered an emergency coach by DIAA.

7.2.1.1 Emergency coaches at all levels of competition shall be required to hold a current certification in adult CPR.

7.2.2 Member schools shall be required to annually reopen all positions that are held by emergency coaches.

7.2.3 Emergency coaches may be employed provided the local governing body adheres to the following procedures:

7.2.3.1 The employing Board of Education must attempt to locate an acceptable, certified professional staff member by advertising the coaching vacancy in the district for as many days as are required by the district's collective bargaining agreement.

7.2.3.2 If an acceptable, certified professional staff member is not available, an individual who is acceptable to the employing Board of Education may be hired as an emergency coach.

7.2.3.3 Any individual employed as a coach under the emergency provision must comply with the following regulations:

7.2.3.3.1 He/she must be officially appointed by the local Board of Education. The superintendent or his/her designee may temporarily appoint an individual if a coaching vacancy arises and the sport season begins during the interim between meetings of the local Board of Education.

7.2.3.3.2 His/her coaching salary must be paid exclusively by the local Board of Education.

7.3 Student Teaching and Coaching

7.3.1 Students who are practice teaching in a member school shall be permitted to assist in all professional activities during their practice teaching period.

7.4 Volunteer Coaches

7.4.1 In addition to the members of the school's regular coaching staff, the local governing body may supplement a school's coaching staff with volunteer coaches. Volunteer coaches are individuals who donate their services to a school and who have been approved by that school's local governing body. A current list of approved volunteer coaches shall be on file in the school's administrative office before any coaching duties are assumed.

7.5 Coaching Out of Season

7.5.1 From August 2nd through June 14th, a certified, emergency, or volunteer coach shall not be allowed to provide instruction out of the designated season in his/her assigned sport to returning members of the teams of the school at which he/she coaches or transfer students from other schools who play the coach's sport.

7.5.1.1 A coach shall not be allowed to participate on a team in his/her assigned sport with the aforementioned players.

7.5.1.2 A coach shall also be prohibited from officiating contests in his/her assigned sport if the aforementioned players are participating except in organized league competition.

7.5.1.3 The league shall not be organized and conducted by the employing school, the employing school's booster club, or the employing school's coaching staff.

7.5.1.4 The league shall have written rules and regulations that govern the conduct of contests and establish the duties of contest officials.

7.5.1.5 The league shall have registration/entry procedures, forms, and fees; eligibility requirements; and fixed team rosters, team standings, and a master schedule of contests.

7.5.1.6 A certified, emergency, or volunteer coach shall not be allowed to provide instruction during the designated season in his/her assigned sport to current members of the teams of the school at which he/she coaches outside of school sponsored practices, scrimmages, and contests.

7.5.1.7 A coach who is in violation of this section shall be suspended from coaching in the specified sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.

7.5.2 From June 15th through August 1st, a certified, emergency or volunteer coach shall be allowed to provide instruction in his/her assigned sport to returning

members of the varsity or sub-varsity teams of the school at which he/she coaches. Instructional contact with the aforementioned returning school team members shall be subject to the following conditions:

7.5.2.1 A coach may provide instruction to an unlimited number of his/her returning school team members in formal league/tournament competition or in formal instructional camps/clinics provided the league/tournament or instructional camp/clinic is organized and conducted by a non-school affiliated organization.

7.5.2.2 A coaching staff may provide instruction to a maximum of two returning school team members in an informal setting where the student has initiated the contact and it was not scheduled. A coaching staff may have multiple two-hour sessions on any given day. Returning school team members shall not receive more than two hours of sports instruction per day.

7.5.2.3 A coach shall not receive any compensation, from any source, for the instruction of his/her returning school team members. Reimbursement for out-of-pocket expenses (e.g. gas, food, lodging) incurred by returning school team members and coaches to attend leagues/tournaments or instructional camps/clinics are not prohibited provided that no local school or state educational funds are used.

7.5.2.4 Participation in the formal league/tournament or instructional camp/clinic, or informal instruction shall be open, voluntary and equally available to all returning school team members as well as to members of the student body.

7.5.2.5 A coach in violation of this section shall be suspended from coaching in the specific sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.

8.0 Recognition of Officials' Associations, Required Use of Officials and Attendance at Rules Clinics

8.1 Recognition of Officials' Associations

8.1.1 The officiating of interscholastic contests in the state of Delaware which involve one (1) or more member schools shall be under the control of the DIAA and such control may include, but not be restricted to, giving examinations, evaluating officials, setting game fees, determining the number of officials per game, and assigning officials.

8.1.2 An official's association which desires to officiate middle school and/or high school contests shall request recognition and approval from DIAA by submitting the following documents to the DIAA Officials' Committee:

8.1.2.1 A letter of request indicating the association's willingness to abide by DIAA rules and regulations.

8.1.2.2 A brief history of the association.

8.1.2.3 A copy of the association's

constitution and bylaws including a statement that it does not discriminate on the basis of age, gender, race, religion, etc.

8.1.2.4 A description of the association's evaluation and rating system.

8.1.2.5 A description of the association's recruiting and training programs for new members.

8.1.2.6 A membership roster indicating the number of years of experience at the sub-varsity, varsity, and state tournament levels for each member and also his/her most recent rating in a previous association.

8.1.2.7 If applicable, letters of recommendation or names of references from leagues which the association has serviced during the past year.

8.1.3 The Officials' Committee shall review the aforementioned documents and, if necessary, meet with the officers of the association to discuss their petition.

8.1.4 The Officials' Committee shall reserve the right to consult with any other interested parties during the evaluation process.

8.1.5 The Officials' Committee shall report its findings to the DIAA Board of Directors and recommend that the officials' association be granted recognition, granted recognition with conditions, or denied recognition.

8.1.6 The president of the officials' association or his/her designee shall petition the DIAA Board of Directors and the Board shall render a decision.

8.1.7 If more than one association is approved to officiate a particular sport, a conference or, in the absence of a conference affiliation, an individual school shall determine which association shall provide the officials for its home contests.

8.2 Required Use of Officials

8.2.1 Member schools and tournament sponsors shall be required to use officials approved by DIAA for interscholastic contests. Use of non-approved officials without permission from the Executive Director shall result in the school or tournament sponsor being assessed a \$50.00 fine per game per non-approved official.

8.2.1.1 In the case of emergencies such as an act of God, refusal by an association to work games, or a shortage of qualified officials, schools which desire to use other than approved officials must obtain permission from the Executive Director.

8.3 Attendance at Rules Clinics

8.3.1 Officials shall be required each year to both attend the DIAA rules interpretation clinic and to pass the rules examination provided by the DIAA office for the sport(s) they officiate.

8.3.2 Failure on the part of an official to attend the DIAA rules interpretation clinic and pass the rules examination in the same season shall cause the official to be placed on probation and to lose his/her eligibility to officiate a state tournament contest during that season.

8.3.3 Failure to satisfy both requirements in the

same season for two (2) consecutive years shall cause the official to lose varsity officiating status during the second season. Failure to fulfill this obligation in subsequent years shall cause the official to continue to be restricted to sub-varsity contests until both requirements have been satisfied in the same season.

8.3.4 Attending the fall soccer rules interpretation clinic shall satisfy the clinic attendance requirement for both the boys' and girls' soccer seasons. Attending the spring soccer rules interpretation clinic shall satisfy the clinic attendance requirement for only the girls' soccer season.

8.3.5 If, for a legitimate reason which is documented by the president of his/her association, an official is unable to attend the DIAA rules interpretation clinic, he/she may view a videotape of the DIAA clinic or, in the absence of a videotape, attend a clinic conducted by another NFHS member state association provided the following procedures are observed:

8.3.5.1 No later than the day of the DIAA rules interpretation clinic, the president of the association notifies the Executive Director, in writing, of the official's inability to attend the clinic.

8.3.5.2 The out-of-state clinic is conducted by an individual either trained by the NFHS or designated as a clinician by the state's athletic association.

8.3.5.3 The official arranges for a letter to be sent to the Executive Director from the state's athletic association office verifying his/her attendance at the clinic.

9.0 Awards

9.1 Awards

9.1.1 Member schools and support groups affiliated with a member schools, such as an alumni association or booster club, shall be allowed to present recognition awards for team and/or individual accomplishments. The awards, including artwork and lettering, shall require the approval of the administrative head of the school and their value shall be mostly symbolic, not more than \$150.00. Member schools and/or support groups affiliated with member schools are also permitted to sponsor banquets.

9.1.2 A non-profit group such as a coaches association, booster club not affiliated with a member school, or community service organization shall be allowed to present recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school. Non-profit groups shall also be permitted to sponsor banquets.

9.1.3 Commercial organizations shall be allowed to present recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school.

9.1.4 Permissible awards include trophies,

plaques, medals, letters, certificates, photographs, and similar items. Jackets, sweaters, shirts, watches, rings, charms, and similar items if properly inscribed (reference to the team or individual athletic accomplishment) are also acceptable. The awards shall have symbolic value only, awards with utilitarian value are prohibited. The aggregate retail value of the award shall not exceed \$150.00 per team or per recipient and shall require prior approval of the Executive Director.

10.0 Use of Influence for Athletic Purposes

10.1 Definition: The use of influence for athletic purposes shall include, but not be limited to, the following:

10.1.1 Offer of money, room, board, clothing, transportation, or other valuable consideration to a prospective athlete or his/her parent(s) or court appointed legal guardian(s).

10.1.2 Offer of waiver/reduction of tuition or financial aid if based, even partially, on athletic considerations.

10.1.3 Preference in job assignments or offer of compensation for work performed in excess of what is customarily paid for such services.

10.1.4 Offer of special privileges not accorded to other students.

10.1.5 Offer of financial assistance including free or reduced rent, payment of moving expenses, etc., to induce a prospective athlete or his/her parent(s), legal guardian(s) or Relative Caregiver to change residence.

10.2 Illegal Contact with Students, Legal guardians, or a Relative Caregiver

10.2.1 A school employee or Board approved volunteer may not initiate contact or request that a booster club member, alumnus, or player initiate contact with a student enrolled in another school or his/her parent(s), legal guardian(s) or a relative Caregiver in order to persuade the student to enroll in a particular school for athletic purposes. Illegal contact shall include, but not be limited to, letters, questionnaires or brochures, telephone calls, and home visits or personal contact at athletic contests.

10.2.2 If a coach or athletic director is contacted by a prospective athlete or his/her parent(s), legal guardian(s) or a Relative Caregiver, the former must refer the individual(s) to the principal or school personnel responsible for admissions.

10.3 Permitted Activities

10.3.1 A school employee or Board approved volunteer may do the following:

10.3.1.1 Discuss the athletic program with a prospective student or his/her parent(s), legal guardian(s) or Relative Caregiver during an open house or approved visit initiated by the parent(s), legal guardian(s) or Relative Caregiver.

10.3.1.2 Provide information concerning

sports offered, facilities, conference affiliation, and general athletic policies. However, he/she is not permitted to state or imply in any way that his/her athletic program is superior to that of another school or that it would be more beneficial or advantageous for the prospective student to participate in athletics at his/her school.

10.3.1.3 Conduct an informational presentation at a feeder school.

10.4 School Choice

10.4.1 If the number of applicants under the Delaware School Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.

10.5 Penalties

10.5.1 The use of influence or illegal contact but not limited to violations of 10.1 and 10.2 by a person(s) employed by or representing a member school including members of alumni associations, booster groups, and similar organizations to persuade, induce, or facilitate the enrollment of a student in that school for athletic purposes may render the student ineligible for up to 1 full school year from the date the charge is substantiated. In addition, the offending school may be placed on probation, as determined by the DIAA Board of Directors, and the offending employee, if a coach, may be suspended for up to one (1) full school year from the date the charge is substantiated.

1009 DIAA Senior High School Interscholastic Athletics

1.0 National Federation of State High Schools, Conferences, Contracts and Equivalency Rules

1.1 National Federation of High School Associations

1.1.1 DIAA is affiliated with the National Federation of State High School Associations (NFHS). The playing codes, sanctions, and other rules of the NFHS are adopted except as modified by the DIAA Board of Directors.

1.1.1.1 The playing rules of the United States Tennis Association, the United States Golf Association, and the United States Lacrosse Association are adopted for the sports of tennis, golf, and girls' lacrosse respectively except as modified by the DIAA Board of Directors.

1.2 Conferences

1.2.1 Member schools may establish voluntary conference organizations that may be composed of public and non-public schools. When established, they must submit their conferences' proposed membership and its constitution and bylaws to the DIAA Board of Directors and be approved by the DIAA Board of Directors before the schools may enter into any contractual agreements.

1.2.1.1 All subsequent amendments to the constitution and bylaws of the conferences must be compatible with all provisions of the DIAA Regulations; interpretations and with the rulings of the Executive Director, Sportsmanship Committee, and Board of Directors;

state tournament regulations; and DIAA approved playing codes.

1.3 Contracts

1.3.1 Contracts between DIAA member schools or between DIAA member schools and full member schools of comparable state associations are encouraged but not required.

1.3.1.1 Conference master contracts are approved substitutes for individual contracts.

1.3.1.2 In the case of a dispute and provided either a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question, appeal may be made to the Executive Director or the DIAA Board of Directors which, after review of the circumstances, may assign an appropriate penalty.

1.3.1.2.1 Without a signed individual contract or conference master contract, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors.

1.3.2 Contracts between DIAA member schools and non-member or associate member schools of comparable state associations are required.

1.3.2.1 A copy of the signed contract must be either received by the Executive Director or postmarked prior to the contest for which the agreement was drawn up. Failure to file a signed contract as prescribed shall result in the DIAA member school being assessed a \$15.00 fine.

1.3.2.2 In the case of a dispute, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors unless a signed individual contract is in place.

1.3.3 Contracts shall be interchanged according to the following provisions:

1.3.3.1 Contracts on the accepted form shall be arranged by the competing schools for each season's interscholastic athletic contests.

1.3.3.2 Contracts shall be drawn up by the faculty manager or other designated staff member of the home school of the earlier varsity contest.

1.3.3.3 A signed contract or any part thereof may not be nullified or modified except by mutual agreement of both schools involved.

1.3.4 If a game is not played, it shall be considered "no contest" unless a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question, and one of the participating schools breached the agreement in which case appeal may be made to the Executive Director or the DIAA Board of Directors.

1.3.4.1 If a game is not played because an out of state opponent qualifies for its state championship series and the date of the playoff game conflicts with the date of the regular season game, a forfeit shall not be awarded.

1.4 Equivalency Rules

1.4.1 A full member school shall not participate in a scrimmage or contest with an in-state school that is not a member in good standing of DIAA.

1.4.1.1 Scrimmage shall be defined in as: an informal competition between schools in which the officials are not compensated, a score is not kept, the time periods are modified, the results of the competition are not reported to the media, the coaches may interrupt the play to provide instruction and the competition is strictly for practice purposes.

1.4.2 A full member school shall not participate in a scrimmage or contest with an associate or non-member school of another state association unless the opposing school, as part of a written contract, certifies that its contestants are eligible under the rules of its home state association.

1.4.3 An associate member school shall not participate in a scrimmage or contest with an associate or non-member school of another state association unless the opposing school complies with the conditions specified in 1.4.2. However, the opposing school shall be exempt from those rules which DIAA has waived for its associate member school.

1.4.4 Member schools shall not participate in a practice, scrimmage, or contest with a non-school sponsored team.

1.4.5 Member schools shall not participate in a practice, scrimmage, or contest with post graduate students or college students. This provision shall not apply to games played against the alumni or faculty of the school when the game is sponsored by school authorities.

1.4.6 A school which participates in a game against an illegal opponent shall be required to forfeit the contest and be assessed a \$100.00 fine.

2.0 Eligibility: No student shall represent a school in an interscholastic scrimmage or contest if he/she does not meet the following requirements:

2.1 Eligibility, Age

2.1.1 Students who become 19 years of age on or after June 15 shall be eligible for all sports during the school year provided all other eligibility requirements are met. In determining the age of a contestant, the birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.

2.1.1.1 Requests for a waiver of the age requirement shall only be considered for participation on an unofficial, non-scoring basis in non-contact or non-collision sports

2.2 Eligibility, Residence

2.2.1 With the exception of boarding school students, a student must be living with his/her custodial

parent(s), legal guardian(s), or Relative Caregiver in the attendance zone of the school which he/she attends, or be a student 18 years of age or older and living in the attendance zone of the school which he/she attends (see 2.2.1.7), in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court. In the case of shared custody the parents must commit to sending the student to a particular school for the year. Maintaining multiple residences in order to circumvent this requirement shall render the student ineligible.

2.2.1.1 A student who, pursuant to established school board policy or administrative procedure, remains in a school he/she has been attending after his/her legal residence changes to the attendance zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at his/her current school and thereby not lose athletic eligibility. If a student chooses to remain at his/her current school and then transfers to the school in his/her new attendance zone on or after the first official student day of the subsequent academic year, he/ she shall be ineligible, for ninety (90) school days.

2.2.1.2 A student who changes residence to a different attendance zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, shall be granted permission to continue attending his/her present school, the student shall retain his/her athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.

2.2.1.3 A student shall be permitted to complete his/her senior year at the school he/she is attending and remain eligible even though a change of legal residence to the attendance zone of another school has occurred. This provision shall refer to any change of legal residence that occurs after the completion of the student's junior year.

2.2.1.4 A student may be residing outside of the attendance zone of the school which he/she attends if the student is participating in the Delaware School Choice Program as authorized by 14 **Del.C.**, Ch.4.

2.2.1.5 A student who is a non-resident of Delaware shall be eligible to attend a public school, charter school or career-technical school if, in accordance with 14 **Del.C.** §607, his/her custodial parent or court appointed legal guardian or Relative Caregiver is a full-time employee of that district.

2.2.1.6 Notwithstanding 2.2.1, a student shall be eligible at a public or vocational-technical school if he/ she is enrolled in accordance with 14 **Del.C.** §202(f), the Caregivers School Authorization.

2.2.1.6.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers' School

Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the relative caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

2.2.1.7 A student who reaches the age of majority (18) and leaves his/her parents' place of residency and jurisdiction thereof, and moves to another attendance zone to continue his/her high school education shall be ineligible to participate in athletics for 90 school days commencing with the first day of official attendance. This provision shall not apply to a student participating in the Delaware School Choice Program, as authorized by 14 **Del.C.** Ch. 4, provided the student's choice application was properly submitted prior to his/her change of residence.

2.2.1.8 Notwithstanding 2.2.1, a student who is homeless as defined in the McKinney-Vento Act, 42 U.S.C. 11434a(2) shall be eligible to participate at the public school in which he/she is enrolled.

2.3 Eligibility, Enrollment and Attendance

2.3.1 A student must be legally enrolled in the high school which he/she represents in order to participate in a practice, scrimmage or contest.

2.3.2 A shared-time student who attends two (2) different schools during the regular school day shall be eligible to participate only at his/her home school. A student's home school shall be the school at which he/she is receiving instruction in the core academic areas and at which he/she is satisfying the majority of his/her graduation requirements; not a school at which he/she is receiving only specialized educational instruction such as vocational training.

2.3.3 A student who attends the Sterck School shall participate in interscholastic athletics at the Sterck School. If the Sterck School does not sponsor a particular sport, Sterck students shall be eligible to participate in interscholastic athletics at the Christiana High School, the high school in closest proximity to the Sterck School.

2.3.3.1 Notwithstanding 2.3.1 and 2.3.2 above, a shared time student who attends the Sterck School and a mainstream high school during the regular school day shall participate in interscholastic athletics at the Sterck School. If the Sterck School does not sponsor a particular sport, the shared-time student shall be eligible to participate in interscholastic athletics only at the mainstream high school.

2.3.4 Students with disabilities who are placed in special schools or programs

2.3.4.1 Definitions:

"**Campus**" means a contiguous land area containing one or more school buildings.

“Special School or Program” means a school or program approved by the Department of Education with the approval of the State Board of Education to serve students with disabilities, but does not include alternative schools.

“Student With a Disability” means a “child with a disability” as that term is defined in the Administrative Manual for Special Education Services (AMSES), 14 DE Admin. Code 925.

2.3.4.2 A student with a disability who is placed in a special school or program shall be eligible to participate in interscholastic athletics as follows:

2.3.4.2.1 If the special school or program sponsors the interscholastic sport in question, the student shall be eligible to participate only at the school or program.

2.3.4.2.2 If the special school or program does not sponsor the interscholastic sport in question and the student is served in a regular high school for all or part of the school day, the student shall be eligible only at that regular high school.

2.3.4.2.3 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is located on the campus of a regular high school, the student shall be eligible only at the regular high school on the same campus.

2.3.4.2.4 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is not located on the campus of a regular high school, the student shall be eligible only at the regular high school designated to serve the special school’s or program’s students.

2.3.4.2.4.1 School districts or charter schools which administer special schools or programs and have multiple high schools shall decide which of its regular high schools shall be designated to serve special school or program students in these circumstances.

2.3.5 A student who is participating in the Delaware School Choice Program, as authorized by 14 Del.C. Ch.4, is obligated to attend the choice school for a minimum of two (2) years unless the students custodial parent(s), legal guardian(s) or Relative Caregiver relocate to a different school district or the student fails to meet the academic requirements of the choice school. If a student attends a choice school for less than two (2) years and subsequently returns to his/her home school, the student must receive a release from the “choice district” in order to legally enroll at his/her home school. Without a release, the student would not be eligible legally enrolled and consequently would be ineligible to participate in interscholastic athletics.

2.3.6 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in-school or out-of-school, is in effect or during the time he/she is assigned to an alternative school for disciplinary reasons.

2.3.7 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.

2.3.8 A student who fails to complete a semester or is absent for one or more semesters for reasons other than personal illness or injury shall be ineligible for ninety (90) school days from the date of his/her reentry to school.

2.3.9 An ineligible student who practices in violation of 2.2.2 through 2.2.5 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

2.4 Eligibility, Transfers

2.4.1 A student who has not previously participated in interscholastic athletics (previous participation is defined as having practiced, scrimmaged, or competed in grades 9 through 12) is released by a proper school authority from a sending school, has completed the registration process at the receiving school, and is pursuing an approved course of study shall be eligible immediately upon registration provided he/she meets all other DIAA eligibility requirements.

2.4.2 If a student has previously participated in interscholastic athletics, he/she shall be ineligible for a period of ninety (90) school days commencing with the first day of official attendance in the receiving school unless one of the following exceptions applies:

2.4.2.1 The transfer is within a school district and is approved by the district’s superintendent pursuant to established school board policy or administrative procedure. This provision shall not apply to a student who transfers to his/her home school from a “choice school” within the district and who has not completed the two-year attendance requirement unless he/she satisfies the conditions stipulated in 2.4.2.5.1 through 2.4.2.5.4. This provision shall also not apply to a student who transfers from a “choice school” to another “choice school” within the district.

2.4.2.2 The transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship/custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship/custody, an affidavit, (except as permitted by 2.4.2.3), or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.

2.4.2.3 The transfer is in accordance with the student being placed with a Relative Caregiver as per 14

Del.C. §202(f), the Caregivers School Authorization.

2.4.2.3.1 An exception would be a student whose relative caregiver does not provide the documentation required by the Caregivers School Authorization (proof of relation and proof of full-time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the relative caregiver has provided the aforementioned required documentation or has received a signed court order designating him/her as the student's legal guardian.

2.4.2.4 The transfer is the result of a change in residence by the custodial parent(s) legal guardian(s) or Relative Caregiver from the attendance zone of the sending school to the attendance zone of the receiving school. A change in residence has occurred when all occupancy of the previous residence has ended. A student who transfers shall be eligible in the receiving school immediately, when the custodial parent(s) legal guardian(s) or Relative Caregiver has established a new legal residence in another public school attendance zone.

2.4.2.5 The transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year provided that the following has occurred:

2.4.2.5.1 The student has completed the registration process at the receiving school prior to the first official student day of the academic year. The first official student day shall be defined as the first day on which students in any grade in that school are required to be in attendance.

2.4.2.5.2 The student has not attended class, excluding summer school, or participated in a scrimmage or contest at the sending school since the close of the previous academic year.

2.4.2.5.3 The student's legal residence is located in the attendance zone of the receiving school.

2.4.2.5.4 All other DIAA eligibility requirements have been met.

2.4.2.6 The transfer is the result of the student being homeless as defined in the McKinney - Vento Act, 42 U.S.C. 11434a(2).

2.4.2.6.1 Notwithstanding the above, the student shall be ineligible under the ninety (90) school day ineligibility clause where the student's homeless status is created by the student or his/her family for the primary reason of:

2.4.2.6.1.1 Seeking a superior team;
or

2.4.2.6.1.2 Seeking a team more compatible with the student's abilities; or

2.4.2.6.1.3 Dissatisfaction with the philosophy, policies, methods or actions of a coach or

administrator pertaining to interscholastic athletics; or

2.4.2.6.1.4 Avoiding disciplinary action imposed by the school of origin related to or affecting interscholastic athletic participation.

2.4.3 Transfer Because of Promotion or Administrative Assignment: Transfer because of promotion or administrative assignment to the ninth grade from a school whose terminal point is the eighth grade, or to the tenth grade from a junior high school whose terminal point is the ninth grade, shall not constitute a transfer. Students so promoted or administratively assigned shall be eligible.

2.4.4 Transfer Because of a Change in the Program of Study or Financial Hardship: If a waiver of the ninety (90) school day ineligibility clause is requested due to a desired change in the program of study or financial hardship, the parent(s), legal guardian(s) or Relative Caregiver is responsible for providing documentation to the DIAA Board of Directors to support the request.

2.4.4.1 Documentation for change in the program of study (a multi-year, hierarchical sequence of courses with a common theme or subject matter leading to a specific outcome) shall include:

2.4.4.1.1 The student's schedule;

2.4.4.1.2 The student's transcript;

2.4.4.1.3 Current course descriptions

from both the sending and receiving schools;

2.4.4.1.4 A statement from the principal of the sending school indicating that a significant part of the student's desired program of study will not be offered and that it will place the student at a definite disadvantage to delay transfer until the end of the current school year; and

2.4.4.1.5 A statement from the principals of both the sending and receiving schools that the student is not transferring for athletic advantage (see 2.4.6).

2.4.4.2 Documentation for Financial Hardship: Documentation for financial hardship shall include:

2.4.4.2.1 Proof of extreme financial hardship caused by significant and unexpected reduction in income and/or increase in expenses; and

2.4.4.2.2 A statement from the principals of both the sending and receiving schools that the student is not transferring for athletic advantage (see 2.4.6).

2.4.5 Transfer Because of Custody Change: In cases of joint or shared custody when a primary residence is established, a change in a student's primary residence without court action subjects the student to the ninety (90) school day ineligibility clause.

2.4.6 A change of custody or guardianship for athletic advantage shall render a student ineligible under the ninety (90) school day ineligibility clause if the reason for his/her transfer is one of the following: to seek a superior team, to seek a team more compatible with his/her abilities,

dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics or to avoid disciplinary action imposed by the sending school related to or affecting interscholastic athletic participation.

2.4.7 A student who transfers from a public, private, vocational-technical, or charter school to a school of choice, as authorized by 14 Del.C. Ch.4, shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year.

2.4.7.1 A student who transfers from a school of choice to another school of choice shall be ineligible to participate in interscholastic athletics during his/ her first year of attendance at the receiving school unless the receiving school sponsors a sport(s) not sponsored by the sending school in which case the student shall be eligible to participate in that sport(s) only.

2.4.8 A student who transfers from a school of choice to either a private school, career-technical school or, after completing his/her two-year commitment, to a public charter school shall be eligible immediately provided the transfer occurs after the close of the sending school's academic year and prior to the first official student day of the receiving school's academic year.

2.4.9 If a student transfers with fewer than ninety (90) school days left in the academic year, he/she shall be ineligible for the remainder of the school year but shall be eligible beginning with the subsequent fall sports season provided he/she is in compliance with all other eligibility requirements.

2.5 Eligibility, Amateur Status

2.5.1 A student may not participate in an interscholastic sport unless he/she is considered an amateur in that sport. A student forfeits his/her amateur status if he/she does any of the following:

2.5.1.1 Knowingly plays on or against a professional team which is defined as a team having one or more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.

2.5.1.2 Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

2.5.1.3 Enters a competition under an assumed name. The surname and given name used by any player in his/her first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the principal of the school.

2.5.1.4 Receives remuneration of any kind or

accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

2.5.1.5 Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by 9.1.4) or a merchandise discount, (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of his/her participation in an organized competition or instructional camp/clinic. Accepting an event program and/or a complimentary item(s) (t-shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150.00, and is provided to all of the participants, shall not jeopardize his/ her amateur status.

2.5.1.6 Sells or pawns awards received.

2.5.1.7 Uses his/her athletic status to promote or endorse a commercial product or service in a newsprint, radio, or television advertisement or personal appearance.

2.5.2 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize his/her amateur status.

2.5.3 A student who forfeits his/her amateur status under the provisions of this rule is ineligible to participate at the interscholastic level in the sport in which the violation occurred. He/she may be reinstated after a period of up to the number of days in the school year provided that during the suspension, he/she complies with all of the provisions of this rule. The suspension shall date from the time of the last offense.

2.6 Eligibility, Passing Work

2.6.1 In order to be eligible for participation in interscholastic athletics, including practices, a student must pursue a regular course of study or its equivalent as approved by the local governing body, and must be passing at least five (5) credits. Two (2) of those credits must be in the areas of English, Mathematics, Science, or Social Studies.

2.6.1.1 A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study, shall be adjudged eligible by the principal if he/she is making satisfactory progress in accordance with the requirements of his/her individualized education plan (IEP).

2.6.2 In the case of a student in the twelfth grade, he/she must be passing all courses necessary for graduation from high school in order to be eligible for participation. A course necessary for graduation shall be any course, whether taken during or outside the regular school day, that satisfies an unmet graduation requirement.

2.6.3 A student whose work in any regular

marking period does not meet the above standards shall be ineligible to participate in interscholastic athletics, including practices, for the next marking period.

2.6.3.1 In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.

2.6.3.2 The final accumulation of credits shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required credit(s) during the summer, he/she shall become eligible provided he/she successfully completes the course work prior to the first official student day of the school year.

2.6.3.3 Written verification of the successful completion of a correspondence course must be received before a student shall regain his/her eligibility.

2.6.4 A student forfeits or regains his/her eligibility, in accordance with the provisions of this rule, on the day report cards are issued.

2.6.5 Local school boards and non-public schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.

2.6.6 An ineligible student who practices in violation of 2.6.1, 2.6.2, 2.6.3 or 2.6.4 shall, when he/she regains his/her eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

2.7 Eligibility, Years of Participation

2.7.1 No student shall represent a school in athletics after four (4) consecutive years from the date of his/her first entrance into the ninth grade unless a waiver is granted for hardship reasons.

2.7.1.1 No student shall have more than four (4) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.

2.7.1.2 "Hardship" shall be defined as extenuating circumstances peculiar to the student athlete caused by unforeseen events beyond the election, control or creation of the student athlete, his/her family, or school which (1) deprive him/her of all or part of one of his/her opportunities to participate in a particular sports season; (2) preclude him/her from completing the academic requirements for graduation within the normal period of eligibility; and (3) deprive him/her of all or part of one of his/her opportunities to participate in a particular sport. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.

2.7.1.2.1 A waiver not shall be granted under this section where DIAA finds that the student was

academically eligible pursuant to DIAA's minimum passing work standards but was ineligible to participate under more stringent locally adopted academic standards and where the local school board has adopted its own waiver or exemption policy.

2.7.1.2.2 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for graduation within the normal period of eligibility and the loss of all or part of one of his/her opportunities to participate in a particular sports season.

2.7.1.2.3 The burden of proof rests with the student in conjunction with the waiver process as described in 14 **DE Admin. Code** 1006.9. Claims of extended illness, debilitating injury, emotional stress, etc., must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student or his/her parent(s) or court appointed legal guardian(s) sought assistance to ameliorate the effects of the hardship condition.

2.7.2 Satisfactory completion of studies in accordance with promotion policies established by the local governing body shall determine when a student is beyond the eighth grade. If the eighth grade is part of the same administrative unit as grades 9 through 12, participation on the part of an eighth-grade student toward five (5) years of eligibility shall be at the discretion of the individual school.

2.7.2.1 Eighth grade students who are enrolled or transfer to schools that meet the above criteria begin their five years of eligibility for senior high school athletic participation the first year they enter eighth grade.

2.7.3 Seventh-grade students shall not be permitted to participate on senior high school interscholastic teams.

2.7.4 Participation of Postgraduates

2.7.4.1 Participation shall be defined as taking part in a school sponsored practice, scrimmage or contest on or after the first allowable date for practice in that sport.

2.7.4.2 Postgraduates shall not be eligible to participate in interscholastic athletics. All graduates of recognized senior high schools shall be considered postgraduates.

2.7.4.3 A regularly enrolled student taking courses in an institution of higher education shall be eligible provided he/she meets all other DIAA requirements.

2.7.4.4 Students whose commencement exercises are prior to the completion of the school's regular season schedule and/or the state tournament shall be eligible to compete.

2.8 Eligibility of Foreign Exchange Students and International Students

2.8.1 Notwithstanding 2.2, 2.3, and 2.4, foreign exchange students and international students may be eligible to participate in interscholastic athletics upon arrival at their

host school provided they have not attained the age of 19 prior to June 15 and are enrolled as participants in a recognized foreign exchange program.

2.8.1.1 All foreign exchange programs which are included on the Advisory List of International Educational Travel and Exchange Programs of the Council on Standards for International Educational Travel (CSIET) and are two (2) semesters in length shall be considered as recognized.

2.8.1.2 Students participating in programs not included on the CSIET list shall be required to present evidence that the program is a bona fide educational exchange program before it shall be considered as recognized.

2.8.2 International students who are not participating in a foreign exchange program are considered to be transfer students and are ineligible to compete in interscholastic athletics unless they are in compliance with all DIAA eligibility requirements including 2.2.

2.8.3 Once enrolled, foreign exchange and other international students must comply with all DIAA eligibility rules.

2.8.3.1 Athletic recruitment of foreign exchange students or other international students by a member school or any other entity is prohibited, and any such students recruited shall be ineligible.

2.9 Student Eligibility Report Forms

2.9.1 Member schools shall use eligibility forms approved by the Executive Director. A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$15.00 fine against the school.

2.9.1.1 In the case of a student who met all DIAA eligibility requirements but was omitted from the eligibility report due to administrative or clerical error, he/she shall be adjudged eligible and the school assessed a \$10.00 fine.

2.10 Use of an Ineligible Athlete:

2.10.1 If a school uses an ineligible athlete, the administrative head or his/her designee shall notify the opposing school(s) or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate game(s), match(es), and/or point(s) won.

2.10.2 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contest(s) in which the ineligible athlete participated.

2.10.2.1 If the infraction occurs during a tournament, including a state championship, the offending school shall be replaced by its most recently defeated

opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament, team and/or individual awards shall be returned to the event sponsor and team and/or individual records and performances shall be nullified.

2.10.2.2 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty. If the forfeiture penalty is waived, the offending school shall be reprimanded and fined \$200.00 unless the athlete or his/her parent(s) or court appointed legal guardian(s) knowingly withheld information or provided false information that caused him/her to be eligible for interscholastic competition. The burden of proof, in both instances, rests entirely with the offending school. A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings and playoff eligibility and shall be automatic and not subject to refusal by the offending school's opponent.

2.10.3 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and/or points earned by the ineligible athlete or by a relay team of which he/she was a member. The points contributed by an ineligible athlete to his/her team score shall be deleted and the contest score as well as the affected placements will be adjusted according to the rules of the sport.

2.10.3.1 If the infraction occurs during a tournament, including a state championship, the ineligible athlete shall be replaced by his/her most recently defeated opponent or the next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.

2.10.3.1.1 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event sponsor. Individual records and performances by the ineligible athlete shall be nullified.

2.10.4 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules but in accordance with a temporary restraining order or injunction against his/her school and/or DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties stipulated in 2.10.1 and 2.10.2 shall be imposed.

2.10.5 The intentional use of an ineligible athlete by a member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for the amount of days up to length of the school year from the date the charge is substantiated.

2.10.6 If a coach knowingly withholds

information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA member school for the amount of days up to length of the school year from the date the charge is substantiated.

2.10.7 If an athlete or his/her parent(s), legal guardian(s) or Relative Caregiver knowingly withholds information or provides false information that causes him/her to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA member school for up to the amount of days up to the length of the school year from the date the charge is substantiated.

2.11 Determination of Student Eligibility and the Appeal Procedures

2.11.1 In cases of uncertainty or disagreement, the eligibility of a student shall be determined initially by the Executive Director. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.

2.11.2 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DIAA Board of Directors.

2.11.3 Decisions of the DIAA Board of Directors to affirm, modify, or reverse the eligibility rulings of the Executive Director may be appealed to the State Board of Education in accordance with 14 DE Admin. Code 1006.11.

3.0 Physical Examinations, Weight Control Program for Wrestling and Required Medical Personnel in Attendance at All Football Games.

3.1 Physical examinations

3.1.1 A student shall not be eligible to practice, scrimmage, or compete in an interscholastic contest unless he/she has been adequately examined by a licensed physician (M.D. or D.O.), a certified nurse practitioner, or a certified physician's assistant on or after May 1 and before beginning such athletic activity for the current school year.

3.1.2 A certificate to that effect, as well as the parent's, legal guardian's, or Relative Caregiver's consent, shall be on file with the administrative head of the school prior to the student participating in a practice, scrimmage, or game.

3.1.3 For any subsequent sports season in the school year, a limited reexamination shall be performed if any of the following circumstances exist: the athlete has been treated for an injury during the preceding sports season, the athlete has been out of school during the preceding sports season with an illness other than the usual minor upper respiratory or gastrointestinal upset, an operation has been performed on the athlete during the preceding sports season, or the athlete has a remedial defect.

3.1.4 The medical history of the student should

be available at the time of each examination.

3.1.5 A player who is properly certified to participate in interscholastic athletics but is physically unable to participate for five (5) consecutive days on which a practice, scrimmage, or contest is held due to illness or injury, must present to the administrative head of the school or designee, a statement from a qualified physician that he/she is again physically able to participate.

3.2 Wrestling Weight Control Program

3.2.1 Each year, beginning November 1st and prior to January 15th, a wrestler must establish his/her minimum weight class at a weigh-in witnessed by and attested to in writing by the athletic director or a designated staff member (excluding coaches) of the school the wrestler attends. The official weigh-in for a regularly scheduled dual meet or tournament would establish certification. In addition, each year beginning November 1 and prior to January 15, each wrestler is required to determine his/her lowest allowable competitive weight according to the DIAA Weight Monitoring Program. A wrestler may re-certify at a lower weight class during November 1 and prior to January 15 if his individual weight loss plan allows for it. However, once certified at a weight a wrestler may not weigh-in more than one weight class above the weight of certification without automatically re-certifying at a higher weight. Once re-certified to a higher weight class the wrestler can no longer re-certify lower. After January 14 no wrestler is allowed to re-certify at a lower weight.

3.2.1.1 A wrestler who weighs in at least once but fails to establish his/her minimum weight class prior to January 15 shall automatically be certified at the weight he/she last weighed in before that date.

3.2.1.2 A wrestler who does not weigh in at least once and fails to establish his/her minimum weight class prior to January 15 shall automatically be certified at the weight he/she first weighs in after that date.

3.2.1.3 A wrestler who is unable, prior to January 15, to get down to the maximum allowable weight of 275 pounds in order to compete in the heavyweight class shall be permitted to certify his/her minimum weight class at a later date in the season and thereafter be eligible to participate.

3.2.2 By January 15, a certified team roster listing the established minimum weight class of each wrestler shall be sent to the secretary of the conference to which the school belongs or to the secretary of the independent tournament. Further, duly attested notices of additions to the certified roster shall be sent to the conference secretary without delay.

3.2.2.1 The conference secretary shall in turn send to each school in his/her conference copies of the certified rosters of each school. Further, he/she shall note and send copies of the notices of additions to the rosters as

these additions occur.

3.3 Required Medical Personnel In Attendance at All Football Games

3.3.1 Provision shall be made for a licensed physician, a NATA certified athletic trainer, or a registered nurse to be present at all interscholastic football games in which a member school participates. The host school shall provide this service. Failure by the host school to provide this service shall result in a \$100.00 fine.

4.0 Sports Seasons, Practices Sessions and Maximum Game Schedules and Designated Sports Seasons

4.1 Sports Seasons

4.1.1 The fall sports season shall begin with the first approved day for practice and end with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. A conference championship game must also be completed before the start of the state tournament in that sport and practice for any fall sport shall not begin earlier than 21 days before the first Friday after Labor Day.

4.1.1.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to non-contact activities. Coaches may introduce offensive formations and defensive alignments, run plays "on air," practice non-contact phases of the kicking game, and teach non-contact positional skills. Protective equipment shall be restricted to helmets, mouth guards, and shoes. The use of dummies, hand shields, and sleds in contact drills is prohibited. Blocking, tackling, and block protection drills which involve any contact between players are also prohibited.

4.1.1.2 No member school shall participate in spring football games nor shall a member school conduct football practice of any type outside of the regular fall sports season except when participating in the state tournament. Organized football" or "organized football practice" shall be defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. Touch football, featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule

4.1.2 The winter sports season shall begin with the first approved day for practice and end with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport and practice for any winter sport shall not begin earlier than 21 days before the first Friday in December.

4.1.3 The spring sports season shall begin on March 1 and ends with the start of the state championship in

that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport and practice for any spring sport shall not begin earlier than March 1.

4.1.4 A school which participates in a game prior to the first allowable date or after the start of the state championship shall be required to forfeit the contest and be assessed a \$100.00 fine.

4.1.5 A school which conducts practice prior to the first allowable date shall pay a fine of \$100.00 per illegal practice day.

4.1.6 No member school shall participate in a post-season contest without the written approval of the Executive Director.

4.2 Practice Sessions

4.2.1 A practice session shall be defined as any instructional activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, blackboard sessions, warmup and cool down exercises, drills or mandatory strength training. Member schools shall conduct a minimum of 21 calendar days of practice under the supervision of the school's certified, emergency and/or approved volunteer coaching staff prior to the first scheduled contest in all sports.

4.2.2 Practice sessions shall be limited to two (2) hours on official school days. Split sessions may be conducted but practice time shall not exceed two hours for any individual athlete. The two-hour practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.

4.2.3 Practicing on holidays and weekends shall be left to the discretion of the individual schools and conferences. However there should be one day of no activity (practice, scrimmage, or contest) during any seven day period.

4.2.4 A student shall be required to practice for a period of at least seven (7) calendar days prior to participating in a contest. However, if a student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven (7) calendar days before his/her team's first contest, he/she shall be exempt from this requirement.

4.2.5 A school which exceeds the two-hour practice limitation shall pay a \$100.00 fine.

4.3 Maximum Game Schedules and Designated Sports Seasons:

4.3.1 The maximum number of regularly scheduled interscholastic contests/competition dates for each team and individual in the recognized sports and their sports season shall be designated by the DIAA Board of Directors and is as follows:

PROPOSED REGULATIONS

Team Limitations

Individual Limitations

<i>Sport</i>	<i>Season</i>	<i>Week</i>	<i>Week</i>	<i>Day</i>
Fall				
<u>Cross Country (boys and girls)</u>	<u>16 competition dates</u>	<u>+3 competition dates</u>	<u>+3 competition dates</u>	
<u>Field Hockey (girls)</u>	<u>16 contests</u>	<u>3 contest</u>	<u>3 Competition dates</u>	<u>2 halves</u>
<u>Football (boys)</u>	<u>10 contests</u>	<u>1 contest</u>	<u>4 varsity quarters or any combination of 5 varsity and subvarsity quarters provided no more than 3 quarters are at the varsity level</u>	
<u>Soccer (boys)</u>	<u>16 Contests</u>	<u>3 contests</u>	<u>3 competition dates</u>	<u>2 halves</u>
<u>Volleyball (girls)</u>	<u>16 competition dates of which 1 date may involve more than 2 teams</u>	<u>3 competition dates</u>	<u>3 competition dates</u>	
Winter				
<u>Basketball (boys and girls)</u>	<u>22 contests</u>	<u>3 contests</u>	<u>3 competition dates</u>	<u>4 quarters</u>
<u>Swimming and Diving (boys and girls)</u>	<u>16 contests</u>	<u>3 contests</u>	<u>3 contests</u>	
<u>Indoor Track (boys and girls)</u>	<u>12 contests</u>	<u>+ 3 contests</u>	<u>+ 3 contests</u>	
<u>Wrestling (boys)</u>	<u>* 18 contests</u>	<u>3 competition dates</u>	<u>3 competition dates</u>	<u>5 matches</u>
Spring				
<u>Baseball (boys)</u>	<u>20 contests</u>	<u>3 contests</u>	<u>3 contests</u>	
<u>Softball (girls)</u>	<u>20 contests</u>	<u>3 contests</u>	<u>3 contests</u>	
<u>Golf (boys)</u>	<u>16 competition dates</u>	<u>3 competition dates</u>	<u>3 competition dates</u>	
<u>Tennis (boys and girls)</u>	<u>16 contests</u>	<u>3 contests</u>	<u>3 contests</u>	
<u>Outdoor Track (boys and girls)</u>	<u>18 competition dates</u>	<u>+3 competition dates</u>	<u>+3 competition dates</u>	
<u>Lacross (boys and girls)</u>	<u>16 contests</u>	<u>3 contests</u>	<u>3 competition dates</u>	<u>4 quarters (boys) or 2 halves (girls)</u>
<u>Soccer (girls)</u>	<u>16 contests</u>	<u>3 contests</u>	<u>3 competition dates</u>	<u>2 halves</u>

The third contest/competition date in a week must be held on Friday (no early dismissal permitted), Saturday or Sunday. This requirement is waived when a school is closed for the entire week such as during winter or spring vacation.

+ A team may not participate in two different cross country, indoor track or outdoor track meets on the same day.

* Participation in a triangular meet shall count as two

contests and participation in a quadrangular meet shall count as three contests toward the seasonal limitation.

4.3.2 The third contest/competition date in a week shall be held on Friday (no early dismissal permitted), Saturday or Sunday. This requirement is waived when a school is closed for the entire week such as during winter or spring vacation.

4.3.2.1 A team shall not participate in two different cross country, indoor track or outdoor track meets on the same day.

4.3.2.2 Participation in a triangular meet shall count as two contests and participation in a quadrangular meet shall count as three contests toward the seasonal limitation.

4.3.2.3 Participation in any part of a quarter/half shall count as a quarter/half toward the weekly and daily limitations in that sport. However, in the case of football, participation on a free kick or a play from a scrimmage kick formation shall not count as a quarter. Overtime periods shall be considered as part of the fourth quarter or second half.

4.3.3 A week shall be designated as starting on Monday and ending on Sunday for all sports except football. A football week shall begin the day of the varsity game and end the day preceding the next varsity game or the following Friday.

4.3.3.1 The preceding game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than four (4) contests/ competition dates in a week.

4.3.4 The maximum number of regularly scheduled contests for each of the recognized sports, except football, shall be exclusive of conference championships, playoffs to determine tournament state berths, and the state tournament/meet. The maximum number of regularly scheduled football contests shall be exclusive of the state tournament.

4.3.4.1 Any playoffs to determine state tournament berths shall be under the control and supervision of the DIAA tournament committee.

4.3.5 A student shall participate in a particular sport for only one season during each academic year.

4.3.6 A school which participates in more than the allowable number of contests in a season shall be suspended from the state playoffs or, if a non-qualifying team, fined \$200.00.

4.3.6.1 A school which exceeds the weekly contest limitation shall be required to forfeit the contest and pay a \$100.00 fine.

4.3.6.2 A student who exceeds the weekly or daily contest limitation shall be considered an ineligible athlete and the school subject to the process stipulated in 2.10.

5.0 School/Team Competition, Sanctioning of Competitions, State Championships and All Star Contests

5.1 School/Team Competition

5.1.1 Sponsoring Interscholastic Teams:

Interscholastic competition is defined as any athletic contest between students representing two (2) or more schools. Members of school clubs who participate in non-competitive, recreational activities or compete unattached are not considered to be engaged in interscholastic competition. Students are considered to be representing a school if the school does any of the following:

5.1.1.1 Partially or wholly subsidizes the activity (providing equipment, uniforms, transportation, entry fees, etc.).

5.1.1.2 Controls and administers the funds, regardless of their source, needed to conduct the activity.

5.1.1.3 Permits students to compete under the name of the school.

5.1.1.4 Publicizes or promotes the activity through announcements, bulletins, or school sponsored publications in excess of what is customarily done for "outside" organizations.

5.1.1.5 Presents or displays individual/ team awards.

5.1.2 Schools may sponsor teams for interscholastic competition in a sport provided the following criteria are met:

5.1.2.1 The governing body of the participating district or non-public school approves participation in the sport. The administrative head of the school shall notify the Executive Director in writing of the school's intent to sponsor a team in a new sport.

5.1.2.2 The governing body of the participating district or non-public school controls the funds needed to support the proposed team, regardless of their source, in the same manner as existing teams (coaches' salaries, purchase and repair of equipment, medical supervision, transportation, preparation and maintenance of practice and game facilities, awards, etc.). Requests from outside sources to make financial contributions or to donate equipment or services must be submitted in writing and must include an acknowledgment that the equipment becomes the property of the school. The contribution or donation must be approved in writing by the administrative head of the school.

5.1.2.3 The participating schools agree to comply with all applicable DIAA rules and regulations as stated in the current DIAA Official Handbook.

5.1.3 Levels of Participation

5.1.3.1 Level 1 or developmental sport - less than twelve (12) participating schools at the varsity level. DIAA rules and regulations shall not be in effect.

5.1.3.2 Level 2 or recognized sport - twelve (12) or more participating schools at the varsity level.

Participating schools must petition the DIAA Board of Directors for official recognition of the sport.

5.1.3.2.1 At the time of official recognition, DIAA shall provide rules publications to the participating schools, designate an approved officials' association, conduct an annual or biannual rules clinic for coaches and officials, establish a maximum game schedule, and form a committee to promote the continued development of the sport and prepare for a future state championship. All DIAA rules and regulations shall then be in effect.

5.1.3.3 Level 3 or championship sport sixteen (16) or more participating schools at the varsity level. Upon petition by the sport committee and adoption of a tournament proposal, DIAA shall establish a state championship.

5.1.3.4 Withdrawal of level 2 or level 3 status. If, for two (2) consecutive years, less than the required number of schools participate in a sport, DIAA may withdraw official recognition or suspend the state tournament/meet for a period of time as determined by the Board of Directors.

5.1.4 Membership on Coed Teams

5.1.4.1 If a school sponsors a boys' team and a girls' team in a particular sport, boys shall participate on the boys' team and girls shall participate on the girls' team even if the teams compete during different seasons. If a school sponsors only a boys' team in a particular sport, girls shall be permitted to participate on the boys' team but if a school sponsors only a girls' team in a particular sport, boys shall not be permitted to participate on the girls' team.

5.1.4.2 Coed teams shall participate only in the boys' state championship tournament/meet.

5.2 Sanctioning of Competitions

5.2.1 Member schools may participate in tournaments/meets involving four (4) or more schools only if the event has been sanctioned by DIAA and, if applicable, by the NFHS. Tournaments/meets shall be sanctioned in accordance with the following criteria:

5.2.1.1 The event shall not be for determining a regional or national champion.

5.2.1.2 The event shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.

5.2.1.3 Non-symbolic competition awards shall have a value of not more than \$50.00 per recipient and shall require the prior approval of the Executive Director.

5.2.1.4 Non-school event organizers shall submit a full financial report to the DIAA office within ninety (90) calendar days of the completion of the event.

5.2.1.5 The event organizer shall submit a list of out-of-state schools which have been invited to participate and such schools shall be subject to approval by the Executive Director.

5.2.1.6 Out-of-state schools which are not

members of their state athletic association shall verify in writing that their participating athletes are in compliance with their state athletic association's eligibility rules and regulations.

5.2.1.7 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.

5.2.1.8 The event organizer shall comply with all applicable NFHS sanctioning requirements.

5.2.2 Participation in a non-sanctioned event shall result in payment of a \$25.00 fine. A second offense shall result in a \$50.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the sport season. A third offense shall result in a \$100.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the school

5.3 State Championships

5.3.1 State Championships: The minimum number of high schools which must sponsor a sport at the varsity level in order for DIAA to approve a state championship shall be sixteen (16).

5.3.1.1 State championship play shall be permitted at the varsity level only in football, basketball, indoor and outdoor track, cross country, swimming, wrestling, golf, baseball, soccer, tennis, field hockey, softball, girls' volleyball, and lacrosse provided such tournament or meet is under the direct control and supervision of and/or has the approval of DIAA.

5.3.1.2 A member school which does not pay all fines incurred during the school year by July 1st shall be ineligible to participate in a state championship event in any sport during the following school year until such time as all fines are paid.

5.3.2 All state championships shall be managed by committees established by the DIAA Board of Directors.

5.3.2.1 Each tournament format, as well as the criteria and procedures for selecting and seeding the participating teams, must be approved by the Board of Directors and any subsequent changes must also be approved by the Board. The Executive Director shall advise the committees as to which proposed changes must be presented to the Board. If the Executive Director and the committee cannot agree, the proposed change must be presented to the DIAA Board of Directors for approval.

5.3.2.2 All financial arrangements, including the collection of monies and expenditures, must be approved by the Executive Director

5.3.2.3 Championship play in other sports must be confined to the individual conferences and conducted in accordance with the rules of the conference as approved by the DIAA Board of Directors.

5.4 All-Star Contests

5.4.1 An all-star contest shall be defined as an

organized competition in which the participants are selected by the sponsoring organization or its designee on the basis of their performance during the interscholastic season in that sport.

5.4.2 Students who have completed their eligibility in a sport may participate in all-star contests in that sport, if approved by DIAA, prior to graduation from high school.

5.4.3 Member schools shall not make their facilities, equipment, or uniforms available to the sponsoring organization or the participants unless the all-star contest is approved by DIAA.

5.4.4 The all-star contest must be approved by DIAA in accordance with the following criteria:

5.4.4.1 The contest shall not be for determining a regional or national champion.

5.4.4.2 The contest shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.

5.4.4.3 The awards given shall be in compliance with 9.0.

5.4.4.4 Exceptions to the adopted rules code for the sport, including uniform regulations, shall require the approval of DIAA.

5.4.5 A full financial report must be filed with the Executive Director within ninety 90 days of the contest. Failure to submit a financial report within the specified period of time shall result in the sponsoring organization being assessed a \$300.00 fine.

5.4.6 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.

6.0 Out of Season Athletic Camps and Clinics Sponsorship, Commercial Camps and Clinics and Open Gyms, Conditioning Programs and Non School Competition

6.1 Out of Season Athletic Camps and Clinic Sponsorship

6.1.1 DIAA does not restrict a student's decision to attend an out of season athletic camp/clinic. However, schools, school organizations, coaches, or school related groups, such as booster clubs, may not sponsor an athletic camp/clinic which limits membership to their own district, locale, or teams. Coaches employed by an out of season athletic camp may only instruct their returning athletes in accordance with 4.5.

6.1.1.1 School related groups, such as booster clubs, which desire to sponsor the attendance of their school's enrolled students at an out of season athletic camp/clinic, may do so with the approval of the local school board or governing body. The disbursement of funds to pay for camp/clinic related expenses (fees, travel costs, etc.) shall be

administered by the principal or his/her designee and the funds shall be allocated according to the following guidelines:

6.1.1.1.1 All students and team members shall be notified of the available sponsorship by announcement, publication, etc.

6.1.1.1.2 All applicants shall share equally in the funds provided.

6.1.1.1.3 All applicants shall be academically eligible to participate in interscholastic athletics.

6.1.1.1.4 All applicants shall have one year of prior participation in the sport for which the camp/clinic is intended or, absent any prior participation, he/she shall be judged by the coach to benefit substantially from participation in the camp/clinic.

6.2 Commercial Camps and Clinics:

6.2.1 Commercial camps and clinics are defined as a camp/clinic operated for profit which provides coaching or other sports training for a fee.

6.2.2 A student may participate in a commercial camp or clinic, including private lessons, both during and out of the designated sport season provided the following conditions are observed:

6.2.2.1 The student must participate unattached and may not wear school uniforms.

6.2.2.2 The student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

6.2.2.3 The school may not provide transportation or pay fees.

6.2.2.4 The school coach may not require his/her athletes to participate in a camp or clinic, or provide instruction to his/her returning athletes in a camp or clinic except as provided in 7.5.

6.3 Open Gym Programs

6.3.1 A member school may open its gymnasium or other facility for informal, recreational activities in accordance with the following provisions:

6.3.1.1 The open gym must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

6.3.1.2 Student participation must be voluntary and the open gym must not be a prerequisite for trying out for a particular team.

6.3.1.3 The activities must be unstructured and student-generated. Organized drills in the skills or techniques of a particular sport are prohibited. Organized competition with fixed team rosters is also prohibited.

6.3.1.4 A coach may not predetermine that the open gym will include only his/her sport and publicize the open gym as being restricted to that sport. It is the responsibility of the adult supervisor to permit as many different activities as the facility can effectively and safely

accommodate.

6.3.1.5 A coach may open the facility and distribute playing equipment but may not instruct, officiate, participate, organize the activities, or choose teams in his/her assigned sport.

6.3.1.6 Playing equipment is restricted to that which is customarily used in a contest in a particular sport. Playing equipment which is only used in a practice session is prohibited.

6.3.1.7 The participants must provide their own workout clothing.

6.4 Conditioning Programs

6.4.1 A member school may conduct a conditioning program in accordance with the following provisions:

6.4.1.1 The conditioning program must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

6.4.1.2 Student participation must be voluntary. The conditioning program must not be a prerequisite for trying out for a particular team.

6.4.1.3 Permissible activities include stretching, lifting weights, jumping rope, running, calisthenics, aerobics, and similar generic conditioning activities. Organized drills in the skills or techniques of a particular sport are prohibited.

6.4.1.4 A coach may not provide instruction in sport specific skills or techniques.

6.4.1.5 Sport specific equipment is prohibited.

6.4.1.6 The participants must provide their own workout clothing.

6.5 Non-School Competition in which Participants are Competing Unattached and are Not Representing Their Schools

6.5.1 A student may participate on a non-school team or in a non-school individual event both during and out of the designated sport season. However, the student owes his/her primary loyalty and allegiance to the school team of which he/she is a member. A school shall have the authority to require attendance at practices and contests and students not in compliance shall be subject to disciplinary action as determined by the school.

6.5.2 Participation on a non-school team or in a non-school individual event shall be subject to the following conditions:

6.5.2.1 With the exception of organized intramurals, the student may not wear school uniforms.

6.5.2.2 With the exception of organized intramurals, the student may use only school equipment whose primary purpose is to protect the wearer from physical injury.

6.5.2.3 The school or a school affiliated

support group may not provide transportation.

6.5.2.4 The school or a school affiliated support group may not pay entry fees or provide any form of financial assistance.

6.5.2.5 The school coach may not require his/her athletes to participate in non-school competition or provide instruction to his/her athletes in non-school competition except as in 7.5.

6.5.3 14 Del.C. §122(b)(15) requires written parental permission prior to participation on a similar team during the designated sport season. Written authorization must be on file in the student's school prior to engaging in a tryout, practice, or contest with a similar team. Consent forms shall be available in all member schools. Similar teams shall include organized intramural teams as well as non-school teams in that sport.

7.0 Certified, Emergency and Volunteer Coaches, Student Teaching and Coaching and Coaching Out of Season

7.1 Certified Coaches:

7.1.1 Only those professional employees certified by the Department of Education and whose salary is paid by the State and/or local Board of Education, or in the case of charter and non-public schools by a similar governing body, if acceptable as a coach by the governing body, shall coach, assist in coaching, or direct member school teams in any district. The terms of employment must be for the regular school year and the professional assignment shall be no less than ½ of the school day, exclusive of coaching duties.

7.1.2 All varsity head coaches (junior varsity if the school does not sponsor a varsity team) shall be required to attend the DIAA rules clinic for their sport or, if applicable, pass an open book rules examination supplied by the DIAA office. A school shall be assessed a \$50.00 fine and the head coach shall be placed on probation if he/ she fails to attend the DIAA rules clinic or pass the open book rules examination in his/her sport. Failure to comply for a second consecutive year shall result in the school being assessed a \$50.00 fine and the coach being suspended for up to five contests as determined by the Executive Director.

7.1.2.1 Certified coaches at all levels of competition shall be required to hold a current certification in adult CPR.

7.2 Emergency Coaches

7.2.1 An emergency coach shall be defined as an individual who is either not certified by the Department of Education, or is certified by the Department of Education but is not employed for the regular school year or whose professional assignment is less than ½ of the school day. An individual who meets the requirements of a certified coach but whose professional assignment is located in a different school or district than his/her coaching assignment shall not

be considered an emergency coach by DIAA.

7.2.1.1 Emergency head coaches at all levels of competition shall be required to hold a current certification in adult CPR

7.2.2 Member schools shall be required to annually reopen all positions that are held by emergency coaches.

7.2.3 Emergency coaches may be employed provided the local governing body adheres to the following procedures:

7.2.3.1 The employing Board of Education must attempt to locate an acceptable, certified professional staff member by advertising the coaching vacancy in the district for as many days as are required by the district's collective bargaining agreement.

7.2.3.2 If an acceptable, certified professional staff member is not available, an individual who is acceptable to the employing Board of Education may be hired as an emergency coach.

7.2.3.3 Any individual employed as a coach under the emergency provision must comply with the following regulations:

7.2.3.3.1 He/she must be officially appointed by the local Board of Education. The superintendent or his/her designee may temporarily appoint an individual if a coaching vacancy arises and the sport season begins during the interim between meetings of the local Board of Education.

7.2.3.3.2 His/her coaching salary must be paid exclusively by the local Board of Education.

7.3 Student Teaching and Coaching

7.3.1 Students who are practice teaching in a member school shall be permitted to assist in all professional activities during their practice teaching period.

7.4 Volunteer Coaches

7.4.1 In addition to the members of the school's regular coaching staff, the local governing body may supplement a school's coaching staff with volunteer coaches. Volunteer coaches are individuals who donate their services to a school and who have been approved by that school's local governing body. A current list of approved volunteer coaches shall be on file in the school's administrative office before any coaching duties are assumed.

7.5 Coaching Out of Season

7.5.1 From August 2nd through June 14th a certified, emergency, or volunteer coach shall not be allowed to provide instruction out of the designated season in his/her assigned sport to returning members of the varsity or sub-varsity teams of the school at which he/she coaches or transfer students from other schools who play the coach's sport. He/she shall also be prohibited from coaching rising ninth graders (rising eighth graders if eighth grade is part of the same administrative unit as grades 9 through 12) who

participated in his/her assigned sport at a feeder school. A rising ninth grader is a student who has completed eighth grade requirements but is not yet enrolled in ninth grade. A rising eighth grader is a student who has completed seventh grade requirements but is not yet enrolled in eighth grade.

7.5.1.1 A coach shall not be allowed to participate on a team in his/her assigned sport with the aforementioned players.

7.5.1.2 A coach shall also be prohibited from officiating contests in his/her assigned sport if the aforementioned players are participating except in organized league competition.

7.5.1.3 The league shall not be organized and conducted by the employing school, the employing school's booster club, or the employing school's coaching staff.

7.5.1.4 The league shall have written rules and regulations that govern the conduct of contests and establish the duties of contest officials.

7.5.1.5 The league shall have registration/entry procedures, forms, and fees; eligibility requirements; and fixed team rosters, team standings, and a master schedule of contests.

7.5.1.6 A certified, emergency, or volunteer coach shall not be allowed to provide instruction during the designated season in his/her assigned sport to current members of the varsity or subvarsity teams of the school at which he/she coaches outside of school sponsored practices, scrimmages, and contests.

7.5.1.7 A coach who is in violation of this section shall be suspended from coaching in the specified sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.

7.5.2 From June 15th through August 1st, a certified, emergency or volunteer coach shall be allowed to provide instruction in his/her assigned sport to returning members of the varsity or sub-varsity teams of the school at which he/she coaches. Instructional contact with the aforementioned returning school team members shall be subject to the following conditions:

7.5.2.1 A coach may provide instruction to an unlimited number of his/her returning school team members in formal league/tournament competition or in formal instructional camps/clinics provided the league/tournament or instructional camp/clinic is organized and conducted by a non-school affiliated organization.

7.5.2.2 A coaching staff may provide instruction to a maximum of two returning school team members in an informal setting which means student initiated and non-scheduled. A coaching staff may have multiple two-hour sessions in any given day. Returning school team members shall not receive more than 2 hours of sports instruction per day.

7.5.2.3 A coach shall not receive any compensation, from any source, for the instruction of his/her returning school team members. Reimbursement for out-of-pocket expenses (e.g. gas, food, lodging) incurred by returning school team members and coaches to attend leagues/tournaments or instructional camps/clinics are not prohibited provided that no local school or state educational funds are used.

7.5.2.4 Participation in the formal league/tournament or instructional camp/clinic, or informal instruction, shall be open, voluntary and equally available to all returning school team members as well as members of the student body.

7.5.2.5 A coach who is in violation of this section shall be suspended from coaching in the specified sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.

8.0 Recognition of Officials' Associations, Required Use of Officials and Attendance at Rules Clinics

8.1 Recognition of Officials' Associations

8.1.1 The officiating of interscholastic contests in the state of Delaware which involve one (1) or more member schools shall be under the control of the DIAA and such control may include, but not be restricted to, giving examinations, evaluating officials, setting game fees, determining the number of officials per game, and assigning officials.

8.1.2 An official's association which desires to officiate middle school and/or high school contests shall request recognition and approval from DIAA by submitting the following documents to the DIAA Officials' Committee:

8.1.2.1 A letter of request indicating the association's willingness to abide by DIAA rules and regulations.

8.1.2.2 A brief history of the association.

8.1.2.3 A copy of the association's constitution and bylaws including a statement that it does not discriminate on the basis of age, gender, race, religion, etc.

8.1.2.4 A description of the association's evaluation and rating system.

8.1.2.5 A description of the association's recruiting and training programs for new members.

8.1.2.6 A membership roster indicating the number of years of experience at the sub-varsity, varsity, and state tournament levels for each member and also his/her most recent rating in a previous association.

8.1.2.7 If applicable, letters of recommendation or names of references from leagues which the association has serviced during the past year.

8.1.3 The Officials' Committee shall review the aforementioned documents and, if necessary, meet with the officers of the association to discuss their petition.

8.1.4 The Officials' Committee shall reserve the right to consult with any other interested parties during the evaluation process.

8.1.5 The Officials' Committee shall report its findings to the DIAA Board of Directors and recommend that the officials' association be granted recognition, granted recognition with conditions, or denied recognition.

8.1.6 The president of the officials' association or his/her designee shall petition the DIAA Board of Directors and the Board shall render a decision.

8.1.7 If more than one association is approved to officiate a particular sport, a conference or, in the absence of a conference affiliation, an individual school shall determine which association shall provide the officials for its home contests.

8.2 Required Use of Officials

8.2.1 Member schools and tournament sponsors shall be required to use officials approved by DIAA for interscholastic contests. Use of non-approved officials without permission from the Executive Director shall result in the school or tournament sponsor being assessed a \$50.00 fine per game per non-approved official.

8.2.1.1 In the case of emergencies such as an act of God, refusal by an association to work games, or a shortage of qualified officials, schools which desire to use other than approved officials must obtain permission from the Executive Director.

8.3 Attendance at Rules Clinics

8.3.1 Officials shall be required each year to both attend the DIAA rules interpretation clinic and to pass the rules examination provided by the DIAA office for the sport(s) they officiate.

8.3.2 Failure on the part of an official to attend the DIAA rules interpretation clinic and pass the rules examination in the same season shall cause the official to be placed on probation and to lose his/her eligibility to officiate a state tournament contest during that season.

8.3.3 Failure to satisfy both requirements in the same season for two (2) consecutive years shall cause the official to lose varsity officiating status during the second season. Failure to fulfill this obligation in subsequent years shall cause the official to continue to be restricted to sub-varsity contests until both requirements have been satisfied in the same season.

8.3.4 Attending the fall soccer rules interpretation clinic shall satisfy the clinic attendance requirement for both the boys' and girls' soccer seasons. Attending the spring soccer rules interpretation clinic shall satisfy the clinic attendance requirement for only the girls' soccer season.

8.3.5 If, for a legitimate reason which is documented by the president of his/her association, an official is unable to attend the DIAA rules interpretation clinic, he/she may view a videotape of the DIAA clinic or, in

the absence of a videotape, attend a clinic conducted by another NFHS member state association provided the following procedures are observed:

8.3.5.1 No later than the day of the DIAA rules interpretation clinic, the president of the association notifies the Executive Director, in writing, of the official's inability to attend the clinic.

8.3.5.2 The out-of-state clinic is conducted by an individual either trained by the NFHS or designated as a clinician by the state's athletic association.

8.3.5.3 The official arranges for a letter to be sent to the Executive Director from the state's athletic association office verifying his/her attendance at the clinic.

9.0 Awards and Scholarships

9.1 Awards

9.1.1 Member schools and support groups affiliated with a member school, such as an alumni association or booster club, shall be allowed to present recognition awards for team and/or individual accomplishments. The awards, including artwork and lettering, shall require the approval of the administrative head of the school and their value shall be mostly symbolic, no more than \$150.00. Member schools and/or support groups affiliated with member schools are also permitted to sponsor banquets.

9.1.2 A non-profit group such as a coaches association, booster club not affiliated with a member school, or community service organization shall be allowed to present recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school. Non-profit groups shall also be permitted to sponsor banquets.

9.1.3 Commercial organizations shall be allowed to present recognition awards for team and/or individual accomplishments with the approval of the administrative head of the school.

9.1.4 Permissible awards include trophies, plaques, medals, letters, certificates, photographs, and similar items. Jackets, sweaters, shirts, watches, rings, charms, and similar items if properly inscribed (reference to the team or individual athletic accomplishment) are also acceptable. The awards shall have symbolic value only, awards with utilitarian value are prohibited. The aggregate retail value of the award shall not exceed \$150.00 per team or per recipient and shall require prior approval of the Executive Director.

9.2 Scholarships

9.2.1 Member schools and support groups affiliated with member schools shall be permitted to present post-secondary scholarships.

9.2.2 Non-profit organizations co-sponsoring a tournament shall be allowed to give post-secondary scholarships to participating schools provided they are not

awarded on the basis of team or individual performance in the tournament. Scholarship monies shall be administered in accordance with DIAA and NCAA regulations.

10.0 Use of Influence for Athletic Purposes

10.1 Definition: The use of influence for athletic purposes shall include, but not be limited to, the following:

10.1.1 Offer of money, room, board, clothing, transportation, or other valuable consideration to a prospective athlete or his/her parent(s) or court appointed legal guardian(s).

10.1.2 Offer of waiver/reduction of tuition or financial aid if based, even partially, on athletic considerations.

10.1.3 Preference in job assignments or offer of compensation for work performed in excess of what is customarily paid for such services.

10.1.4 Offer of special privileges not accorded to other students.

10.1.5 Offer of financial assistance including free or reduced rent, payment of moving expenses, etc., to induce a prospective athlete or his/her parent(s), legal guardian(s) or Relative Caregiver to change residence.

10.2 Illegal Contact with Students, Legal guardians, or a Relative Caregiver

10.2.1 A school employee or Board approved volunteer may not initiate contact or request that a booster club member, alumnus, or player initiate contact with a student enrolled in another school or his/her parent(s), legal guardian(s) or a relative Caregiver in order to persuade the student to enroll in a particular school for athletic purposes. Illegal contact shall include, but not be limited to, letters, questionnaires or brochures, telephone calls, and home visits or personal contact at athletic contests.

10.2.2 If a coach or athletic director is contacted by a prospective athlete or his/her parent(s), legal guardian(s) or a Relative Caregiver, the former must refer the individual(s) to the principal or school personnel responsible for admissions.

10.3 Permitted Activities

10.3.1 A school employee or Board approved volunteer may do the following:

10.3.1.1 Discuss the athletic program with a prospective student or his/her parent(s), legal guardian(s) or Relative Caregiver during an open house or approved visit initiated by the parent(s), legal guardian(s) or Relative Caregiver.

10.3.1.2 Provide information concerning sports offered, facilities, conference affiliation, and general athletic policies. However, he/she is not permitted to state or imply in any way that his/her athletic program is superior to that of another school or that it would be more beneficial or advantageous for the prospective student to participate in athletics at his/her school.

10.3.1.3 Conduct an informational presentation at a feeder school.

10.4 School Choice

10.4.1 If the number of applicants under the Delaware School Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.

10.5 Penalties

10.5.1 The use of influence or illegal contact including but not limited to, violations of 10.1 and 10.2 by a person(s) employed by or representing a member school including members of alumni associations, booster groups, and similar organizations to persuade, induce, or facilitate the enrollment of a student in that school for athletic purposes may render the student ineligible for up to 1 full school year from the date the charge is substantiated. In addition, the offending school may be placed on probation, as determined by the DIAA Board of Directors, and the offending employee, if a coach, may be suspended for up to one (1) full school year from the date the charge is substantiated.

DEPARTMENT OF EDUCATION PROFESSIONAL STANDARDS BOARD

Educational Impact Analysis Pursuant To 14 Del.C. Section 122(D)

341 Certification Trade And Industrial (T & I) Teacher

A. Type Of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis Of Subject Matter Of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the approval of the State Board of Education to amend **DE Admin. Code** 341 Certification Trade and Industrial (T & I) Teacher. This regulation applies to the requirements for a Standard Certificate for a Trade and Industrial Teacher as established by 14 **Del.C.** §1220(a). The amendment of this regulation is necessary to comply with changes in statute regarding licensure and certification of educators. The regulation seeks to define “two years of college or technical training” and to clarify the requirements for course work by trade and industrial teachers. The amended regulation will be renumbered 1559 to denote its movement to the Professional Standards Board section of the Department of Education regulations, and renamed Standard Certificate to make it consistent with other standard certificate regulations.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation concerns educator certification, not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps ensure that all educators demonstrate high standards for the issuance of a standard certificate.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers 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 will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will 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 rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.

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 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.

9. Is there a less burdensome method for addressing the purpose of the new regulation? 14 **Del. C.** requires that we promulgate this regulation.

10. What is the cost to the state and to the local school boards of compliance with the new regulation? There is no additional cost to local school boards for compliance with the regulation.

1559 ~~341~~ Standard Certificate in Trade and Industrial Education (T & I) Teacher

Effective July 1, 1993

~~1.0~~ The following shall be required for the Standard License for grades 9-12 and is valid for grades 7-8 for the specific trade area only:

1.0 Content

1.1 This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Trade and Industrial Education Teacher.

2.0 Definitions

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

“Current Trade Experience” means successful, full-time employment within the last ten years in an occupation directly related to the specific occupational area to be taught.

“Department” means the Delaware Department of Education.

“Department Approved” means approved by the Department of Education in consultation with DOE’s supervisor for Trade and Industrial Education.

“License” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill, and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Two Years of College or Technical Training” means a minimum of a high school diploma or its recognized equivalent and the satisfactory completion of the requirements for any one, or an appropriate combination, of the following options in the occupational area to be taught equaling (1) an associate’s degree with a major in the specific occupational area to be taught; (2) two years of college majoring in the specific occupational area to be taught with at least 50% of the major courses required for a bachelor’s degree satisfactorily completed; (3) a state-issued certificate indicating completion of apprenticeship hours and apprentice-related training (e.g. journey papers); (4) four years of sequential Delaware Trade Extension courses; (5) four years of National Center for Construction Education and Research’s *Contren* documented training; (6) nine high school credits of career and technical high school training; (7) passage of the State of Delaware Licensing Test, offered through the Division of Professional Regulation; (8) 576 hours of military training; (9) 576 hours postsecondary trade school training; (10) completing the written and performance teacher tests for the National Occupational Competency Testing Institute at or above the minimum score set by the

Department; (11) industry-recognized certification of technical competence and/or journey person status, or (12) DOE approved equivalents.

3.0 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Trade and Industrial Education Teacher (required for grades 9-12, and valid in grades 7-8 in a middle level school) to an applicant who holds a valid Delaware initial, continuing, or advanced license; or standard or professional status certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

1.1 General Education

1.1.1 Bachelor’s degree from an accredited college or;

1.1.2 A high school diploma and 15 semester hours of general preparation from an accredited college in the areas of Science, mathematics, Social Studies, English/Communications, and Computer Literacy and;

3.1 1.2 Professional Education

Bachelor’s degree in vocational education in the specific field of endorsement or, A minimum of 51 semester hours as follows:

3.1.1 1.1.1 Bachelor’s degree from an regionally accredited college or university in the occupational area to be taught or and two (2) years of current trade experience in the area to be taught, and

1.2.2.1 Required 24 semester hours from the following: Educational Psychology or Human Development, analysis Techniques and Course Construction, Methods of Teaching Vocational Education, Vocational Safety (as appropriate to the occupation being taught), Identifying/Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, Student Testing and Evaluation and;

3.1.1.1 Required Courses: 24 semester hours of course work, taken either as part of a degree program or in addition to it, from the following:

3.1.1.1.1 Educational Psychology or Human Development;

3.1.1.1.2 Career/Technical Education Assessment and Course Construction;

3.1.1.1.3 Methods of Teaching Career/Technical Education I or Materials and Approaches to Career/Technical Education I;

3.1.1.1.4 Methods of Teaching Career/Technical Education II or Materials and Approaches to Career/Technical Education II;

3.1.1.1.5 Introduction to/Education of Exceptional Children;

3.1.1.1.6 Behavior management or Classroom Management;

3.1.1.1.7 Instructional Technology; and

3.1.1.1.8 Multicultural Education or Diversity in the Classroom; and

3.1.1.2 ~~1-2-2-2~~ Required Electives -- 27 12 semester hours of college-level and prior approved in-service course work, taken either as part of a degree program or in addition to it, or the equivalent of 12 semester hours of documented industry/skills training, or a combination thereof, taken ~~/skills documentation~~ determined by the local district superintendent and/or the appropriate Department of Education staff to assist the teacher in maintaining current craftsmanship and teaching skills in the vocational area covered by the license that includes: Vocational Guidance, Shop Organization and Management, History and Philosophy of Vocational Education, Student Organizations, Special Education, Behavior or Classroom Management, Development of Vocational Teaching Aids, Trade Competency Exam in Area, Appropriate Trade School Courses, Appropriate Manufacturer's Service School Courses and;

3.1.1.2.1 Student Organizations in the Curriculum;

3.1.1.2.2 History and Regulations of Career/Technical Education;

3.1.1.2.3 Student Testing/Evaluation;

3.1.1.2.4 Education of Exceptional Children (at a level above any previous course work)

3.1.1.2.5 Career/Technical Guidance;

3.1.1.2.6 DOE-approved

apprenticeship, military, or trade school/extension courses appropriate to the area taught or National Occupational Competency Testing (NOCTI) Written and Performance Tests or DOE-approved industry certification;

3.1.1.2.7 National Center for Construction Education and Research (NCCER) Instructor Certification course or DOE-approved Instructor's Certification course(s);

3.1.1.2.8 DOE-approved test-based Professional Municipal License;

3.1.1.2.9 DOE-approved test-based Professional Municipal License Preparation course; or

3.1.1.2.10 College courses in the occupational area to be taught; or

3.1.2 Associate's degree from a regionally accredited college or university in the occupational area to be taught and four (4) years of current trade experience in the area to be taught; and

3.1.2.1 Required Courses: 24 semester hours of course work, taken either as part of a degree program or in addition to it, from the following:

3.1.2.1.1 Educational Psychology or Human Development;

3.1.2.1.2 Career/Technical Education Assessment and Course Construction;

3.1.2.1.3 Methods of Teaching Career/

Technical Education I or Materials and Approaches to Career/Technical Education I;

3.1.2.1.4 Methods of Teaching Career/Technical Education II or Materials and Approaches to Career/Technical Education II;

3.1.2.1.5 Introduction to/Education of Exceptional Children;

3.1.2.1.6 Behavior Management or Classroom;

3.1.2.1.7 Instructional Technology; and

3.1.2.1.8 Multicultural Education or Diversity in the Classroom; and

3.1.2.2 Required Electives -- 12 semester hours of college-level course work, taken either as part of a degree program or in addition to it, or the equivalent of 12 semester hours of documented industry/skills training, or a combination thereof, taken to assist the teacher in maintaining current craftsmanship and teaching skills in the career/technical area covered by the certificate that include:

3.1.2.2.1 Student Organizations in the Curriculum;

3.1.2.2.2 History and Regulations of Career/Technical Education;

3.1.2.2.3 Student Testing/Evaluation;

3.1.2.2.4 Education of Exceptional Children (at a level above any previous course work)

3.1.2.2.5 Career/Technical Guidance;

3.1.2.2.6 DOE-approved

apprenticeship, military, or trade school/extension courses appropriate to the area taught or National Occupational Competency Testing (NOCTI) Written and Performance Tests or DOE-approved industry certification;

3.1.2.2.7 National Center for Construction Education and Research (NCCER) Instructor Certification course or DOE-approved Instructor's Certification course(s);

3.1.2.2.8 DOE-approved test-based Professional Municipal License;

3.1.2.2.9 DOE-approved test-based Professional Municipal License Preparation course; or

3.1.2.2.10 College courses in the occupational area to be taught; or

3.1.3 Two (2) years of college or technical training, plus 6 years of current trade experience in the area to be taught; and

3.1.3.1 Completion of a DOE-approved Trade and Industrial teacher education associate's and/or bachelor's degree program; or

3.1.3.2 ~~1-2-2-1~~ Required Courses 24 semester hours of course work from the following: Educational Psychology or Human Development, Analysis Techniques and Course Construction, Methods of Teaching Vocational Education, Vocational Safety (as appropriate to the occupation being taught), Identifying/Treating

~~Exceptionalities, Effective Teaching Strategies, Multicultural Education, Student Testing and Evaluation and~~
3.1.3.2.1 Educational Psychology or Human Development;

3.1.3.2.2 Career/Technical Education Assessment and Course Construction;

3.1.3.2.3 Methods of Teaching Career/Technical Education I or Materials and Approaches to Career/Technical Education I;

3.1.3.2.4 Methods of Teaching Career/Technical Education II or Materials and Approaches to Career/Technical Education II;

3.1.3.2.5 Introduction to/Education of Exceptional Children;

3.1.3.2.6 Behavior Management or Classroom Management;

3.1.3.2.7 Instructional Technology;
and

3.1.3.2.8 Multicultural Education or Diversity in the Classroom; and

~~3.1.3.3 1-2-2-2 Required Electives -- 27 12 semester hours of college-level and prior approved in-service course work and/or industry training/skills documentation determined by the local district superintendent and/or the appropriate Department of Education staff to assist the teacher in maintaining current craftsmanship and teaching skills in the vocational area covered by the license that includes: Vocational Guidance, Shop Organization and Management, History and Philosophy of Vocational Education, Student Organizations, Special Education, Behavior or Classroom Management, Development of Vocational Teaching Aids, Trade Competency Exam in Area, Appropriate Trade School Courses, Appropriate Manufacturer's Service School Courses and;~~

3.1.3.3.1 Career/Technical Student Organizations in the Curriculum;

3.1.3.3.2 History and Regulations of Career/Technical Education;

3.1.3.3.3 Student Testing/Evaluation;

3.1.3.3.4 Education of Exceptional Children (at a level above any previous course work);

3.1.3.3.5 Career/Technical Guidance;

3.1.3.3.6 DOE-approved

apprenticeship, military, or trade school/extension courses appropriate to the area taught or National Occupational Competency Testing (NOCTI) Written and Performance Tests or DOE-approved industry certification;

3.1.3.3.7 National Center for Construction Education and Research (NCCER) Instructor Certification course or DOE-approved Instructor's Certification course(s);

3.1.3.3.8 DOE-approved test-based Professional Municipal License;

3.1.3.3.9 DOE-approved test-based Professional Municipal License Preparation course; or

3.1.3.3.10 College courses in the occupational area to be taught; and

3.1.3.4 Required General Education – 15 semester hours of general preparation from a regionally accredited college or university, with at least one course in each of the following area:

3.1.3.4.1 Science;

3.1.3.4.2 Mathematics;

3.1.3.4.3 Social Studies;

3.1.3.4.4 English/Communications;

and

3.1.3.4.5 Computer Literacy.

~~3.2 1-3~~ Skilled Trade Experience

3.2.1 A minimum of six years of successful, full-time work/training experience, at least two years of which must have been within the last ten years, at an apprenticeship level, or two years beyond the learning period* in the trade or industrial occupation to be taught. and, Full-time teaching or direct supervision in the trade or industrial occupation qualifies as current work experience, provided the applicant has at least six (6) years of successful, full-time prior work/training experience.

~~3.3 1-4~~ Professions and Occupations License.

3.3.1 In teaching trade or industrial occupations areas where a state license or registration is required by law, the all applicants, except applicants for electrician's or plumber's trade and industrial certification must present the a valid and current Delaware license or registration upon application for a standard license certificate. Applicants for an electrician's or a plumber's trade and industrial certification must present a valid and current Delaware license as part of completing certification requirements. The state license or registration must be renewed as required by law.

1-4-1 A Trade Competency Examination may be required by the Delaware State Department of Education for applicants whose work experience is not properly verified or whose experience appears to be outdated

1-4-2 * "Learning period" is defined as one of the following: Registered apprentice program State licensure program; i.e. Registered Nurse, LPN, Cosmetology, Barbering Approved high school vocational program, plus an associate's degree in an appropriate vocational area Satisfactory completion of an appropriate Trade Competency Examination (as approved by the Department of Education A Bachelor's degree in an appropriate vocational field (related to the occupational field to be taught).

2.0 Licenses that may be issued for this position include Standard, Standard Endorsement and Limited Standard.

2.1 The Limited Standard license may be issued upon request of a Delaware public school district for a teacher

employed for this position who meets the standards set forth in 2.3 of regulation 301 General Regulations for Certification of Professional Public School Personnel.

Educational Impact Analysis Pursuant To 14 Del. C. Section 122 (D)

382 Certification School Social Work Services

A. Type Of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis Of Subject Matter Of Regulation

The Professional Standards Board, in cooperation and collaboration with the Department of Education, seeks the approval of the State Board of Education to amend **DE Admin. Code** 382 Certification School Social Work Services. This regulation concerns the requirements for a standard certificate, pursuant to 14 **Del.C.** §1220(a). It is necessary to amend this regulation to comply with changes in statute regarding the licensure and certification of educators. The amended regulation deletes a section which permits non-degreed social workers to practice, as they would be ineligible for an initial or continuing license. It also deletes job responsibilities for social workers, as this is a responsibility of the employing authority, not the Office of Professional Accountability. The amended regulation will be renumbered and renamed 1582 Standard Certificate – School Social Work Services to reflect its movement to the Professional Standards Board portion of the Department of Education regulations, and will be renamed Standard Certificate – School Social Worker to make it consistent with other Standard Certificate regulations.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses certification for school social workers, not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all school social workers employed by school districts meet high standards of performance.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses the certification requirements for school social workers, not students' health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses the certification requirements for school social

workers, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers 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 will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will 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 rests with the Professional Standards Board, in collaboration and cooperation with the Department of Education, and with the consent of the State Board of Education.

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 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.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? 14 **Del. C.** requires that we promulgate this regulation.

10. What is the cost to the state and to the local school boards of compliance with the new regulation? There is no additional cost to local school boards for compliance with the regulation.

1582 382 Standard Certificate on School Social Worker Services

Effective July 1, 1994

1.0 Content.

1.1 This regulation shall apply to the issuance of a Standard Certificate, pursuant to 14 Del.C. §1220(a), for School Social Worker.

2.0 Definitions.

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

“Certification” means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

“Department” means the Delaware Department of Education.

“License” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

3.0 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a School Social Worker to an applicant who holds a valid Delaware initial, continuing, or advanced license; or standard or professional status certificate issued by the Department prior to August 31, 2003, and who meets the following requirements.

1.0 The following shall be required for the Standard License for individuals with this assigned responsibility (as described in the attachment) within the public school setting, K-12, whether assigned to a specific building(s) or at large.

1.1 Licensed School Social Worker (LSW)

1.1.1 Master's degree in Social Work from a regionally accredited college and;

1.1.2 Two years experience as a social worker and;

1.1.3 State of Delaware license as a Licensed Clinical Social Worker (LCSW) and

1.1.4 One year of supervised experience in a school setting, or a one-year internship of 1000 hours approved by the Department of Education and supervised by an appropriate school designee.

3.1 1.2 Master's Degree School Social Worker (MSW)

3.1.1 1.2.1 Master's degree in Social Work (MSW) from a regionally accredited college or university and,

3.1.2 1.2.2 Two years successful full-time work experience as a social worker, and

3.1.3 one year of supervised experience in a school setting, or a one-year internship of 1000 hours approved by the Department of Education and supervised by an appropriate school designee.

1.3 Bachelor's Degree School Social Worker (BSW)

1.3.1 Bachelor's degree in Social Work (BSW) a closely related field and;

1.3.2 Two years experience in social work if Bachelor's degree is in social work or;

1.3.3 Five years experience in social work if degree is in a related field and;

1.3.4 One year of supervised experience in a school setting, or a one-year internship of 1000 hours approved by the Department of Education and supervised by an appropriate school designee.

1.4 Specialist

1.4.1 High school diploma and five years

experience in the field of family services facilitation.

~~2.0 Licenses that may be issued for this position include Standard and Limited Standard.~~

~~2.1 The following shall be required for the Limited Standard License~~

~~2.1.1 Meeting all requirements in 1.1.1, 1.1.2, 1.1.3 or 2.1.1 and 2.1.2 or~~

~~3.0 Job Responsibilities for Licensed School Social Worker (LSW)~~

~~3.1 Services to pupils and parents that include crisis intervention, conflict resolution strategies, case management, case history, administering workload, clinical assessment and treatment, individual, family, and/or group counseling, family therapy, development of treatment plans and analyzing /assessing progress related to plan.~~

~~3.2 Services to school personnel that include consultation with school professionals, developing and evaluating program success and supervision of interns.~~

~~3.3 Services to the school community that include training, student advocacy, education team participation and third party payments.~~

~~3.4 Qualifications that include a Masters Degree in School Social Work (MSW), 2 years experience as a practicing social worker, a State of Delaware license as a Licensed Clinical Social Worker (LCSW) and one year approved by the Department of Education.~~

~~4.0 Job Responsibilities for a Master's Degree School Social Worker (MSW)~~

~~4.1 Services to pupils and parents that include crisis intervention, conflict resolution strategies, case management, case history, administering workload, clinical assessment and treatment, individual, family, and/or group counseling, family therapy, development of treatment plans and analyzing /assessing progress related to plan.~~

~~4.2 Services to school personnel that include consultation with school professionals, developing and evaluating program (success) and supervision of interns.~~

~~4.3 Services to the school community that include training, student advocacy and education team participation.~~

~~4.4 Qualifications that include a Masters Degree in School Social Work (MSW), 2 years experience as a practicing social worker, internship in a school setting or one year approved by the Department of Education.~~

~~5.0 Job Responsibilities for Bachelor's Degree School Social Worker (BSW)~~

~~5.1 Services to pupils and parents that include first event/initial screening, referrals/coordination of services, special programs (student training) and referral to~~

appropriate resources for service delivery when such training is out of the scope of personal expertise

5.2 Services to school personnel that include training of local school personnel related to role and function served.

5.3 Services to school community that include liaison to the school/community, support groups and general needs assessment.

5.4 Qualifications that include Bachelor's Degree in School Social Work (BSW) or a related area, 2 years experience in social work if degree is a BSW, 5 years experience in social work if the degree is in a related field and an Internship of 1000 hours approved by the Department of Education.

6.0 Job Responsibilities for Specialist

6.1 Services to pupils and parents that include advocating for children and families, interviewing, preliminary information gathering, scheduling appointments, parent training (minimum skills), transportation, and telephone calls.

6.2 Services to school personnel that includes training of local school personnel.

6.3 Services to the school community that includes specific needs assessment related to food, clothing and other basic needs

6.4 Qualifications that include a high school diploma and five years of experience in family services facilitation.

Educational Impact Analysis Pursuant To 14 Del.C. Section 122(D)

1516 Standard Certificate

A. Type Of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis Of Subject Matter Of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend **DE Admin. Code** 1516 Standard Certificate. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 **Del.C.** §1220(a). It is necessary to amend this regulation to include recognition of educator preparation programs approved using NASDTEC standards. It is further amended to reflect the upcoming establishment of PRAXIS II scores by the Standards Board and the State Board.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement

standards? The amended regulation addresses student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers 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 will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will 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 rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.

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 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.

9. Is there a less burdensome method for addressing the purpose of the new regulation? 14 **Del.C.** requires that we promulgate this regulation.

10. What is the cost to the state and to the local school

boards of compliance with the amended regulation? There is no additional cost to local school boards for compliance with the regulation.

1516 Standard Certificate

1.0 Content.

1.1 This regulation shall apply to the issuance of a Standard Certificate, pursuant to 14 **Del.C.** §1220(a).

2.0 Definitions.

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

“Certification” means the issuance of a certificate, which may occur regardless of a recipient’s assignment or employment status.

“Department” means the Delaware Department of Education.

“Educator” means a public school employee who holds a license issued under the provisions of 14 **Del.C.**, Chapter 12, and includes teachers, specialists, and administrators, and as otherwise defined by the Standards Board and the State Board pursuant to 14 **Del.C.** §1203, but does not include substitute teachers.

“Examination of Content Knowledge” means a standardized test which measures knowledge in a specific content area.

“License” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“State Board” means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

3.0 The Department shall issue a Standard Certificate to an educator who holds a valid Delaware Initial, Continuing or Advanced License; or Limited Standard, Standard, or Professional Status Certificate issued prior to August 31, 2003, who has:

3.1 Acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Meeting the requirements set forth in the relevant Department or Standards Board regulation governing the issuance of a Standard Certificate in the area

for which a Standard Certificate is sought; or

3.1.3 Graduating from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in the area of the Standard Certificate requested, or

3.1.4 Graduating from a state approved educator preparation program offered by a regionally accredited college or university, with a major in the area of the Standard Certificate requested, where the state approval body employed the appropriate NCATE specialty organization standards.

3.2 Graduating from an educator preparation program offered by a Delaware higher education institution approved by the Department pursuant to 14 **DE Admin. Code** 399, with a major in the area of the Standard Certificate requested; or

3.3 Achieving a passing score, as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on a Praxis II examination in the area requested. ~~This section is subject to the establishment of passing scores for Praxis II examinations by the Department and their approval by the Standards Board, with concurrence from the State Board;~~ or

3.4 Holding a valid and current certificate from another state in the area for which a standard certificate is sought.

3.4.1 A “valid and current certificate from another state” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

3.4.2 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation’s resolution.

3.4.2.1 “Immorality” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

4.0 Educators may hold certificates in more than one area.

5.0 An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; or

5.2 Official scores on the Praxis II examination; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate; or

5.4 An official copy of the out-of-state license or

certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

6.0 If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill and/or education required for the additional Standard Certificate requested is required.

7.0 This regulation shall apply to all requests for issuance of a standard certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current professional status certificate or standard certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License. The Department shall also recognize a limited standard certificate or temporary certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the limited standard or temporary certificate. Requirements must be completed by the expiration date of the limited standard or temporary certificate, but in no case later than December 31, 2009.

8.0 A standard certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's initial, continuing, or advanced license or limited standard, standard, or professional status certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

9.0 The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a standard certificate on an individual basis and grant a standard certificate to an applicant who otherwise does not meet the requirements for a standard certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

Educational Impact Analysis Pursuant To 14 Del. C. Section 122 (D)

1530 Certification Administrative – Principal/Assistant Principal 1531 Certification Administrative – School Leader I 1532 Certification Administrative – School Leader II

A. Type Of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis Of Subject Matter Of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the approval of the State Board of Education to amend DE Admin. Code 1530 Certification Administrative – Principal/Assistant Principal, 1531 Certification Administrative – School Leader I, and 1532 Certification Administrative – School Leader II. The regulations apply to the certification of educators as school administrators, as established by 14 Del.C. §1220(a). The regulations are being amended to include that educator preparation programs must be approved, either through NCATE or by states employing appropriate standards in the review of programs. The requirement that school administrators complete approved programs will help to ensure adherence to recognized national standards for educational administrators and will hold school administrators to high standards. The regulations will be renamed Standard Certificate – Principal/Assistant Principal, Standard Certificate – School Leader I, and Standard Certificate – School Leader II to make them consistent with the titles of other Standard Certificate regulations.

C. Impact Criteria

1. Will the amended regulations help improve student achievement as measured against state achievement standards? The amended regulations address student achievement by educational leaders support and lead Delaware educators and establish and sustain positive environments which encourage high student achievement.

2. Will the amended regulations help ensure that all students receive an equitable education? The amended and new regulations helps to ensure that all school administrators hired to lead buildings or districts meet high standards for certification.

3. Will the amended regulations help to ensure that all students' health and safety are adequately protected? The amended regulations address educator certification. Regulations concerning high standards and appropriate credentials and training for school leaders help to ensure that all students' health and safety are adequately protected.

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

regulations address school leader certification, not students' legal rights. Appropriate credentials and training for school leaders will help to ensure that all students' legal rights are respected.

5. Will the amended regulations preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulations will preserve the necessary authority and flexibility of decision makers at the local board and school level. By reducing the number and complexity of the regulations, decision makers at the local board and school level will have greater authority and flexibility.

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

7. Will decision making authority and accountability for addressing the subjects to be regulated be placed in the same entity? The decision-making authority and accountability for addressing the subjects to be regulated rests with the Professional Standards Board, in collaboration and cooperation with the Department of Education, and with the consent of the State Board of Education.

8. Will the amended regulations 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 regulations will 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.

9. Is there a less burdensome method for addressing the purpose of the amended regulations? 14 **Del.C.** requires that we promulgate these regulations.

10. What is the cost to the state and to the local school boards of compliance with the amended and new regulations? There is no additional cost to local school boards for compliance with the regulations.

**Regulation 1530 ~~Certification Administrative Standard~~
Certificate – School Principal/Assistant Principal**

1.0 Content.

1.1 This regulation shall apply to the issuance of a Sstandard Certificate for school principal and assistant principal, pursuant to 14 **Del.C.** §1220.

2.0 Definitions.

2.1 The following words and terms, when used in this

regulation, shall have the following meaning unless the context clearly indicates otherwise:

“**Standards Board**” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“**Standard Certificate**” means a credential issued to verify that an educator has the prescribed knowledge, skill and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**State Board**” means the State Board of Education of the State of Delaware established pursuant to 14 **Del.C.** §104.

“**Teaching experience**” means meeting students on a regularly scheduled basis, planning and delivering instruction, developing or preparing instructional materials, and evaluating student performance in any pK-12 setting.

3.0 The following shall be required for the Standard Certificate for the Pprincipal or Aassistant Pprincipal of an elementary or intermediate school, a middle school, a high school, or a school for exceptional students.

3.1 Educational requirements

3.1.1 A master's degree in educational leadership from an NCATE or state approved program where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards from a regionally accredited college or university, or

3.1.2 A master's degree in education offered by an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards from a regionally accredited college or university and a current and valid Pprincipal or Aassistant Pprincipal certificate from another state, or

3.1.3 A master's degree in any field from a regionally accredited college or university and successful completion of a Delaware approved alternative routes to certification program for school leaders. Until approval and implementation of an alternative routes to certification program occurs, candidates completing the Sstandard Certificate in accordance with 3.1.3.1 of this regulation shall fulfill the following requirements.

3.1.3.1 A three semester hour graduate level course in each of the following areas:

3.1.3.1.1 School Administration (at the level to be initially assigned),

3.1.3.1.2 Supervision/ Evaluation of Staff,

3.1.3.1.3 Curriculum Development,

3.1.3.1.4 School Business Management,

3.1.3.1.5 School Law/Legal Issues in Education,

3.1.3.1.6 Human Relations, and,

~~3.1.3.1.7 if not taken at the undergraduate level, Child/Adolescent/Human Development, if not taken at the undergraduate level.~~

3.2 Experience requirements

3.2.1 A minimum of three (3) years of teaching experience at the level to be initially assigned as a school ~~P~~Principal or ~~A~~Assistant ~~P~~Principal, except at the middle level, where the teaching experience may be at any pK-12 level, or as a ~~P~~Principal or ~~A~~Assistant ~~P~~Principal of a school for exceptional students, where the teaching experience must have been with one or more of the categories of exceptional children served by the school.

Regulation 1531 ~~Certification Administrative Standard Certificate~~ -- School Leader I

1.0 Content.

1.1 The following shall apply to the issuance of a ~~S~~Standard ~~C~~ertificate for ~~D~~irectors, ~~S~~upervisors, ~~A~~administrative ~~A~~ssistants, ~~C~~oordinators, and ~~M~~anagers in instructional areas, pursuant to **14 Del.C. §1220.**

2.0 Definitions.

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

“**Standards Board**” means the Professional Standards Board established pursuant to **14 Del.C. §1201.**

“**Standard ~~C~~ertificate**” means a credential issued to verify that an educator has the prescribed knowledge, skill and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**State Board**” means the State Board of Education of the State of Delaware established pursuant to **14 Del.C §104.**

“**Teaching Experience**” means meeting students on a regularly scheduled basis, planning and delivering instruction, developing or preparing instructional materials, and evaluating student performance in any pK-12 setting.

3.0 The following shall be required for the ~~S~~Standard ~~C~~ertificate for ~~D~~irectors, ~~S~~upervisor, ~~A~~administrative ~~A~~ssistants, ~~C~~oordinators, and ~~M~~anagers in instructional areas.

3.1 Educational requirements

3.1.1 A master's degree in educational leadership ~~from an NCATE or state approved program where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards~~ from a regionally accredited college or university, or

3.1.2 A master's degree in education ~~offered by an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program where the state approval body employed the appropriate NCATE specialty organization~~

~~standards~~ from a regionally accredited college or university and a current and valid equivalent central office administrative certificate from another state, or

3.1.3 A master's degree in any field from a regionally accredited college or university and successful completion of a Delaware approved alternative routes to certification program for school leaders. Until approval and implementation of an alternatives routes to certification program occurs, candidates completing the ~~S~~Standard ~~C~~ertificate in accordance with 3.1.3.1 of this regulation shall fulfill the following requirements;

3.1.3.1 A minimum of twenty-four semester hours of graduate level course work, completed either as part of the master's degree or in addition to it, in administration, to include at least one course in each of the following areas:

3.1.3.1.1 Curriculum Development,

3.1.3.1.2 Supervision/Evaluation of Staff,

3.1.3.1.3 Human Relations, and

3.1.3.1.4 School Law/Legal Issues and

3.1.3.1.5 ~~In~~ the area(s) to be supervised (may include courses in curriculum, instruction, and/or methods), and

3.2 Experience requirements

3.2.1 A minimum of three (3) years of teaching experience at the pK-12 level. Teaching experience for ~~D~~irectors, ~~S~~upervisors, ~~A~~administrative ~~A~~ssistants, ~~C~~oordinators, and ~~M~~anagers of programs for exceptional children must have been with exceptional children.

Regulation 1532 ~~Certification Administrative Standard Certificate~~ _ School Leader II

1.0 Content.

1.1 This regulation shall apply to the issuance of a ~~S~~Standard ~~C~~ertificate for ~~S~~chool ~~D~~istrict ~~S~~uperintendents and ~~A~~ssistant ~~S~~uperintendents, pursuant to **14 Del.C. §1220.**

2.0 Definitions.

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

“**Full-Time School Leadership**” means full-time experience as a principal or assistant principal or as a district level administrator.

“**Standards Board**” means the Professional Standards Board established pursuant to **14 Del.C. §1201.**

“**Standard ~~C~~ertificate**” means a credential issued to verify that an educator has the prescribed knowledge, skill and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**State Board**” means the State Board of Education of

the State of Delaware established pursuant to 14 Del.C. §104.

“**Teaching Experience**” means meeting students on a regularly scheduled basis, planning and delivering instruction, developing or preparing instructional materials, and evaluating student performance in any pK-12 setting.

3.0 The following shall be required for the Standard Certificate for School District Superintendents and Assistant Superintendents.

3.1 Educational requirements.

3.1.1 A doctoral degree in educational leadership from an NCATE or state approved program where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards offered by an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards from a regionally accredited college or university, or

3.1.2 A master's or doctoral degree in education from a regionally accredited college and a current Superintendent or Assistant Superintendent certificate from another state, or

3.1.3 A master's or doctoral degree in any field from a regionally accredited college and successful completion of a Delaware approved alternative routes to certification program for school leaders/superintendents. Until approval and implementation of an alternative routes to certification program occurs, candidates completing the Standard Certificate in accordance with 3.1.3 of this regulation shall provide evidence of graduate course work in the following areas, either as part of the master's or doctoral degree program or in addition to it.

3.1.3.1 Personnel Administration

3.1.3.2 Supervision/Evaluation of Staff

3.1.3.3 Curriculum Development and

Instruction

3.1.3.4 School Business Management

3.1.3.5 School Law/Legal Issues in Education

3.1.3.6 Human ~~Resource~~ Management

Relations

3.1.3.7 Organizational Management

3.1.3.8 Child or Adolescent Development, if

not taken at the undergraduate level.

3.2 Experience requirements

3.2.1 A minimum of five (5) years of teaching experience at the pK-12 level; or

3.2.2 A minimum of five (5) years of full-time pK-12 leadership experience; or

3.2.3 Any combination of these types of experience which totals a minimum of five (5) years.

3.2.4 The required experience may be acquired

at either the building or district level.

**Educational Impact Analysis Pursuant
To 14 Del.C. Section 122(D)**

1556 Standard Certificate Primary Teacher

A. Type Of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis Of Subject Matter Of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the approval of the State Board of Education to amend **DE Admin. Code** 1556 Standard Certificate Primary Teacher (Grades K-4). This regulation applies to the requirements for a standard certificate for an elementary teacher as established by 14 Del.C. §1220(a). The amendment to this regulation is necessary to change the grade span of the certificate from K-4 to K-6. This change aligns with No Child Left Behind and is also aligned with the configuration of Delaware elementary schools. It will also be renamed Standard Certificate Elementary Teacher (Grades K-6) to be more reflective of its subject.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation concerns educator certification, not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps ensure that all educators demonstrate high standards for the issuance of a standard certificate.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers 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 will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will 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 rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.

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 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.

9. Is there a less burdensome method for addressing the purpose of the new regulation? 14 **Del.C.** requires that we promulgate this regulation.

10. What is the cost to the state and to the local school boards of compliance with the new regulation? There is no additional cost to local school boards for compliance with the regulation.

1556 Standard Certificate Primary Elementary Teacher (Grades K-~~4~~6)

1.0 Content

1.1 This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Primary Elementary Teacher (Grades K-~~4~~6).

2.0 Definitions

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

“**Department**” means the Delaware Department of Education.

“**License**” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“**Standard Certificate**” means a credential issued to certify that an educator has the prescribed knowledge, skill, and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

3.0 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as an primary Elementary Teacher to an applicant who holds a valid Delaware initial, continuing, or advanced license; or standard or professional status certificate issued by the Department prior to August 31, 2003, and who meets the

following requirements:

3.1 Degree Requirement

3.1.1 Bachelor's degree from a regionally accredited college or university in any field and 45 semester hours of general content courses. These courses may be part of the Bachelor's degree, but if not, then the courses shall be taken in addition to the degree.

3.1.1.1 Nine semester hours of English including an upper level composition course and a literature course

3.1.1.2 Twelve semester hours of science including one course each in Life/Environmental, Earth/Space and Physical Sciences

3.1.1.3 Nine semester hours of social sciences including World History, American History and Geography.

3.1.1.4 Nine semester hours of Mathematics

3.1.1.5 Six semester hours of Fine Arts; ~~or~~

and,

~~3.1.2 A total of 45 semester hours of course work, which may be taken as part of a bachelor's degree, but, if not, then the courses shall be taken in addition to the degree, to include the following courses as specified:~~

~~2.1.1.1 Child Development~~

~~2.1.1.2 Identifying and Teaching Exceptionalities~~

~~2.1.1.3 Effective Teaching Strategies~~

~~2.1.1.4 Curriculum and methods (21 semester hours to include 3 semester hours in each of the following areas: science, social studies, and mathematics);~~

~~2.1.1.5 Literacy reading/language arts, including children's literature (12 semester hours);~~

~~2.1.1.6 Exploring Contemporary Cultural and Social Issues;~~

3.1.2 Courses which reflect accomplishment of the NCATE specialty organization standards for elementary teacher education to develop pedagogical content knowledge and professional and pedagogical skills

3.1.2.1 A Bachelor's degree in elementary education from an NCATE specialty organization or state approved program, where the state employed the appropriate NASDTEC or NCATE specialty organization standards for elementary teacher education, from a regionally accredited college or university, in the field of Education and;

3.2 Professional Education

~~3.2.1 An approved program in Primary Education or;~~

~~3.2.2 An approved program in Elementary Education to include 18 semester hours of coursework or the equivalent thereof in each of the following areas, as specified:~~

~~3.2.2.1 Children's Growth, Development, and Learning (6 semester hours);~~

~~3.2.2.2 Parent, Family Community Interactions (3 semester hours);~~

~~3.2.2.3 Early Childhood Curriculum Development, Content, and Implementation (6 semester hours);~~

~~3.2.2.4 Professional Issues in Early Childhood Education (3 semester hours) or;~~

~~3.2.3 An approved program in Early Childhood Education, Birth through age 8, to include an additional 15 semester hours of coursework as indicated:~~

~~3.2.3.1 Nine semester hours in curriculum and methods in the following areas: Science, Social Studies and Mathematics.~~

~~3.2.3.2 Six semester hours in Literacy including reading, writing, and children's literature.~~

~~3.2.3.2 All coursework indicated in 3.2.3.1 and 3.2.3.2 shall focus on: integrated curriculum approaches, use of technology as an instructional tool, appropriate assessment strategies for the young child, culturally responsive curriculum and instruction, principles of developing and organizing curriculum for classroom organization and management techniques for children in K-4 or;~~

~~3.2.4 An approved program in Middle Level Education and, an additional 15 semester hours of coursework related to K-4, to include 3 semester hours in each of the following areas:~~

~~3.2.4.1 Children's Growth, Development, and Learning~~

~~3.2.4.2 Parent, Family Community~~

~~3.2.4.3 Early Childhood Curriculum Development, Content, and Implementation (6 semester hours);~~

~~3.2.4.4 Professional Issues in Early Childhood Education or;~~

~~3.2.5 A minimum of 60 semester hours of coursework to include a total of 45 semester hours of specific courses to be taken in addition to requirements stated in 3.1.1 and to include the following courses as specified:~~

~~3.2.5.1 A total of 45 semester hours of specific courses to be taken in addition to requirements stated in 1.1.1 and to include the following courses as specified:~~

~~3.2.5.1.1 Child Development (3 semester hours);~~

~~3.2.5.1.2 Identifying and Teaching Exceptionalities (3 semester hours);~~

~~3.2.5.1.3 Effective Teaching Strategies (3 semester hours);~~

~~3.2.5.1.4 Curriculum and Methods (21 semester hours) to include: 3 semester hours in each of the following areas: science, social studies, math and 12 semester hours of literacy reading/language arts, including 3 hours of children's literature);~~

~~3.2.5.1.5 Exploring Contemporary Cultural and Social Issues (3 semester hours);~~

~~3.2.5.2 An additional 15 semester hours of coursework related to K-4, to include 3 semester hours in each of the following areas: Children's Growth, Development, and Learning, Parent, Family Community Interactions, Early Childhood Curriculum Development, Content, and Implementation, Professional Issues in Early Childhood Education and an elective related to the above areas or any area that deals with teaching K-4 students.~~

4.0 This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a primary an Elementary Teacher after that date must comply with the requirements set forth in 14 **DE Admin. Code** 1516.

**Educational Impact Analysis Pursuant
To 14 Del.C. Section 122(D)**

1557 Standard Certificate Middle Level Teacher

A. Type Of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis Of Subject Matter Of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the approval of the State Board of Education to amend **DE Admin. Code** 1557 Standard Certificate Middle Level Teacher (Grades 5-8). This regulation applies to the requirements for a standard certificate for a middle level teacher as established by 14 **Del.C.** §1220(a). The amendment to this regulation is necessary to change the grade span of the certificate from 5-8 to 6-8. This change aligns with No Child Left Behind and is also aligned with the configuration of Delaware middle schools.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation concerns educator certification, not student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps ensure that all educators demonstrate high standards for the issuance of a standard certificate.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision makers 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 will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will 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 rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.

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 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.

9. Is there a less burdensome method for addressing the purpose of the new regulation? 14 Del.C. requires that we promulgate this regulation.

10. What is the cost to the state and to the local school boards of compliance with the new regulation? There is no additional cost to local school boards for compliance with the regulation.

1557 Standard Certificate Middle Level Teacher (Grades 5-8)

1.0 Content

1.1 This regulation shall apply to the requirements for a ~~Standard Certificate~~, pursuant to 14 Del.C. §1220(a), for Middle Level Teacher (Grades 5-8), ~~except for mathematics and science in grades 7-8 (See 14 DE Admin. Code §§ 1541 and 1542).~~

2.0 Definitions

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

“**Department**” means the Delaware Department of Education.

“**Major or its equivalent**” means a minimum of thirty

(30) credits in the content area to be taught.

“**License**” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“**Standard certificate**” means a credential issued to certify that an educator has the prescribed knowledge, skill, and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

3.0 In accordance with 14 Del.C. §1220(a), the Department shall issue a ~~Standard Certificate~~ as a ~~Middle Level Teacher~~ to an applicant who holds a valid Delaware initial, continuing, or advanced license; or standard or professional status certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Degree Requirement

3.1.1 Bachelor's degree from a regionally accredited college or university with a major or its equivalent in any the field content area to be taught; and ~~and 45 semester hours of general content courses. These courses may be part of the Bachelor's degree, but if not, then the courses shall be taken in addition to the degree.~~

3.1.1.1 ~~Nine semester hours of English including an upper level course and a literature course~~

3.1.1.2 ~~Twelve semester hours of science including one course each in Life/Environmental, Earth/Space and Physical~~

3.1.1.3 ~~Nine semester hours of Social Sciences including World History, American History and Geography.~~

3.1.1.4 ~~Nine semester hours of Mathematics~~

3.1.1.5 ~~Six semester hours Fine Arts; or~~

3.1.1.1 ~~Appropriate pedagogical content courses consistent with the NASDTEC or NCATE specialty organization standards for middle school or the content specialization to be taught.~~

3.1.2 Bachelor's degree from a regionally accredited college or university in the field of an NCATE specialty organization or state approved program, where the state employed the appropriate NASDTEC or NCATE specialty organization standards in Elementary or Middle School Education.

3.2 Professional Education

3.2.1 An approved program, in Middle Level Education or,

3.2.2 ~~An approved program, or a Standard License in Elementary Education and an additional 15 semester hours of coursework or the equivalent thereof, including instruction in: Adolescent Development and Behavior, Curriculum and Instruction Strategies for Middle Grades, Classroom Management Techniques, Student Advising, Mentoring and Counseling Techniques and Reading in the Content Area, or,~~

3.2.3 ~~An approved program or Standard~~

Certificate encompassing any segment of Birth through age eight and;

3.2.3.1 An additional 15 semester hours of coursework to include courses in each of the following areas related to the adolescent child: Adolescent Development and Behavior, Curriculum and Instruction Strategies for Middle Grades, Classroom Management Techniques, Student Advising, Mentoring and Counseling Techniques, and Reading in the Content Area.

And, an additional 15 semester hours of coursework as indicated:

3.2.3.2.1 Nine semester hours in Curriculum and Methods in areas of Science, Social Studies and Mathematics.

3.2.3.2.2 Six semester hours in Literacy including reading, writing, and children's literature.

3.2.3.2.3 All coursework indicated above, shall include an instructional focus which includes the following: Integrated Curriculum Approaches, Use of Technology as an Instructional Tool, Appropriate Assessment Strategies for the Young Child, Culturally Responsive Curriculum and Instruction, Principles of Developing and Organizing Curriculum for Children and Classroom Organization and Techniques for Children or;

3.2.4 An approved program or Standard certificate in Primary Education and an additional 15 semester hours of course work, to include each of the following areas related to the adolescent child:

3.2.4.1 Adolescent Development and Behavior, Curriculum and Instruction Strategies for Middle Grades, Classroom Management Techniques, Student Advising, Mentoring and Counseling Techniques and Reading in the Content Area or;

3.2.5 For the Middle Level Endorsement, an approved program or Standard License in Secondary Education and an additional 15 semester hours of coursework, to include each of the following areas related to the adolescent child:

3.2.5.1 Adolescent Development and Behavior, Curriculum and Instruction Strategies for Middle Grades, Classroom Management Techniques, Student Advising, Mentoring and Counseling Techniques, and Reading in the Content Area, or

3.2.6 A minimum of 60 semester hours of coursework to include 45 semester hours of specific courses to be taken in addition to requirements stated in 3.1.1 and to include the following:

3.2.6.1 Child Development (3 semester hours);

3.2.6.2 Identifying and Teaching Exceptionalities (3 semester hours);

3.2.6.3 Effective Teaching Strategies (3 semester hours);

3.2.6.4 Curriculum and Methods (21 semester

hours) to include: 3 semester hours in each area of Science, in Social Studies and in Mathematics and 12 semester hours of Literacy (reading/language arts, including 3 semester hours of children's literature)

3.2.6.5 Exploring Contemporary Cultural and Social Issues (3 semester hours);

3.2.6.6 An additional 15 semester hours of course work in middle level education, to include 3 semester hours in each of the following areas related to the adolescent child: Adolescent Development and Behavior, Curriculum and Instruction Strategies for Middle Grades, Classroom Management Techniques, Student Advising, Mentoring and Counseling Techniques and Reading in the Content Area.

4.0 This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a middle level teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Statutory Authority: 16 Delaware Code, Section 3006A (16 Del.C. §3006A)

Public Notice

Regulations for Training and Qualifications for Nursing Assistants and Certified Nursing Assistants

The Department of Health and Social Services, Division of Long Term Care Residents Protection, has drafted three proposed regulations pertaining to training and qualifications of nursing assistants and certified nursing assistants. These proposed regulations clarify the responsibility of nursing facilities to pay the costs of training nursing assistants in accordance with federal regulations.

Invitation For Public Comment

Public hearings will be held as follows:

Monday, May 3, 2004, 9:00 AM
Room 301, Main Building
Herman Holloway Campus
1901 North DuPont Highway
New Castle

Tuesday, May 4, 2004, 10:00 AM
 Department of Natural Resources &
 Environmental Control Auditorium
 89 Kings Highway
 Dover

DIVISION OF PUBLIC HEALTH
 Statutory Authority: 16 Delaware Code,
 Section 122(1) and (3)h and
 29 Delaware Code, Section 7904
 (16 Del.C. §122(1)(3)h, 29 Del.C. §7904)

For clarification or directions, please call Gina Loughery at 302-577-6661.

Written comments are invited on these proposed regulations and should be sent to:

Elise MacEwen, RN
 Division of Long Term Care Residents Protection
 Mill Road, Suite 308
 Wilmington, DE 19806

Written comments will be accepted until the conclusion of the May 4 public hearing.

Proposed Regulations

Certified Nursing Assistants

69.209 A nursing assistant who is employed by, or who has received an offer of employment from, a nursing facility on the date on which the aide begins a nurse aide training and competency evaluation program may not be charged for any portion of the program including tuition, any tests taken and fees for textbooks or other required course materials.

69.210 If a certified nursing assistant who is not employed, or does not have an offer to be employed as a nurse aide becomes employed by, or receives an offer of employment from, a nursing facility not later than 12 months after completing a nurse aide training and competency evaluation program, the nursing facility shall reimburse all personally incurred costs in completing the program. Such costs include tuition, tests taken and fees for textbooks or other required course materials. Such costs are payable upon completion by the CNA of a six month period of employment including the orientation period.

69.211 The nursing facility shall notify the Department upon reimbursement to a CNA of personally incurred costs of a nurse aide training and competency evaluation program for the purpose of entering notice of the reimbursement in the CNA registry database. Facilities may contact the Department to request whether such information has been entered in the database prior to reimbursing a CNA.

These Regulations, "State of Delaware Regulations Pertaining to the Testing of Newborn Infants for Metabolic, Hematologic and Endocrinologic Disorders," replace by recision the current "State of Delaware Regulations Pertaining to the Testing of Newborns for Hereditary Disorders" previously adopted on July 14, 1994.

Nature of the Proceedings

The proposed regulations remove outdated Board of Health language and include additional definitions recognizing Endocrine Disorders and The Newborn Screening Advisory Committee. The proposed regulations also remove unnecessary descriptive language pertaining to the Division of Public Health Newborn Screening Program.

Notice of Public Hearing

The Community Health Care Access Section, Division of Public Health, Department of Health and Social Services will hold a public hearing to discuss the proposed Delaware Regulations Pertaining to the Testing of Newborn Infants for Metabolic, Hematologic and Endocrinologic Disorders. The public hearing will be held on April 22, 2004 at 1:00 p.m., in the Third Floor Conference Room of the Jesse Cooper Building, Federal and Water Streets, Dover, Delaware.

Copies of the proposed regulations are available for review by calling the following location:

Community Health Care Access Section
 Jesse Cooper Building
 Federal and Water Streets, Dover, Delaware
 Telephone: (302) 744-4554

Anyone wishing to present his or her oral comments at this hearing should contact David Walton at (302) 744-4700 by April 21, 2004. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by April 30, 2004 to:

David P. Walton, Hearing Officer
 Division of Public Health
 P.O. Box 637
 Dover, Delaware 19903-0637

**REGULATIONS PERTAINING TO THE
TESTING OF NEWBORNS FOR HEREDITARY
DISORDERS
STATE OF DELAWARE****State Board of Health Regulations adopted July 14, 1994.
REGULATIONS PERTAINING TO THE TESTING
OF NEWBORNS
FOR HEREDITARY DISORDERS**

Under the Authority granted to the State Board of Health under 16 Del.C. sec. 122 (1), 16 Del.C. sec. 122 (3) (h), and 29 Del.C. sec. 7904 the Board of Health of the State of Delaware hereby adopts the following regulations pertaining to the testing of newborns for hereditary disorders.

The Committee on Genetics of the American Academy of Pediatrics recognizes that newborn screening is a preventive public health procedure which should be available to all neonates. Newborn screening programs have proven to be one of our most valuable tools for preventing mental retardation.

PURPOSE:— These regulations describe the Newborn Screening Program administered by the Delaware Division of Public Health. Under the authorization of the statutes listed above, each newborn delivered in the state must be provided a panel of screening tests to identify the newborn that may be at risk of having phenylketonuria, certain other heritable diseases or congenital hypothyroidism.—

These regulations clarify responsibilities among the parties involved, and will bring the Delaware Newborn Screening Program into step with Newborn Screening System Guidelines published by the Council of Regional Genetics Networks. Vermont and Delaware are the only states that have no regulation or legislation on newborn screening. These regulations will increase the effectiveness of the Newborn Screening Program.

These regulations apply to each newborn child in the State, and the responsibility for implementation of the regulations rests with the institution in which the child is born, or, if a child is born outside an institution, with the person required to prepare and file the certificate of birth and with the newborn's primary care provider.

**SECTION I
DEFINITIONS**

1. "Blood Specimen for Hereditary Metabolic and Hematologic Disorders" means blood obtained for a screening (not diagnostic) test, performed on the dried blood spot on a filter paper, to establish the likely presence of hereditary disorders specified by the Division of Public Health.
2. "Newborn Child" means any infant born in the state who

is under 4 weeks of age.

3. "Hereditary Metabolic Disorder" means a disorder caused by a genetic alteration which results in a defect in the structure or function of a specific enzyme or protein. These disorders include but are not limited to: Phenylketonuria (PKU), Galactosemia, and Maple Syrup Urine Disease (MSUD).

4. "Congenital Hypothyroidism" means absence of or deficiency of thyroid hormones.

5. "Hereditary Hemoglobin Disorder" in these regulations means a condition in which a mutation in the hemoglobin gene, or in genes involved in hemoglobin synthesis, produces a variation in the hemoglobin structure which results in variation in hemoglobin function. The term "Hemoglobinopathies" includes Sickle Cell Anemia, Sickle Cell Hemoglobin C Disease (SC Disease), Sickle Cell Beta Thalassemia, Beta Thalassemia, Alpha Thalassemia, Hemoglobin C Disease and other clinically important variations in hemoglobin structure.

6. "Kit" means any or all parts of the combined materials, laboratory slips, lancets, envelopes, Newborn Screening Program pamphlet or other components provided by the State Newborn Screening Program for the purposes of collection and submission of specimens for laboratory tests.

7. "Unsatisfactory Specimen" means

- a. a blood specimen on which an insufficient quantity of blood is obtained, or
- b. a blood specimen on which an accurate analysis cannot be performed due to some technical or laboratory variation.

8. "IMF" means Insufficient Milk Feeding prior to the taking of the specimen.

9. "Satisfactory Specimen" means a blood specimen on which an accurate laboratory analysis for hereditary disorders can be performed.

10. "Designated Laboratory" means a laboratory or laboratories, specified by the Division of Public Health, capable of performing the newborn screening tests. The designated laboratory is chosen by the Division of Public Health following Request for Proposals sent to qualified laboratories who compete for the contract.

**SECTION II
INFANTS TESTED FOR METABOLIC AND
HEMOGLOBIN DISORDERS**

Every newborn infant in Delaware shall be tested for at least the following metabolic and hemoglobin disorders by a designated laboratory:

- (a) Phenylketonuria
- (b) Galactosemia
- (c) Congenital Hypothyroidism
- (d) Hemoglobinopathies

Analysis of the blood specimens for the required screening tests must be performed by the laboratory

identified by the Division of Public Health. Other hereditary disorders may be added and changes made in testing procedures and timing of testing as recommended by the Delaware Newborn Screening Program with the approval of the Director of the Division of Public Health.

**SECTION III
INFORMATION TO MOTHER ABOUT NEWBORN
SCREENING PROGRAM**

Each pregnant woman shall be supplied with a Newborn Screening Program pamphlet.

The person responsible for providing a Newborn Screening Program pamphlet, shall be in order of responsibility:

- (a) the health care facility or practitioner responsible for care of the pregnant woman;
- (b) the hospital, alternate birthing facility, other health care facility, or practitioner responsible for obtaining the specimen.

The Newborn Screening Program pamphlet is available from the Newborn Screening Program Office.

**SECTION IV
PERSONS RESPONSIBLE FOR SUBMITTING
SPECIMENS FOR METABOLIC AND
HEMOGLOBIN DISORDERS**

The person or institution responsible for assuring that a satisfactory specimen is submitted for testing the infant for metabolic and hemoglobin disorders, shall be in order of responsibility:

- (a) the hospital, alternate birth facility, or other licensed health care facility where the infant is born, and
- (b) the newborn's primary care provider, or if no provider is identified;
- (c) the parent or legal guardian.

In the case of infants entering a health care facility before 48 hours of age as a result of transfer from another health care facility or an infant not born in a hospital or other licensed health care facility, the receiving health care facility shall be responsible for the timely collection of specimens.

**SECTION V
MANNER OF SUBMITTING SPECIMENS**

1. All specimens submitted to the designated laboratory for testing for Metabolic and Hemoglobin Disorders shall be collected using kits available from the Newborn Screening Program Office.
2. Specimens collected for testing for Metabolic and Hemoglobin disorders shall be forwarded within 24 hours of collection.

**SECTION VI
TIMING OF COLLECTING SPECIMENS FOR
TESTING INFANTS**

A specimen for testing for hereditary disorders shall be collected prior to hospital discharge where applicable, but in no event later than 5 days after birth from every infant surviving more than two days, as follows:

(1) In the case of infants born outside a hospital or other health care facility a specimen shall be collected not sooner than 24 hours after the onset of milk feeding, but no later than 3 days after birth, preferable between 36 and 72 hours after birth. A second specimen is to be collected between one and four weeks of age.

In the case of infants who are born in a hospital or health care facility or who are born outside and transferred into the hospital and who will remain in the hospital for 24 hours of milk feedings or more, a specimen shall be collected not sooner than 24 hours after the onset of milk feeding, but no later than 3 days after birth, preferable between 36 and 72 hours after birth. A second specimen is to be collected between one and four weeks of age.

In the case of preterm or sick newborns, the initial specimen may be collected as late as 5 days of age. The second specimen on preterm or sick newborns is to be done at hospital discharge, at one month of age or when the newborn attains a weight of 2500 grams, whichever comes first.

(4) In the case of infants discharged from a hospital or other health care facility before 24 hours of milk feedings, a specimen shall be obtained immediately prior to discharge from the facility, and a second specimen shall be collected from such infants after 72 hours but before 14 days of age.

**SECTION VII
PROCEDURES FOR FOLLOW UP OF SPECIMENS
COLLECTED PRIOR TO 24 HOURS SPECIMENS,
AND THOSE THAT SHOW ABNORMAL RESULTS**

A. The appropriate institution shall develop adequate procedures to insure that a satisfactory blood specimen for hereditary disorders is collected (preferably by the time the child is 2 weeks old) from each newborn child who is described by one or more of the following categories:

(1) A newborn child who is discharged from the institution sooner than 24 hours after the onset of milk feedings (IMF).

(2) A newborn child on whom the blood specimen for hereditary disorders is reported by the laboratory as "unsatisfactory."

B. The Division of Public Health, Office of Women's and Infants' Health, Newborn Screening Program staff will be responsible for:

(1) maintaining an ongoing system of monitoring, which will identify the time period during which each newborn infant has a specimen taken and submitted for testing and for following up of those specimen results.

(a) Where the specimen is taken prior to 24 hours of milk feedings, and a follow-up specimen must be taken,

the monitoring system will track individual infants through the screening process to ensure timely and complete follow-up.

(b) Where specimens are reported by the designated laboratory as "unsatisfactory," a repeat specimen will be requested by the Division of Public Health, Newborn Screening Program.

(c) Where specimens are reported by the designated laboratory as "abnormal," results will be reported to the identified primary care provider and the newborn's parents in a timely manner. Arrangements for repeat screening and/or appropriate confirmatory testing and diagnosis will be made with the primary care provider and the parent. These arrangements will be made by the Newborn Screening Program by letter or telephone call followed by letter, depending upon the urgency of the situation. The Newborn Screening Program Office will make available, in a timely manner, information regarding appropriate referral and treatment recommendations to the primary health care provider. If no primary health care provider has been identified, the Newborn Screening Program will contact the family directly and assist in obtaining a health care provider and completion of the testing.

(d) The Newborn Screening Program Office will be notified in writing of the final resolution and confirmation of each case by the primary health care provider or consultant.

(2) tracking and follow-up of infants who do not have a primary care provider identified or whose identified primary care provider has indicated he/she is not caring for the child.

(3) reviewing and reporting on various aspects of the program including but not limited to:

- Specimen transit times;
- Specimen collection timing;
- Frequency of inadequate specimens;
- Completeness of laboratory slip;
- Quality of Newborn Screening case record; and
- Timing to treatment of identified abnormal.

SECTION VIII DEMOGRAPHIC DATA

The Newborn Screening Program Office will maintain demographic data records on all newborn infants to be used for the purposes of deriving incidence/prevalence rates, and monitoring statistical trends and screening practices in hospitals, birthing facilities, and individual practices. This monitoring will enable the Newborn Screening Program Office to:

(1) Assure that the most effective newborn screening program for the State of Delaware be maintained;

(2) Periodically evaluate the overall effectiveness of the screening program;

(3) Monitor and assure timely and complete follow-up of children with abnormal results; and

(4) Identify facilities and health care providers that have patterns of submitting unsatisfactory specimens which can be corrected through training.

SECTION IX REPORTING OF RESULTS OF NEWBORN SCREENING TESTS

The laboratory making the analysis shall report the results of the test to the Newborn Screening Program Office, within 5 days after receipt of the specimen. Abnormal test results shall be reported immediately, by phone or facsimile, to the Newborn Screening Program Office with written or electronic data transfer confirmation sent within 5 days after receipt of the specimen.

All test results shall be reported to the health care facility of birth and to the person specified as the primary care provider on the screening collection form, for entry into the medical record.

The results shall be available to the parent upon request through the Newborn Screening Program Office.

Positive or suspicious test results shall be reported to the parent, the identified primary health care provider and the authorized Newborn Screening Program Consultant.

All newborns who have been screened and have been found to be presumptively positive through the screening program will be referred to the Division's Child WATCH program.

SECTION X CONFIDENTIALITY OF RECORDS

The Office of Women's and Infants' Health, Newborn Screening Program, shall maintain and treat as confidential all newborn screening records, including a register of every newborn child in whom a diagnosis of a hereditary disorder has been confirmed.

Information may be disclosed by the Newborn Screening Program in summary, statistical, or other forms which do not identify particular individuals. Individuals or groups requesting data for purposes of research must submit proposals for review.

SECTION XI AVAILABILITY OF COUNSELING SERVICES

The Office of Women's and Infants' Health shall, if so requested, assist each participant in the Newborn Screening Program and their families in gaining access to genetic counseling services that (i) are nondirective, (ii) emphasize informing the individual, and (iii) do not require restrictions in childbearing.

SECTION XII FEES FOR NEWBORN SCREENING TESTS

PERFORMED IN THE DESIGNATED LABORATORY

The Division of Public Health shall bill the institution for services provided to the institution for each newborn screened under these regulations including but not limited to, the cost of the kits for collection of specimens, the laboratory fee for analysis, and administrative costs. The fee will be determined annually (in July) based on cost of the program.

No Delaware newborn shall be denied testing for hereditary disorders because of inability of the newborn's parents to pay the fee. A "Statement of Fee Exemption" form will be provided to the practitioner or parent requesting exemption from fees. This form must be completed and submitted to the Newborn Screening Program Office within 30 days of birth.

SECTION XIII

RELIGIOUS EXEMPTION FROM TESTING

A newborn may be excused from screening if the parent objects to the tests because the screening tests conflict with the religious tenets or practices of the parents.

In the event a religious exemption is claimed from the requirements for testing for Hereditary Disorders, the person otherwise responsible for submitting the specimen for testing shall be responsible for submitting a completed affidavit to the Delaware Newborn Screening Program Office, signed by the infant's parents, using the following language:

1. (I) (We) (am) (are) the (parent(s)) (legal guardian of _____ (name of child)
2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.
3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by the orthodox belief in God.
4. This belief is not a political, sociological or philosophical view of a merely personal moral code.
5. This belief causes (me) (us) to request an exemption from the requirements for testing for Hereditary Disorders by the Delaware Newborn Screening Program for _____ (name of child).

Signature of Parent (s) or
Legal Guardian(s)

SWORN TO AND SUBSCRIBED before me, a
registered Notary Public, this ___ day of _____, 19__.

(Seal)

Notary Public

My Commission Expires:

SECTION XIV

PENALTY FOR NON-COMPLIANCE

Under the Authority granted to the State Board of

Health under 16 Del. C. sec. 107, "(w)hoever refuses, fails or neglects to perform the duties required under this chapter, or violates, neglects or fails to comply with the duly adopted regulations or orders of the Board shall be fined not less than \$100 and not more than \$1,000, together with costs, unless otherwise provided by law."

107 Regulations Pertaining To The Testing Of Newborn Infants For Metabolic, Hematologic And Endocrinologic Disorders

Under the authority granted to the Department of Health and Social Services, Division of Public Health under 16 Del. C. sec. 122 (1), 16 Del.C. sec. 122 (3) (h), and 29 Del.C. sec. 7904 the Department of Health and Social Services, Division of Public Health, State of Delaware adopts the following regulations pertaining to the testing of newborns for various disorders.

PURPOSE: These regulations describe the Newborn Screening Program administered by the Delaware Division of Public Health. Under the authorization of the statues listed above, each newborn delivered in the state must be provided a panel of screening tests to identify certain metabolic, hematologic and endocrinologic disorders that may result in developmental delay, mental retardation, serious medical conditions, or death.

These regulations clarify responsibilities among the parties involved.

These regulations apply to each newborn infant born in the State. The responsibility for implementation of the regulations rests with the institution in which the infant is born, or if an infant is born outside an institution, with the person required to prepare and file the certificate of birth and with the newborn's primary care provider.

1.0 Definitions

"Blood specimen for metabolic, hematologic and endocrinologic disorders" means a dried blood spot on a special filter paper utilized for screening (not diagnostic) tests to establish the likely presence of certain metabolic, hematologic or endocrinologic disorders.

"Designated laboratory" is the laboratory or laboratories, which have been selected by the Division of Public Health to perform these services.

"Endocrinologic disorder" means the absence or deficiency of a hormone resulting in interference with normal health, growth or development. These disorders include Congenital Hypothyroidism (CH) and Congenital Adrenal Hyperplasia (CAH).

"Hematologic disorder" means, in these regulations, a condition in which a variation in one or more of the hemoglobin structural genes or in one or more of the genes involved in hemoglobin synthesis produces a variation in hemoglobin structure or synthesis, which result in variation

in hemoglobin function. The term "hemoglobinopathies" includes sickle cell anemia, sickle cell hemoglobin C disease (SC disease), sickle beta thalassemia, beta thalassemia, alpha thalassemia, hemoglobin C disease and other clinically important variations in hemoglobin structure or synthesis.

"IMF" stands for Insufficient Milk Feeding, which [means that insufficient time had passed (24 hours) between the time of the first milk feeding and the time at which the bloodspot specimen was obtained] is an inadequate time frame for milk feedings (<24 hours) prior to obtaining the blood spot specimen.

"Kit" means any or all parts of the combined materials, laboratory filter paper specimen forms, lancets, envelopes, Newborn Screening Program brochure, and/or other components provided by the State Newborn Screening Program for the purposes of collection of the blood spot specimen and for submission of the blood spot specimen for laboratory testing.

"Metabolic disorder" means a disorder caused by a genetic alteration, which results in a defect in the structure or function of a specific enzyme or other protein. These disorders include, but are not limited to, Phenylketonuria (PKU), Galactosemia, Maple Syrup Urine Disease (MSUD), and Medium Chain Acyl-CoA Dehydrogenase (MCAD) Deficiency.

"Newborn infant" means any infant born in the state who is under 4 weeks of age.

"Satisfactory specimen" means a blood spot specimen on which an accurate laboratory analysis for the various disorders can be performed.

"The Newborn Screening Advisory Committee" means a committee, established through the Division of Public Health Newborn Screening Program, convened to provide advice and guidance to the Newborn Screening Program. Members include, but are not limited to: individuals or parents of individuals with one of the disorders for which screening is performed; physicians not employed by the Division of Public Health who have expertise in the disorders for which screening is performed; an attorney not employed by the Division of Public Health; an ethicist not employed by the Division of Public Health; representatives of relevant agencies within the Department of Health and Social Services. The Committee meets at least semi-annually. The Director of the Division of Public Health will appoint members after recommendation by the Newborn Screening Program.

"Unsatisfactory specimen" means a blood spot specimen which is of insufficient quantity; or a blood spot specimen on which an accurate analysis for the various disorders cannot be performed.

2.0 Determination Of Required Screens

2.1 The Director of the Division of Public Health or designee shall determine what disorders will be tested for.

3.0 Persons Responsible For Submitting Blood Spot Specimens For Screening For Metabolic, Hematologic And Endocrinologic Disorders

3.1 The person or institution responsible for assuring that a satisfactory blood spot specimen is submitted for testing newborns for metabolic, hematologic and endocrinologic disorders shall be, in order of responsibility:

3.1.1 the hospital, birthing facility or other licensed health care facility in which the newborn is born,

3.1.2 the newborn's primary care provider; or, if no provider is identified:

3.1.3 the parent or legal guardian.

3.2 In cases of newborns entering a health care facility before 48 hours of age as result of transfer from another facility or of an infant not born in a hospital or other licensed health care facility, the receiving facility shall be responsible for the timely collection of the blood spot specimen.

4.0 Manner Of Submitting Blood Spot Specimens

4.1 All dried blood spot specimens submitted to the designated laboratory for testing shall be collected using kits available from the Newborn Screening Program office and/or designated laboratory.

4.2 Blood spot specimens collected for testing shall be forwarded from the institution at which the specimen is collected to the designated laboratory within 24 hours of collection, either by the designated Division of Public Health courier or by mail.

5.0 Timing Of Collecting The Blood Spot Specimen For Screening Infants

5.1 A blood spot specimen for screening for metabolic, hematologic, and endocrinologic disorders shall be collected prior to hospital discharge, but in no event later than 3 days after birth from every newborn infant as follows:

5.1.1 For infants born outside of a hospital or other health care facility a specimen shall be collected not sooner than 24 hours after the onset of milk feeding, but no later than 3 days after birth, preferably between 36 and 72 hours of birth. A second specimen is to be collected between 7 and 28 days of age.

5.1.2 For infants who are born in a hospital or health care facility or who are born outside and transferred into the hospital and who will remain in the hospital for 24 hours of milk feedings or more a blood spot specimen shall be collected not sooner than 24 hours after the onset of milk feeding, but no later than 3 days after birth, preferably between 36 and 72 hours after birth. A second blood spot specimen is to be collected between 7 and 28 days of age.

5.1.3 For pre term or sick newborns, the initial blood spot specimen may be collected as late as 3 days of age and must be collected no later than 3 days regardless of birth weight, illness or nutritional status. The second dried blood spot specimen on preterm or sick newborns is to be

done at hospital discharge or 28 days of life *which ever comes first.*

5.1.4 When an infant is discharged from a hospital or other health care facility before 24 hours of milk feedings a blood spot specimen shall be obtained immediately prior to discharge from the facility and a second dried blood spot specimen shall be obtained after 3 days of age and before 14 days of age.

6.0 Procedures For Follow Up Of Dried Blood Spot Specimens That Were Obtained Prior To 24 Hours Of Milk Feeding (Imf) And For Those Whose Results Are Designated As Abnormal Or Suspicious

6.1 The hospital or institution of birth or the hospital to which a newborn is transferred shall develop adequate procedures to insure that a satisfactory blood spot specimen is collected by the time each newborn is 2 weeks old from each newborn who is described by one or more of the following categories:

6.1.1 a newborn that is discharged from the institution prior to 24 hours of milk feedings (IMF).

6.1.2 a newborn on which the blood spot specimen is reported by the laboratory as "unsatisfactory".

6.2 The hospital or institution of birth, the hospital to which a newborn is transferred and the primary care provider of the newborn shall cooperate with the Newborn Screening Program in completing follow up of newborns whose blood spot specimen result is designated as "abnormal" or "suspicious." This cooperation shall include:

6.2.1 providing appropriate demographic information to the Newborn Screening Program as requested on each baby whose blood spot specimen result is designated as "abnormal" or "suspicious."

6.2.2 providing the Newborn Screening Program with clinical information on each newborn as necessary for interpretation of the results of the testing of the blood spot specimen.

7.0 Reporting Of Results Of Newborn Screening Tests

7.1 The designated laboratory shall report the results to the Newborn Screening Program as designated in the contract. All test results shall be available to the parent upon request through the birth hospital medical record department or their primary health care provider.

8.0 Confidentiality Of Records

8.1 The Newborn Screening Program shall maintain and treat as confidential all newborn screening communications with institutions, families and health care providers. The Newborn Screening Program shall maintain and treat as confidential a record of every newborn in whom a diagnosis of one or more of the various metabolic, hematologic, or endocrinologic disorders is confirmed.

8.2 Information may be disclosed by the Newborn Screening Program in summary forms, which do not identify

individuals. Individuals or institutions requesting summary data must submit a proposal to the Newborn Screening Program and to the Institutional Review Board of the Division of Public Health.

9.0 Fees For Newborn Screening Tests Performed In The Designated Laboratory

9.1 The Division of Public Health Newborn Screening Program shall bill the institution or individual for services provided to the institution or individual for each newborn screened under these regulations including but not limited to, the cost of the kits for collection of specimens, the laboratory fee for analysis, and administrative costs. The fee will be determined annually (in July) based on cost of the program.

9.2 No Delaware newborn shall be denied testing for hereditary disorders because of inability of the newborn's parents to pay the fee. A "Statement of Fee Exemption" form will be provided to the practitioner or parent requesting exemption from fees. This form must be completed and submitted to the Newborn Screening Program Office within 30 days of birth.

10.0 Religious Exemption From Testing

10.1 A newborn may be excused from screening if the parent objects to the tests because the screening tests conflict with the religious tenets or practices of the parents.

10.2 In the event a religious exemption is claimed from the requirements for testing for Hereditary Disorders, the person otherwise responsible for submitting the specimen for testing shall be responsible for submitting a completed affidavit to the Delaware Newborn Screening Program Office, signed by the infant's parents, using the following language:

1. (I) (We) (am) (are) the (parent(s)) (legal guardian(s)) of _____ (name of child)

2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.

3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by the orthodox belief in God.

4. This belief is not a political, sociological or philosophical view of a merely personal moral code.

5. This belief causes (me) (us) to request an exemption from the requirements for testing for Hereditary Disorders by the Delaware Newborn Screening Program for _____ (name of child).

Signature of Parent (s) or
Legal Guardian(s)

SWORN TO AND SUBSCRIBED before me, a registered Notary Public, this _____ day of _____, 200 _____.

(Seal)

Notary Public

My Commission Expires:

10.3 The Newborn Screening Refusal Form will be provided through the Newborn Screening Program Office.

11.0 Penalty For Non-compliance

Under the Authority granted to the Department of Health and Social Services, Division of Public Health under 16 Del. C. sec. 107, "whoever refuses, fails or neglects to perform the duties required under this chapter, or violates, neglects or fails to comply with the duly adopted regulations or orders of the Division shall be fined not less than \$100 and not more than \$1,000, together with costs, unless otherwise provided by law."

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Statutory Authority: 29 Delaware Code,
Section 8051(d) (29 **Del.C.** §8051(d))

**Register Notice
SAN# 2003-12**

- 1. Title Of The Regulations:**
Green Energy Fund Program Regulation
- 2. Brief Synopsis Of The Subject, Substance And Issues:**
The purpose of this regulation is to prescribe the procedures relating to the Green Energy Fund. It is the goal in establishing this regulation to provide a streamlined procedure for distributing Green Energy Funds through the use of grants.
- 3. Possible Terms Of The Agency Action:**
There is no sunset date for this regulation.
- 4. Statutory Basis Or Legal Authority To Act:**
29 Delaware Code, Chapter 80, Section 8051 (d).
- 5. Other Regulations That May Be Affected By The Proposal:**
None
- 6. Notice Of Public Comment:**
A Public Hearing has been scheduled at the Delaware Energy Office, 146 South Governors Avenue, Dover, DE

19901 for 6:00 p.m. on April 27, 2004.

7. Prepared By:

Charlie T. Smisson, Jr., State Energy Coordinator,
Delaware Energy Office
302-739-1530 03/12/2004

DELAWARE ENERGY OFFICE

Green Energy Fund Regulations

Proposed April 1, 2004

1.0 Purpose

The purpose of this regulation is to prescribe procedures relating to the Green Energy Fund pursuant to 29 **Del.C.** Chapter 80, Subchapter 2, the Delaware Energy Act. It is the goal in establishing this regulation to provide a streamlined procedure for distributing Green Energy Funds through the use of grants.

This regulation provides rules of practice and procedure for application and disbursement of Green Energy Fund grants for renewable energy projects in Delaware.

2.0 Statutory Authority

These regulations are promulgated under authority of 29 **Delaware Code**, Section 8051 (d).

3.0 Definitions

For purposes of this regulation, the following words and phrases shall have the meanings set forth below.

"**Conectiv Power Delivery**" means the trade name used by Delmarva Power and Light Company.

"**Department**" means the Department of Natural Resources & Environmental Control or its agent.

"**DP&L Service Territory**" means the service territory of Delmarva Power and Light Company, doing business as Conectiv Power Delivery, or its successor, as such territory is reflected in the electric service territory maps maintained by the Delaware Public Service Commission under the authority of 26 **Del.C.** § 203B.

"**Fiscal Year**" means the budget and accounting year of the State beginning on July 1 and ending on June 30. Reference to a Fiscal Year by year number means the Fiscal Year ending on June 30 of the named year. For example, a reference to Fiscal Year 2004 means the period beginning on July 1, 2003 and ending on June 30, 2004.

"**Freeze Tolerance Limit**" means the temperature below which a Qualifying System for Solar Water Heating might suffer damage attributable to freezing.

"**Fuel Cell**" is an electrochemical energy conversion device which converts the chemical energy from a fuel directly into electricity and heat.

"**Geothermal Heat Pump**" means either an open or

closed loop system or direct expansion system that uses the thermal energy of the ground or groundwater as the heat source and heat sink for residential or non-residential space heating and/or cooling. It may provide both space heating and cooling, cooling only or heating only functions. A closed loop system consists of a ground heat exchanger in which the heat transfer fluid is permanently contained in a closed system. An open loop system consists of a ground heat exchanger in which the heat transfer fluid is part of a larger environment. A direct expansion system consists of a geothermal heat pump system in which the refrigerant is circulated in pipes buried in the ground, rather than using a heat transfer fluid, such as water or antifreeze solution in a separate closed loop, and fluid to refrigerant heat exchanger.

“Green Energy Fund” means the fund established by 29 Del.C. § 8054 and administered by the Department.

“Grid-connected”, “Grid-tied” or “Interconnected” means a condition in which a Qualifying System that is an electrical generating system serves and is electrically connected to an electrical load that is also connected to and served by the local utility electrical grid. The delivery or ability to deliver, any portion of the generating capacity into the utility electrical grid is not required, nor must the loads served be only alternating current loads. The Photovoltaic or Wind Turbine systems need only to be capable of serving electrical loads that would otherwise be served by the local utility.

“Kilowatt” means 1,000 Watts.

“Kilowatt-hour” means the basic unit of electric energy equal to one Kilowatt of power supplied to or taken from an electric circuit steadily for one hour. One-Kilowatt hour equals 1,000 Watt-hours. Electric energy is commonly sold by the Kilowatt-hour.

“Nonresidential” means all classes of customer purchasing electric power for uses other than for individual households. These groups of customers generally purchase electric power for commercial and industrial purposes. When used as an adjective with respect to Qualified Systems or Green Energy Program Grants, such term refers to systems owned by, or leased to, or grants awarded to Nonresidential persons.

“Participating Contractor” An appropriately Delaware licensed contractor who has submitted to the Department an application designated by the Department with all required attachments and maintains in full force all required insurance and warranties as described in Section 5.2.

“Passive Solar Design” A residential or non-residential building design that uses no external mechanical power, such as pumps or blowers, to collect and move solar heat.

“Photovoltaic” means a non-mechanical semiconductor device, most commonly made of silicon that produces direct current (dc) electricity.

“Placed in Service” means installed, operational, and

producing output.

“Purchaser” means the purchaser or lessee of a Qualifying System.

“Qualifying System” has the meaning as set forth in Section 5.0.

“Renewable Energy Technology” shall have the meaning as prescribed in 29 Del. C. Chapter 80.

“Renewable Fuel” means a non-nuclear fuel that can be derived from non-fossil energy sources that are naturally replenishing and virtually inexhaustible.

“Residential” means the class or classes of customers purchasing electric power for household uses. When used as an adjective with respect to Qualified Systems or Green Energy Program Grants, such term refers to systems owned by, or leased to, or grants awarded to Residential persons.

“Retailer” means the vendor or lessor of a Qualifying System.

“Secretary” means the Secretary of the Department of Natural Resources and Environmental Control.

“Solar Pathfinder™” is a non-electronic instrument that measures the annual solar potential for a given site.

“Solar Shade Analysis” means an on site evaluation using a Solar Pathfinder™ or equivalent device that measures the annual solar potential for the given site.

“Solar Water Heating” means the heating of water by use of the sun’s energy rather than electricity or gas or some other means.

“State” means the State of Delaware.

“Ton of Capacity” means 12,000 British Thermal Units (BTU) per hour of capacity.

“Watt” means the basic unit of measure of real electric power, or rate of doing work.

“Watt-hour” means the basic unit of measure of electric energy consumption. The total amount of energy used in one hour by a device that requires one Watt of power for continuous operation.

“Wind Turbine” means a mechanical/electrical system that converts the kinetic energy of blowing wind into electric power.

4.0 Green Energy Fund

The Delaware 142nd General Assembly enacted and Governor Minner signed into law Senate Bills 93 and 145, which amended Title 29 of the Delaware Code to include new provisions for utilizing the Green Energy Fund. The law continues to encourage and promote the use of renewable electric generation technologies and alternate energy technologies by residential and non-residential (commercial) customers. Further, the law amends §8054(d) by dividing the Green Energy Fund into three separate and distinct programs.

The programs outlined in §8054(d) are described in full in this regulation and include the following:

Green Energy Program

Technology Demonstration Program
Research and Development Program

5.0 Green Energy Program

5.1 General Provisions

All grants made under the Green Energy Program are on a first-come first-served basis and shall not exceed sixty-five percent (65%) of the total revenue collected during the previous fiscal year. Under no circumstances will the Department issue grants for land acquisition in association with any project proposed in the Green Energy Program.

Of the total funds available through Green Energy Program on an annual basis, the grants made for residential projects shall not exceed 40% of the total funds available and the non-residential grants shall not exceed 60% of the total funds available.

5.2 Eligibility

The Delaware Green Energy Program is available to Conectiv Power Delivery electric customers or persons in Delaware receiving services from a non-regulated electric supplier which is contributing to the Green Energy Fund. All eligible equipment and products must be installed in Delaware.

5.3 Grant Reservation Request

Customers and contractors applying for any grant must provide the following information to the Department prior to installing the system:

5.3.1 Completed Grant Reservation Form signed by both customer and contractor

5.3.2 The type of qualifying system

5.3.3 Copy of project estimate, purchase order, or letter of intent

5.3.4 Copy of the customer's recent Conectiv Power Delivery electric bill or a bill from a non-regulated electric supplier which is contributing to the Green Energy Fund

5.3.5 System schematic or line drawing

5.3.6 Plot plan illustrating well, turbine, or module location (wind and geothermal only, photovoltaic when system is ground mounted)

5.3.7 Manual J calculation (geothermal only)

5.3.8 Detailed system design and a predicted performance calculation verified by a Professional Engineer. (Non-residential solar water heating systems only.)

5.3.9 Roof diagram illustrating the following:

5.3.9.1 Roof dimensions (angle, length and width)

5.3.9.2 Location of collectors or modules on roof

5.3.9.3 Location of any roof-mounted or building-mounted equipment

5.3.9.4 Orientation & Tilt of array or collectors

5.3.9.5 Areas of shading (Provide Solar

Pathfinder results for all cases where shading occurs between 9:00 a.m. and 3:00 p.m. Results of the solar shade analysis must determine that 70% of the annual solar path's area is shade free to be considered for a grant.)

5.4 Evaluation of Grant Reservation Request

Upon receipt of the Grant Reservation Request and supporting documents, the Department will perform an evaluation to check the proposal package for its compliance with the requirements noted above. If the proposal package is complete, the Department will process the Grant Reservation and issue a Confirmation and Claim Form to the applicant. All requirements as outlined in Section 5.3 must be provided to the Department prior to processing the grant reservation.

The Department will reserve the funds for the project described in the Grant Reservation Request for six (6) months from the date of the reservation for residential applicants and twelve (12) months from the date of reservation for non-residential applicants. Since all grants are reserved on a first come-first served basis, viable projects that are not completed within the required time will be placed at the end of the queue and issued an extension of six (6) months from the date of the expired reservation for residential applicants and twelve (12) months from the date of expired reservation for non-residential applicants. To be considered of a reservation extension, the Department will require a project status and summary in writing fourteen (14) business days prior to the expiration of the original reservation.

5.5 Claim for and Distribution of Green Energy Program Grants

After installation, the customer and contractor must provide the following to the Department

5.5.1 Completed Confirmation and Claim form signed by customer and contractor

5.5.2 Copy of electrical, plumbing or building inspection

5.5.3 Copy of completed and approved Conectiv Power Delivery Interconnection Agreement (photovoltaic, wind, fuel cell) or similar document from a non-regulated electric supplier which is contributing to the Green Energy Fund

5.5.4 Copy of product specification sheets

5.5.5 Copy of final sales invoice (invoice must include actual price paid, itemized list of components, labor, permit fees, method of payment)

5.5.6 Copy of warranty agreement

5.5.7 Copy of verification of completion of installation signed by customer and contractor.

Upon receipt of the completed Reservation Claim Form and all final documentation pertaining to the project as noted in Section 5.1.2 - 5.1.4, the Department will evaluate the Reservation and Claim Form and the required accompanying documents for consideration of grant

approval. The contractor and customer are fully responsible for insuring that all forms and documentation have been supplied and the system meets all program requirements. The Department may make an inspection of the systems prior to final grant approval.

The Department will process the grant within 30 days of receipt of the Reservation and Claim Form and all supporting documentation. The Department will ordinarily process the payment to the purchaser, however, if the purchaser so requests in writing and documentation reflects the grant value was reduced directly from the purchase price, the Department will process the payment to the retailer or installing contractor.

5.6 Green Energy Program Participating Contractor Guidelines

5.6.1 Participating Contractor Application

Contractors installing qualifying photovoltaic, solar water heating, geothermal heat pumps, small wind turbines, or fuel cells must complete the Participating Contractor Application prior to installing systems within the Green Energy Program. The application will consist of the following:

5.6.1.1 Name of company and key contact information

5.6.1.2 Brief history and organizational structure of company

5.6.1.3 Education, experience and licensure

5.6.1.4 General liability and statutory worker's compensation

5.6.1.5 Statement of reliability and good standing

5.6.2 Education and Licensure

Participating Contractors shall maintain appropriate education and licenses to insure that only professionally designed systems are installed within the Program. The Participating Contractor must be licensed in the State of Delaware.

Where industry certification programs have been promulgated, grant recipients are encouraged to use industry certified contractors.

5.6.3 Insurance Requirements

The Participating Contractor and anyone acting under its direction or control or on its behalf shall at its own expense procure and maintain in full force at all times Commercial General Liability Insurance with a bodily injury and property damage combined single limit of liability of at least ONE MILLION DOLLARS (\$1,000,000) for any occurrence.

5.6.4 Statement of Reliability and Good Standing Contractor must be reliable and in good standing with a "Satisfactory Record" (or no negative reports) with the Better Business Bureau. The Contractor shall provide a copy of their Better Business Bureau report to the Department upon request. Reports may be obtained at the following address.

BBB of Delaware

1415 Foulk Road, Suite 202 Foulkstone Plaza

Wilmington, DE 19803

Phone: (302)230-0108

Fax: (302)230-0116

Web Site: www.delaware.bbb.org

Email: info@delaware.bbb.org

5.6.5 Limitation of Funds

The Program funds are limited. The Participating Contractor shall follow program guidelines to insure reservation of funds prior to installing a qualifying system.

5.6.6 Owner's Manual Minimum Requirements

Contractors are required to provide each Program participant with an owner's manual. At a minimum, the owner's manual shall include the following:

5.6.6.1 Name and address of the seller

5.6.6.2 System model name or number

5.6.6.3 Identification and explanation of system components

5.6.6.4 Description of system operation

5.6.6.5 Description of system maintenance

5.6.6.6 Description of emergency procedures

5.6.6.7 Vacation procedures

5.6.6.8 Systems warranty

5.7 Warranty

All qualifying systems receiving a Green Energy Program grant must have a full 5-year warranty against component failure, malfunction and premature output degradation. The warranty must cover all components for which the program incentive is granted and cover the full cost of repair and replacement of all components of the system. For professionally installed systems, the warranty must cover the labor to remove and replace defective components and systems.

5.8 Code Compliance

All qualifying systems must be installed in accordance with the standards and specifications of the manufacturers of the components in the system, in compliance with all applicable local electric and building codes, local ordinances and these guidelines. Where discrepancies, if any, exist with these guidelines and local codes, local codes shall govern.

5.9 Green Energy Program Renewable Energy Technologies

5.9.1 Photovoltaic Systems

5.9.1.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers grants for grid-connected photovoltaic systems installed by qualified contractors and customers up to 50% of the total installed costs. Grants will not exceed \$22,500 per residential

dwelling for residential systems and \$250,000 per non-residential facility for non-residential systems. A photovoltaic system may not have eligible qualifying photovoltaic system costs in excess of \$12 per Watt.

5.9.1.2 Accepted Products and Equipment

All photovoltaic modules must be certified by a nationally recognized testing laboratory as meeting the requirements of the most recent version of Underwriters Laboratory Standard 1703.

All qualifying grid-connected systems must comply with the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems, IEEE 1547, Standard for Interconnecting Distributed Resources with the Electric Power Systems and the appropriate generation interconnection requirements of Conectiv Power Delivery's, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the Conectiv Power Delivery System or similar interconnection requirements from a non-regulated electric supplier which is contributing to the Green Energy Fund.

All inverters must be certified by a nationally recognized testing laboratory for safe operation and be certified as meeting the requirements of Underwriters Laboratory Standards 1741, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.

5.9.1.3 Array Orientation and Tilt

Optimum array orientation is a 180° true bearing. However, the program accepts solar arrays oriented between South of due East and South of due West or between 80° and 260° magnetic. Systems installed between 260° and 80° magnetic or North of due East and North of due West are not eligible for a Green Energy Program Grant. Optimum array tilt is equal to the latitude at the installation site. However, the program accepts array tilt parameters as specified by the module manufacturer which may allow for tilts greater than and less than latitude.

5.9.1.4 Array Shading

Photovoltaic arrays shall be installed such that the array has a minimum of six (6) hours of unobstructed sunshine daily inclusive of solar noon. A "solar window" of eight (8) hours of unobstructed sunshine is preferred.

The installing contractor is responsible for insuring that the system is free from shading. The installing contractor shall perform a "Solar Shade Analysis" using the "Solar Pathfinder™" to ensure the array meets the minimum daily sunshine requirements. Results of the solar shade analysis must determine that 70% of the annual solar path's area is shade free to be considered for a grant.

5.9.1.5 Aesthetics

Aesthetics must be considered in the

design and mounting of the photovoltaic array. The designing contractor must provide a roof schematic complete with roof dimensions, array placement, orientation and areas of shading to the Department prior to installation. The designing contractor must make every attempt to configure the modules in an aesthetically pleasing manner free from shading.

5.9.2 Solar Water Heating

5.9.2.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers grants for solar water heating systems installed by qualified contractors and customers up to 50% of the total installed cost. Grants will not exceed \$3,000 per residential dwelling for residential systems and \$250,000 per non-residential facility for non-residential systems.

Solar water heating systems integrated into a radiant heating application are eligible for a grant up to 50 % of the installed cost of the solar energy portion of the system. Grants will not exceed \$5,000 per residential dwelling for residential systems and \$250,000 per non-residential dwelling for non-residential systems.

5.9.2.2 Accepted Products and Equipment

A solar water heating system must be designed to reduce or eliminate the need for electric or gas heated water.

All qualifying residential solar water heating systems must be certified to meet the Solar Rating and Certification Corporation's (SRCC) OG- 300, Operating Guidelines and Minimum Standards for Certifying Solar Water Heating Systems: An Optional Solar Water Heating System Certification and Rating Program and have a Freeze Tolerance Limit of minus 21 degrees Fahrenheit without electrical power.

All qualifying non-residential solar water heating systems and solar energy systems integrated into a radiant heating application must utilize collectors certified to meet the Solar Rating and Certification Corporation's (SRCC) OG-100, Operating Guidelines for Certifying Solar Collectors.

Non-residential solar water heating systems will be required to submit a detailed system design and a predicted performance calculation verified by a Professional Engineer (P.E.)

5.9.2.3 Collector Orientation and Tilt

Optimum collector array orientation is a 180° true bearing. However, the program accepts solar collectors oriented between South of due East and South of due West or between 80° and 260° magnetic. Systems installed between 260° and 80° magnetic or North of due East and North of due West are not eligible for a Green Energy Program Grant. Optimum collector tilt is equal to the latitude at the installation site. However, the program accepts collector tilt parameters as specified by the collector

manufacturer which may allow for tilts greater than and less than latitude.

5.9.2.4 Collector Shading

All collectors shall be installed such that the collector array has a minimum of six (6) hours of unobstructed sunshine daily inclusive of solar noon. A "solar window" of eight (8) hours of unobstructed sunshine is preferred.

The installing contractor is responsible for insuring that the system is free from shading. The installing contractor shall perform a "Solar Shade Analysis" using the "Solar Pathfinder™" to ensure the array meets the minimum daily sunshine requirements. Results of the solar shade analysis must determine that 70% of the annual solar path's area is shade free to be considered for a grant.

5.9.2.5 Aesthetics

Aesthetics must be considered in the design and mounting of the solar water heating collectors. The designing contractor must complete a roof schematic complete with roof dimensions, collector placement, orientation and areas of shading to the Department prior to installation. The designing contractor must make every attempt to configure the collectors in an aesthetically pleasing manner.

5.9.3 Small Wind Turbines

5.9.3.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers incentives up to 50% of the total installed cost for small grid-connected wind turbines installed by a qualified contractor for a qualified customer. Small wind turbines shall be at least 500 Watts and not exceed 25 kilowatts. Grants will not exceed \$22,500 per residential dwelling for residential systems and \$100,000 per non-residential facility for non-residential systems. A qualifying wind turbine system shall not exceed \$5.00 per Watt installed.

5.9.3.2 Capacity Limits

Qualifying wind turbine systems shall be at least 500 Watts and not exceed 25 kilowatts.

The Department may reject applications if the location of the proposed wind turbine system has an inadequate wind resource for reasonable utilization of the equipment. Wind resources can vary significantly; therefore, the contractor and customer must take care that the location has adequate wind for the turbine selected. It is strongly recommended that a professional evaluation of your specific site be completed. The Department may require additional evidence of feasibility prior to approving the grant reservation.

5.9.3.3 Accepted Products and Equipment

All qualifying grid-connected small wind systems must use Underwriters Laboratory listed equipment and comply with the Institute of Electrical and Electronic

Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems, IEEE 1547, Standard for Interconnecting Distributed Resources with the Electric Power Systems and the appropriate generation interconnection requirements of Conectiv Power Delivery's, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the Conectiv Power Delivery System or similar interconnection requirements from a non-regulated electric supplier which is contributing to the Green Energy Fund.

All inverters or other systems used in interconnection must be certified by a nationally recognized testing laboratory for safe operation and be certified as meeting the requirements of Underwriters Laboratory Standards 1741, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.

5.9.4 Geothermal Heat Pump Systems

5.9.4.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers grants for geothermal heat pump systems installed by qualified contractors and customers at the following rates:

Residential:

\$600 per ton not exceeding \$3,000 per residential dwelling for residential systems installed with an Energy Efficiency Ratio (EER) of 15.0 and Coefficient of Performance (COP) of 3.4 or greater or 50% of the installed cost whichever is lower, or

\$500 per ton not exceeding \$2500 per residential dwelling for residential systems with an Energy Efficiency Ratio (EER) of 14.0 and Coefficient of Performance (COP) of 3.0 or greater or 50% of the installed cost whichever is lower.

Non-residential:

\$600 per ton not exceeding \$25,000 per non-residential facility for non-residential systems with an Energy Efficiency Ratio (EER) of 15.0 and Coefficient of Performance (COP) of 3.4 or greater or 50% of the installed cost whichever is lower, or

\$500 per ton not exceeding \$25,000 per non-residential facility for non-residential systems with an Energy Efficiency Ratio (EER) of 14.0 and Coefficient of Performance (COP) of 3.0 or greater or 50% of the installed cost whichever is lower.

5.9.4.2 Accepted Products and Equipment

Qualifying geothermal heat pump systems must be sized in accordance with good heating, ventilation and air conditioning design practices for the occupancy, location and structure. Contractor shall provide a Manual J calculation, or other equivalent calculation, to determine proper size of equipment.

All qualifying systems must have a warranty for protection of the integrity and performance of

the system for at least five years. All units installed under this program must have a minimum EER of 14.0 and COP of 3.0. Qualifying systems must meet the following:

Closed loop systems shall qualify under rating conditions in accordance with ISO 13256-1.

Open loop systems shall qualify under rating conditions in accordance with ISO 13256-1.

DX systems shall qualify under rating conditions in accordance with ARI 870.

5.9.5 Fuel Cells

5.9.5.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers grants for grid-connected fuel cells installed by qualified contractors and customers up to 50% of the total installed cost for fuel cell systems operating on a renewable fuel source. Grants will not exceed \$22,500 for residential systems and \$250,000 for non-residential systems.

5.9.5.2 Accepted Products and Equipment

All Qualifying fuel cells systems must utilize a renewable fuel source and meet the National Fire Protection Association (NFPA) 853 for Stationary Fuel Cell Power Plants, the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 519- Recommended Practices and Requirements for Harmonic Control in Electric Power Systems, the most current version of the American National Standards Institute (ANSI) Z21.83 for Fuel Cell Power Plants, and input and output protection functions should be in compliance with ANSI C37.2 Device Function Number Specifications.

6.0 Technology Demonstration Program

6.1 General Provisions

The Technology Demonstration Program provides grants to projects that demonstrate the market potential for renewable technologies and accelerate the commercialization of these technologies in Delaware.

Technology Demonstration Program proposals will be accepted by the Department on a biannual basis. The total of all grants awarded under the Technology Demonstration shall not exceed twenty-five percent (25%) of all revenue collected for the Green Energy Fund during the previous fiscal year.

To be eligible for consideration, a project must demonstrate a commercially available technology. Research and Development projects will not be funded under the Technology Demonstration Program. A project must demonstrate either a novel technology or a novel application of an available technology. Projects must include a public education component, such as integration into an educational program or location at a facility that allows public tours of the installed renewable energy technology.

Under no circumstances will the Department issue grants for land acquisition in association with any project

proposed in the Technology Demonstration Program.

6.1.1 Grant Limits

Subject to availability of funds, the Green Energy Fund's Technology Demonstration Program offers grants to projects that demonstrate the market potential of renewable energy technology in Delaware. Individual grants shall not exceed twenty-five percent (25%) of the cost of the eligible equipment for a renewable energy technology project and will not exceed \$200,000 per project.

6.1.2 Code Compliance

All Technology Demonstration Program projects must be installed in accordance with the standards and specifications of the manufacturers of the components in the system and in compliance with all applicable local electric, plumbing, and building codes and local ordinances to be considered for application.

6.1.3 Permits

All Technology Demonstration Program projects must obtain all relevant permits from the Delaware Department of Natural Resources and Environmental Control, other necessary state, local, regional, and federal permits to be considered for application.

6.1.4 Application Process

Technology Demonstration Program proposals will be accepted on a biannual basis. Applicants for the Technology Demonstration Program shall submit six (6) copies of the proposal and supporting documentation to the Department and receive approval prior to beginning the project.

In addition to the requirements in Sections 5.2, proposals for grants under Technology Demonstration Program shall include the following:

6.1.4.1 Detailed project description including location of project, size of project, description of building

6.1.4.2 Experience of project team

6.1.4.3 Detailed estimate of total project costs

6.1.4.4 List of project partners

6.1.4.5 Estimated energy impact

6.1.4.6 Letter of commitment from building owner or manager

6.1.4.7 Project schedule including detailed milestones

6.1.4.8 Design plans

The Department may request additional information upon review of initial proposal.

Applications will be reviewed by a committee established by the Department. The Department will determine the eligibility for a grant and will, in particular, consider the education requirements in 6.1. A statement of reservation of funds and authorization to proceed will be issued by the Department upon acceptance as a Technology Demonstration Program project.

6.2 Accepted Products and Equipment

All Technology Demonstration Program projects

interconnecting with the utility grid must comply with the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems and the appropriate generation interconnection arrangement of Conectiv Power Delivery's, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the Conectiv Power Delivery System or a similar document from a non-regulated electric supplier.

All inverters must be certified by a nationally recognized testing laboratory for safe operation as well as be certified as meeting the requirements of Underwriters Laboratory Standards 1741- 1999, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.

6.2.1 Photovoltaic Systems

Photovoltaic projects located in Delaware that are in excess of \$12 per Watt, use photovoltaic electricity to replace or substitute the need for non-renewable fuel, or include a novel or innovative use of photovoltaic design are eligible to receive a grant under the Technology Demonstration Program.

6.2.2 Solar Thermal

Solar thermal projects located in Delaware that use solar thermal energy to produce electricity, replace or substitute the need for non-renewable fuel, or includes a novel or innovative use of solar thermal design is eligible to receive a grant under the Technology Demonstration Program.

6.2.3 Small Wind Turbines

Small wind turbine projects located in Delaware that exceed \$5.00 per Watt installed and do not exceed 1 MW may apply for a grant under the Technology Demonstration Program.

6.2.4 Fuel Cells

Fuel cell projects located in Delaware using a non-renewable energy fuel source and not exceeding 1MW may apply for a grant under the Technology Demonstration Program.

6.2.5 Hydroelectric Generators

Hydroelectric projects located in Delaware and placed at existing dams or in free-flowing waterways may be eligible for a grant under the Technology Demonstration Program.

6.2.6 Storage, Conversion and Conditioning Equipment

Storage, conversion and conditioning equipment, for qualifying photovoltaic, small wind turbine, and hydroelectric systems that include a novel or innovative use of storage, conversion and conditioning equipment may be eligible to receive a grant under the Technology Demonstration Program.

6.2.7 Passive Solar Design

Passive solar designs that implement novel or innovative passive solar products may be eligible to receive a grant under the Technology Demonstration Program. Grants for passive solar projects shall not exceed 25% of the installed cost of the product up to a maximum of \$3000 per residential dwelling for residential projects and \$20,000 per non-residential facility for non-residential projects.

The project shall meet the requirements in Section 6.1 and provide a cost-effectiveness analysis and a Manual J calculation or equivalent that demonstrates the estimated energy impact expected over the industry standards that provide a similar function.

7.0 Research and Development Program

7.1 General Provisions

Subject to availability of funds, the Green Energy Fund's Research and Development Program offers grants to projects that develop or improve Renewable Energy Technology in Delaware. The Department will accept proposals for Research and Development Program grants for qualifying projects that improve the engineering, adaptation, or development of products or processes that directly relate to renewable energy technology.

The Delaware Research and Development Program grants are available to applicants located within the State of Delaware for projects conducted in the State of Delaware. Under no circumstances will the Department issue grants for land acquisition in association with any project proposed in the Research and Development Program.

7.2 Grant Limits

Subject to availability of funds, the Research and Development Program offers grants up to thirty-five percent (35%) of the cost of qualifying projects. Research and Development Program grants shall not exceed \$200,000 per project.

Research and Development Program proposals will be accepted by the Department on a biannual basis. The total of all grants awarded in any one fiscal year shall not exceed ten percent (10%) of all revenue collected for the Green Energy Fund during the previous fiscal year.

Subject to the future availability of funds, the Department will consider multi-year projects in the Research and Development Program. Proposals seeking grants for multi-year projects shall not exceed fifty percent (50%) of the total annual funds available in the Research and Development Program.

7.3 Application Process

The Department will accept proposals for Research and Development Program grants for qualifying projects that improve the engineering adaptation, or development of products that directly relate to renewable energy technology. The Department reserves the right to reject any or all proposals if the information provided is inadequate or

incomplete.

The following describes the general approach envisioned for these projects. Alternative approaches to achieve the desired results may be considered, provided that the work scope is complete, addresses all of the technical issues, and has a convincing chance for success.

Applicants are to propose projects and tasks that address all issues described in Section 7.1 with care taken to emphasize the unique application advantages and environmental benefits that will result from the proposed project. The proposal should clearly define why this project is an improvement over existing products that provide a similar function.

7.4 Application Submittal

Research and Development Program proposals must be submitted and awarded prior to beginning the project. Failure to respond or follow the instructions regarding the order and content of the application may result in the application being deemed non-responsive, or result in an overall lower score during evaluation. The applicant must submit six (6) complete copies of the proposal to the Department for consideration.

7.5 Application Contents

The applicant must submit six (6) complete copies of the proposal to the Department consisting of a detailed description, a time line, a budget, itemized by task and include the following sections:

7.5.1 Cover Page

The cover page must indicate the name of the organization, location, project title, and points of contact for the applicant, including names, titles, addresses, telephone and facsimile numbers, and electronic mail addresses of key project participants.

7.5.2 Table of Contents

The narrative shall include a table of contents and page numbers corresponding to the elements outlined herein.

7.5.3 Project Summary

A one-page project summary describing, in general terms, the proposed project, the proposed project benefits as a result of the grant, and a total cost estimate including cost shares and federal contribution must be submitted with the application. The summary should be informative and only contain information that is releasable to the public.

7.5.4 Technical Proposal

The Technical Proposal portion shall be structured in accordance with the following sections:

The Technical Proposal section should include the following:

7.5.4.1 Technical concept, goals, and location of project

7.5.4.2 Anticipated benefits as a result of the project

7.5.4.3 Degree to which the proposed project advances the technology and commercial readiness of renewable energy technology in Delaware, including advantages and disadvantages compared to competing technologies

7.5.4.4 Economic viability of the proposed project

7.5.4.5 Estimated energy impact (generation or reduction)

7.5.4.6 Environmental benefits and impacts of the project reliability, noise levels, and suitability for grid interconnection

7.5.4.7 Public benefit and value added to Delaware by successful completion of the proposed project

7.5.4.8 Potential for commercialization and the estimated market potential of project

7.5.4.9 Advantages of the proposed approach compared to alternative approaches.

7.5.5 Work Plan / Statement of Objectives

This section should include the following:

7.5.5.1 Task-oriented Statement of Objectives with complete task descriptions

7.5.5.2 Work plan including decision points and performance-based progress measures

7.5.5.3 Work schedule including intermediate and major milestones

7.5.6 Budget Narrative

An explanation of the proposed project costs including Green Energy Fund proceeds, applicant cost share, and any federal leveraged funds should be provided in this section. The Narrative shall include a budget by each task and include the following:

7.5.6.1 Job title and number of hours for each of the individual personnel proposed

7.5.6.2 Proposed equipment, materials, supplies, overhead and total labor costs.

7.5.7 Organization Qualifications and Personnel Qualifications

This section should include the following:

7.5.7.1 Applicant's current research directly related to the topic proposed

7.5.7.2 Applicant's experience on previous research and development projects similar in size, scope and complexity and the success in completing similar work

7.5.7.3 Description of the teaming structure for the project, including the names of the applicant and each participant involved in the project, as well as business agreements between the applicant and participants and the role of each team member

7.5.7.4 Project management concept with respect to the proposed tasks, including organizational and individual responsibilities for each team member

7.5.7.5 Education, professional training, and the technical and business-related skills and work experience

of key personnel, on projects similar in size, scope, and complexity to the topic proposed

7.5.7.6 Level and reasonableness of the time commitment

7.5.8 Personnel Resumes

A resume should be provided for all key personnel involved in the proposed project. Each resume is limited to a maximum of two pages.

7.6 Evaluation of Applications

A compliance review will be performed to check the proposal package for its compliance with the requirements of the Research and Development Program. All requirements as outlined in Section 7.1 must be provided to the Department to be eligible for the comprehensive evaluation.

The Department reserves the right to void an application if the information requested is not received within the prescribed timeframe when requested or is inadequate or incomplete.

7.6.1 Comprehensive Evaluation

All applications that fulfill the minimum application requirements, as determined under the compliance review, will be eligible for comprehensive evaluation. The comprehensive evaluation of proposals will be performed by the Department and a committee designated by the Department. In evaluating applications, the Department reserves the right to use any assistance deemed advisable, including qualified personnel from federal agencies, other government entities, universities, industry, and contractors. These individuals will be required to protect the confidentiality of any specifically identified trade secrets and/or privileged or confidential commercial or financial information obtained as a result of their participation in this evaluation.

All applicants will be notified in writing of the action taken on their applications. Applicants should allow at least 90 days for the Department evaluation. The status of any application during the evaluation and selection process will not be discussed with the applicant or any of its partners. Unsuccessful applications will not be returned to applicants.

7.7 Evaluation Criteria of Proposal

7.7.1 Criterion 1: Technical Description: Weight: 40%

In general, proposals will be evaluated based on the overall relevance to Renewable Energy Technology, including but not limited to any product improving the engineering of, adapting, or development or Renewable Energy Technology either as an independent piece of Renewable Energy Technology or as a component of Renewable Energy Technology.

Specifically, proposals will be scored based on how well they address the following requirements:

7.7.1.1 Technical concept, goals, and location

of project

7.7.1.2 Anticipated benefits as a result of the project

7.7.1.3 Degree to which the proposed project advances the technology and commercial readiness of renewable energy technology in Delaware, including advantages and disadvantages compared to competing technologies

7.7.1.4 Economic viability of the proposed project

7.7.1.5 Jobs created as a result of project

7.7.1.6 Advantages of the proposed approach compared to alternative approaches

7.7.1.7 Economic viability of the proposed project

7.7.1.8 Estimated energy impact (generation or reduction)

7.7.1.9 Environmental benefits and impacts of the project

7.7.1.10 Reliability, noise levels, and suitability for grid interconnection

7.7.1.11 Public benefit and value added to Delaware by successful completion of the proposed project

7.7.1.12 Projects ability to leverage federal incentives

7.7.1.13 Projects ability to assist the State in meeting the goals the State Energy Plan

7.7.2 Criterion 2: Work Plan/Statement of Objectives: Weight: 30%

Specifically, applications will be scored based on how well they address the following requirements:

7.7.2.1 Task-oriented Statement of Objectives with complete task descriptions

7.7.2.2 Work plan including decision points and performance-based progress measures Level and reasonableness of the time commitment

7.7.2.3 Work schedule including intermediate and major –milestone

7.7.2.4 Advantages of the proposed approach compared to alternative approaches

7.7.2.5 Intent and commitment to commercialize results of the proposed project

7.7.3 Criterion 3: Organization and Personnel Qualifications: Weight: 30%

In general, applications will be evaluated based on the capabilities of the personnel. Specifically, applications will be scored based on how well they address the following requirements:

7.7.3.1 The applicant's current research directly related to the topic proposed

7.7.3.2 The applicant's experience on previous research and development projects similar in size, scope and complexity and the success in completing similar work

7.7.3.3 A description of the teaming structure for the project, preference will be given to projects involving participants who represent a diversity (types and sizes) of proposing organizations, while meeting the eligibility requirements. The participation of universities, small businesses, and women or minority owned businesses are particularly encouraged to apply.

7.7.3.4 The project management concept with respect to the proposed tasks, including organizational and individual responsibilities for each team member

7.7.3.5 The education, professional training, and the technical and business-related skills and work experience key personnel, including major subcontractors, on projects similar in size, scope, and complexity to the topic proposed

7.7.3.6 The level and reasonableness of the time commitment

7.8 If Selected for Negotiation

If a proposal is selected for negotiation for a grant, additional information may be requested. The request will specify the documents to be submitted, and to whom they must be submitted and may include but not limited to financial information for any participant(s) providing cost sharing or performing work.

The Department reserves the right to void an application if the information requested is not received within the prescribed timeframe or is inadequate or incomplete.

7.9 Grant Award

If upon completion of the Comprehensive Evaluation, the review committee finds that the proposed project fits the criteria of the Research and Development Program then a statement of reservation of funds and authorization to proceed will be issued by the Department.

All recipients of Research and Development Program grants may be required to participate in mandatory evaluation meetings on a periodic basis. During each evaluation meeting, the results to date and future plans for the project will be presented by the Recipient to an evaluation panel selected by the Department. The results of each evaluation may be used by the Department to determine whether the project will continue to receive funding. Applicants should assume that at least two meetings per year will be required for evaluation and that up to two additional review meetings may be held at the applicant's location.

8.0 Proprietary Application Information

Applicants are hereby notified that the Department intends to make all applications submitted available to non-State personnel for the sole purpose of assisting in its evaluation of the applications. These individuals will be required to protect the confidentiality of any specifically identified proprietary information obtained as a result of their participation in the evaluation.

Proposals submitted may contain trade secrets and/or privileged or confidential commercial or financial information which the applicant does not want to be used or disclosed for any purpose other than evaluation of the application. The use and disclosure of such data may be restricted, provided the applicant follows the Department's "Request for Confidentiality" procedure consistent with the Department's "Freedom of Information Act" or "FOIA" regulation. It is important to understand that this FOIA regulation's confidentiality procedure is a necessary part of this regulation in that any information submitted to the Department is subject to public review unless deemed to be confidential by the Secretary in accordance with the criteria and procedures established in the FOIA regulation.

The burden lies with the applicant asserting the claim of confidentiality to meet the criteria established in the FOIA regulation.

9.0 Severability

If any section, subsection, paragraph, sentence, phrase or word of these regulations is declared unconstitutional by a court of competent jurisdiction, the remainder of these regulations shall remain unimpaired and shall continue in full force and effect, and proceedings there under shall not be affected.

DIVISION OF PARKS AND RECREATION

Statutory Authority: 7 Delaware Code,
Section 4702 (16 Del.C. §4702(c))

Register Notice
SAN# 2002-21

1. Title Of The Regulation:

Delaware State Parks Rules and Regulations.

2. Brief Synopsis Of The Subject, Substance And Issues:

Changes in the current version of the Rules and Regulations (adopted 12/31/93). Additions, modifications and deletions reflect changes in park resources and changes from the Delaware Code. Changes include but are not limited to the Wilmington State Parks, Holts Landing Fishing Pier, protection of exhibits, established bicycle trails and facility rentals/special events.

3. Possible Terms Of The Agency Action:

The Division's Rules and Regulations will reflect current changes to the Delaware Code and park resources.

4. Statutory Basis Or Legal Authority To Act:

Title 7, Del.C. Chapter 47, Subsection 4702(c).

5. Other Regulations That May Be Affected By The Proposal:

No other Regulations will be affected by this proposal.

6. Notice Of Public Comment:

A previous Public Hearing and Public Workshop were held in the Richardson and Robbins Building on October 29, 2003. Due to a promulgation error within the Division, an additional public hearing will be held on **April 28, 2004 from 1000-1100 a.m.** in the Auditorium of the Richardson and Robbins Building. This building is located at 89 Kings Hwy. Dover, Delaware.

7. Prepared By:

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Delaware State Park Rules And Regulations

The Department Of Natural Resources And Environmental Control will effect at **Midnight, April 11, 2004**, the following State Park Rules And Regulations. All previous State Park Rules And Regulations in conflict with these rules and regulations shall be rescinded.

1.0 Definitions

"Activity Charge" means any fee assessed to offset the costs associated with a particular program or activity."

"Activity Engaged in Surf Fishing" means when a person is taking all reasonable and necessary actions to maximize the probability of hooking and landing game fish by rod, reel and line attached to a baited rig, artificial lure or artificial fly. A person is also actively engaged in surf fishing when they are within 50 feet of their fishing equipment and are tending, casting and recasting their fishing equipment.

"Alcoholic Liquor", "Alcoholic Beverages" include the 4 varieties of liquor defined in 4 Del.C. §101 (alcohol, spirits, wine and beer) as well as every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being and any liquid or solid containing more than 1 of the 4 varieties defined in 4 Del.C. §101 is considered as belonging to that variety which usually has the higher percentage of alcohol.

"Authorized Agent" shall mean any employee of the Division or volunteer who has been delegated the authority to perform or cause to be performed, certain designated acts or functions within the scope of his duties.

"Commission" means the Commission created under 4

Del.C. Ch. 3, under the name of "The Delaware Alcoholic Beverage Control Commission".

"Department" shall mean the Department of Natural Resources and Environmental Control.

"Director" shall mean the Director of the Division of Parks and Recreation.

"Division" shall mean the Division of Parks and Recreation of the Department of Natural Resources and Environmental Control.

"Drug Paraphernalia" for the purposes of this chapter shall be defined in 16 Del.C. §4701.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Hunter Registration Card" means a document issued by the Division which confers eligibility to participate in hunting programs on parks subject to special restriction.

"License" means any license, temporary instructor's permit or temporary license issued under the laws of the state pertaining to the licensing of persons to operate motor vehicles or vessels. "License" shall also mean any document issued by the State for hunting or fishing.

"Motorized Vehicle" means every vehicle which is self-propelled including, but not limited to, mopeds, motorcycles, all terrain vehicles (ATV) and other two, three, three or four-wheel vehicles.

"Operator" means any person who is in actual physical control of any motor vehicle, vessel, snowmobile or other means of conveyance.

"Owner" means a person who holds legal title to a vehicle, vessel or snowmobile.

"Permit" shall mean any written license issued by the Department permitting the performance of a specified act or acts.

"Resident" shall mean any person, persons or corporations owning a motor vehicle(s) duly registered by the Delaware Motor Vehicle Division of the Department of Public Safety and possessing a valid Delaware Motor Vehicle operator's license.

"Restaurant" means any establishment, provided with special space and accommodation, where, in consideration of payment, food is habitually furnished to a park visitor, and does not include the following types of establishments defined in 4 Del.C. §101, tavern or taproom.

"Restricted Use Parking Area" means those parking areas which may be set aside and reserved for use by persons patronizing certain facilities within the park. Such areas will be signed designating type of use: i.e., Restaurant Parking, Marina Parking, etc.

"Secretary" shall mean the Secretary of the Department of Natural Resources and Environmental Control.

"Snowmobile" means a motor vehicle designed to

travel over ice or snow supported in whole or in part by skis, belts, or cleats, or an engine-driven vehicle of a type which uses sled-type runners or skis or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military or law enforcement vehicle.

"**State**" shall mean the State of Delaware.

"**Surf Fishing Vehicle Permit**" means the owner's copy of the written permit and a surf fishing vehicle plate with current year validation sticker affixed.

"**Vending**" means to: solicit or receive an order for; keep or expose for sale; deliver or value in any other way than purely gratuitously; keep with intent to sell; traffic in; or for any valuable consideration, promise or obtain, directly or indirectly, or under any pretext or by any means whatsoever, procure, or allow to be procured for any other person.

"**Vendor**" means a person who is in the act of vending as defined in these regulations.

"**Vessel**" includes every description of water craft, other than a seaplane on water, used or capable of being used as a means of transportation.

2.0 General Information

2.1 Purpose. It shall be the intent and purpose of the Division of Parks and Recreation to adopt only those minimal Rules and Regulations that are essential to the protection of Park resources and improvements thereto and to the safety, protection and general welfare of the visitors and personnel on properties under its jurisdiction.

2.2 Scope. Unless otherwise provided by statute, the following shall constitute the Rules and Regulations of the Division of Parks and Recreation and shall govern the use of all applicable lands, recreation areas, historic sites, natural areas, nature preserves, rights as grantee to conservation easements, marinas, waters and facilities administered by the Division of Parks and Recreation. No Rule or Regulation herein shall preclude the enforcement of any statute under the Delaware Code.

2.3 Regulation Authority. In accordance with Title 7 **Del.C.** §4702(c), of the Delaware Code Annotated, the Administrative Procedures Act, all Rules and Regulations of the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, shall have the effect of law and shall be published in at least two newspapers, of general circulation in the territory to be affected, 30 days prior to the date the Rules and Regulation become effective, except in the case of an emergency, the Department or Division shall give such advance notice as deemed necessary or desirable.

2.4 Construction

2.4.1 No Rule or Regulation herein shall be interpreted or construed in such a manner as to prevent or delay authorized personnel of the Department or other state,

county or municipal agencies from completing official duties or emergency services.

2.4.2 In special circumstances, events or emergencies, the Secretary or Director may, when it is deemed to be in the public interest, waive a specific Rule, Regulation or fee.

2.4.3 Failure to enforce a specific Rule or Regulation at a particular instance or instances shall not affect the validity of any other Rule or Regulation or affect the validity of such Rule or Regulation at any other time.

2.5 Park Policies

2.5.1 ~~The Director, Manager of the Operations and Maintenance Section, Park Administrators and Superintendents,~~ In order to promote the safety and welfare of park visitors and protect and manage property in the parks, the Director, Chief of Enforcement, Park Administrators and Superintendents shall have the authority to develop reasonable policies for State Parks that are not in conflict with 7 **Del.C.** Ch. 47 and these Rules and Regulations. These policies must be approved by the Director and posted in a conspicuous place in the park prior to their becoming effective. Copies of all policies shall also be maintained in the office of the Park Superintendent or Park Administrator and the Central Office.

2.5.2 Violation of any park policy shall be grounds for eviction from the park and the denial, revocation or suspension of any permit issued or privilege granted by the Division.

2.5.3 The Division shall have the authority to enforce safety rules and/or policies developed in accordance with 2.5.1 of these Regulations for the protection of visitors and property.

2.6 Severability. If any section, subsection, paragraph, sentence, phrase or word of these Rules and Regulations are declared unconstitutional by a court of competent jurisdiction, the remainder of these Rules and Regulations shall remain unimpaired and shall continue in full force and effect, and proceedings thereunder shall not be affected.

2.7 Terms

2.7.1 Any term contained in these Rules and Regulations shall be construed as follows:

2.7.1.1 Any term in the singular shall include the plural and vice versa;

2.7.1.2 Any term in the masculine shall include the feminine and neuter;

2.7.1.3 The prohibition of an act shall tend to include an attempt to commit such act and the causing and/or the procuring directly or indirectly of such act;

2.7.1.4 No provision contained in these Rules and Regulations and no act performed by an officer or employee of the Department in the line of duty or in the scope of employment, or any act performed by a person, his agents, or employees in the performance or execution of the terms of an agreement with the Department shall be cause to

be deemed unlawful; and

2.7.1.5 Any reference to the Director, Park Administrator, Superintendent or Marina Manager shall include their authorized agent.

2.8 Permit Violation Penalties. The violation of, or the refusal to obey, any Law, these Rules and Regulations, Park Policies or the terms or conditions of any permit issued or privilege granted by the Division shall be grounds for the suspension or revocation of any permit issued or privilege granted by the Division, the removal or eviction from State Park lands and/or the denial of future entry to, or the denial of future permits or privileges within State Parks. Any and all applicable permit fees shall be forfeited to, and retained by, the Division. Any such suspension, revocation, removal, eviction or the denial of entry, permit or privilege shall not preclude the prosecution of any person for violation of any Law or these Rules and Regulations.

3.0 Rules and Regulations

3.1 Use Restriction/Trespassing

3.1.1 The Director may limit or close specific public use areas, lands, waters and/or facilities and/or temporarily prohibit certain activities, including possession and/or consumption of alcoholic beverages within those areas when such action is deemed necessary for property management, protection of flora, faunas and their habitats and/or when it is in the best interest of the health, safety, and the general welfare of the visitors.

3.1.2 Entering or remaining on lands under the jurisdiction of the Division when such lands are closed or entering or remaining within any building, structure or facility when such building, structure or facility is closed, shall be prohibited without a written permit permission from the Director, or designee.

3.1.3 No person shall enter upon or be present upon lands administered by the Division, except as authorized by statute, regulation or written permission from the Director.

3.1.4 No structure, facility, building or area administered by the Division shall be used for any activity other than that for which it was intended ~~without the prior written permission of the Director~~.

3.1.4.1 No person(s) shall sleep or attempt to sleep or otherwise be present and are not engaged in the activity for which the 24 hour facility or area is used for.

3.1.5 No person shall use or attempt to use a State Park campground or marina as a principle residence or as a base of operations for conducting any type of business either on a permanent or temporary basis.

3.1.6 Use of metal detectors on lands under the jurisdiction of the Division shall be prohibited except during normal park hours in the following areas:

3.1.6.1 Lums Pond State Park swimming area beach; and

3.1.6.2 ~~Trap Pond State Park swimming area~~

beach;

3.1.6.3 ~~Holts Landing State Park beach; and~~

3.1.6.4~~2~~ Ocean beaches east of the dune

line.

3.1.7 No person shall collect, excavate, injure, destroy or appropriate prehistoric or historic artifacts or human skeletal remains from lands under the jurisdiction of the Division except with written permission from the Director. Violations under this paragraph may be charged under the provisions of 7 **Del.C.** §5306 or 7 **Del.C.** §5411.

3.1.7.1 Possession or use of tools or devices specifically designed for the excavation and removal of artifacts or human skeletal remains shall be deemed prima facie evidence of a violation of this Regulation and will be confiscated, held as evidence and be subject to forfeiture upon conviction.

3.1.8 In areas where activities such as rock climbing, rapelling or similar activities are permitted on lands administered by the Division a program fee/ registration may be required.

3.1.9 The Division maintains exhibits at the Brandywine Zoo, various Nature Centers and temporary exhibits to provide recreational interpretation to the public. The following regulations apply in these areas:

3.1.9.1 No person shall bring pets or other animals into the Zoo.

3.1.9.2 No person shall throw any object(s) at animals or into the animal enclosures.

3.1.9.3 No person shall feed or attempt to feed any animal other than persons designated by the Zoo Director.

3.1.9.4 No person shall harass or attempt to harass any of the zoo animals by making unreasonable sounds, gestures, movements or use any object to touch the animals.

3.1.9.5 No person shall attempt to cross any safety barriers to prevent the animals from coming into contact with the general public.

3.1.9.6 No person shall put or attempt to put any body parts in the animal enclosures.

3.1.9.7 No person shall throw any object(s) into any exhibit.

4.0 Campground Policy

4.1 The Division shall develop policies as necessary pursuant to Section 2.5.1 of these Regulations to ensure the safe and efficient operation of its campgrounds. Copies of the Campground Policy shall be kept on file in the park offices, posted in the campgrounds and will be made available to campers at the time of registration.

5.0 Vessel Regulations

5.1 No person shall launch or recover vessels from

waters within or bordering on State Park lands except at designated boat-launch areas or docks.

5.2 No person shall operate a vessel except at slow-no-wake speed on any pond, lake, canal or within any marina under the jurisdiction of the Division.

5.2.1 No person shall launch or operate a vessel powered by an internal combustion engine on Trussum Pond and Raccoon Pond.

5.3 All laws, rules and regulations as established by the Department governing boating in the State of Delaware shall apply to all ponds, lakes, rivers, canals, waterways, and marinas owned, leased, licensed or under the jurisdiction of the Division.

5.4 No person shall operate or use vessels of any type, including inflatable rafts, sailboats, rowboats and canoes on waters administered by the Division without one (1) Coast Guard approved lifejacket ~~or seat cushion~~ on board for each person.

5.4.1 Operators and passengers of Division rental canoes, sailboats, or kayaks or other watercraft rented or provided by the Division must wear a Coast Guard approved life jacket in the manner prescribed at all times while aboard such craft.

5.5 No person shall operate any vessel within fifty (50) feet of or through any designated public swimming area within any inland pond under the Division's jurisdiction.

5.6 No person shall operate any vessel within one hundred (100) feet of a swimmer, surfer, or any designated swimming or surfboarding area, any swimmer or surfer or the coastline of any ocean beach or inland bay unless designated for such purpose.

5.7 Vessels and/or trailers shall not be anchored, moored, beached, stored or left unattended between the hours of sunset and 8 a.m. on lands or waters administered by the Division without authorization of the Park Administrator, Superintendent or Marina Manager.

5.8 Swimming or diving from any vessel, including a seaplane is prohibited in waters under the jurisdiction of the Division.

5.9 A person renting a vessel from the Division shall comply with the manufacturer's rated capacity for such vessel.

5.10 Operation of a vessel in a negligent or reckless manner which could endanger life, limb, or property is prohibited.

5.11 Vessels shall not be permitted to dock at Cape Henlopen State Park fishing pier, Holts Landing State Parks fishing pier or at Fort Delaware dock except in an emergency or when in distress. The following stipulations must be adhered to:

5.11.1 Approval for emergency docking must be obtained from the Park Superintendent or Administrator either prior to docking or within eight (8) hours after docking.

5.11.2 A docking fee based on prevailing rates in the area will be paid by vessels docking at Cape Henlopen fishing pier, Holts Landing fishing pier, or at Fort Delaware Dock.

5.11.3 The owner and/or vessel master shall be responsible for any damage to the docks.

5.12 The parking or leaving of vessels, or vessel trailers in marina parking lots or marina areas overnight shall be prohibited unless prior written permission is given by the Marina Manager. This shall not apply to vessels and trailers legally stored within designated vessel storage areas or if the area is designated as a 24-hour facility by the Division.

6.0 Marinas

6.1 Any vessel entering the waters of any marina administered, operated, leased or licensed by the Division shall immediately come under the jurisdiction of the Division. All rules and regulations of the Division, in addition to the laws, rules and regulations governing vessels established by the Department and the U.S. Coast Guard shall apply.

6.2 No person shall dock or anchor a vessel within the waters of a marina complex administered, operated, leased or licensed by the Division unless the owner-master of such vessel pays such fees as required for dockage. Dockage contracts may be obtained from the marina office or from the Marina Manager. This regulation shall not apply to vessels docking at refueling stations to take on fuel.

6.2.1 In addition to any penalties assessed for violations of this Regulation, the owner or operator of the vessel shall also pay the dockage or anchorage fee.

6.3 Docking or anchoring of vessels will be permitted only in areas designated by the Marina Manager.

6.4 No major repair work, other than minor repairs and routine maintenance shall be performed on any vessel within a marina complex administered, operated, leased or licensed by the Division without the approval of the Marina Manager.

6.4.1 No major repair work shall take place on any vessel, except in such areas as designated by the Marina Manager.

6.5 Refueling of vessels will be permitted only at the designated refueling bulkhead stations. Distributors shall not deliver fuel to vessels docked in a marina administered, operated, leased or licensed by the Division.

6.5.1 No vessel shall dock or anchor at a refueling station except to take on fuel.

6.5.2 Vessels docked at refueling stations to take on fuel shall not be left unattended and shall be removed immediately upon completion of refueling.

6.5.3 Only the owner, master or a crew member shall remain on board during refueling. All passengers must disembark until refueling operations are completed.

6.5.4 All engines must be shut down during refueling.

6.5.5 Smoking or open flames are prohibited within fifty (50) feet of the refueling stations.

6.5.6 No person shall use any refueling station for the purpose of loading or unloading supplies or passengers, except when complying with 6.5.3 above.

6.5.7 No gasoline or diesel fuel shall be pumped or siphoned from any vessel within the marina complex without the Marina Manager's prior approval and then only within an approved area designated by the Marina Manager. Under no circumstances will fuel be removed while the vessel is docked within a slip.

6.6 No refuse, trash, oil or effluents shall be thrown or pumped overboard into the waters of a marina, channel approaches or other areas administered by the Division or Department.

6.6.1 Waste oil and used oil filters shall be transported in sealed containers and deposited in a waste oil tank located within the marina. Waste oil filters will be deposited in an oil filter receptacle located adjacent to the waste oil tank or other authorized recycle centers.

6.7 Disorderly conduct by vessel owners, their crew or guests shall be cause for cancellation of a pier dockage agreement and any assigned dock or mooring space.

6.8 Safety precautions must be observed and complied with in all marina areas administered by the Division.

6.8.1 Swimming or diving is prohibited from all piers, docks, bulkheads and vessels within marina waters.

6.8.2 Running or horseplay is prohibited on all piers, docks and bulkheads within the marina.

6.8.3 Fishing is prohibited from all piers, docks, bulkheads and vessels within marina waters.

6.8.4 Use of barbecue grills or other types of portable open flame cooking devices are prohibited on docks or vessels moored within the marina complex.

6.9 Fish cleaning is prohibited within a marina complex, except at authorized fish cleaning facilities that may be provided.

6.9.1 It is prohibited to throw or dump any fish remains, parts or pieces thereof, into the waters or onto the grounds of the marina except in receptacles provided for such purposes.

6.10 No person shall go aboard any vessel docked, anchored or stored within a marina complex, unless such person is accompanied by the owner or master, or has written permission from the owner or master of such vessel.

6.11 No person shall enter upon the grounds, waters, docks or piers of a marina from one-half (½) hour after sunset until one-half (½) hour before sunrise except authorized persons such as vessel owners, masters, crew members and passengers returning from or embarking on boating excursions for fishing or pleasure, or authorized persons residing aboard a vessel.

6.12 The parking or leaving of vessels or vessel trailers in marina parking lots or marina areas overnight shall

be prohibited unless prior written permission is given by the Marina Manager. This shall not apply to vessels and trailers legally stored within designated vessel storage areas.

7.0 Water sports

7.1 Persons swimming or sunbathing in areas administered by the Division shall be attired in acceptable swimwear, worn so as to prevent any indecent or lewd exposure of the person.

7.1.1 Males - must cover buttocks and genitals

7.1.2 Females - must cover buttocks, breasts and genitals

7.2 Swimsuits must be worn when using Division swimming pools. Cut-off jeans, trousers or other clothing not designed and sold as swimwear will not be permitted.

7.3 Lifeguards shall have the authority to enforce safety rules or policies that are deemed necessary for the protection of the public. Such rules shall be posted in a conspicuous place and shall be on file in the Park Administrator/Superintendent's office. Lifeguards shall have the authority to expel any person or persons who violate the Park Rules, Regulations and Policies. ~~Swimming outside of designated swimming areas is prohibited.~~

7.4 No ~~surfboarding~~ surfboards, sailboards, kayaks or similar watercraft shall be allowed in ~~other than~~ designated guarded surfboarding swimming areas ~~without permission of the Park Superintendent/Administrator~~ unless approved by the Director or their designee.

7.5 Water skiing or towing of any persons on any type of device, other than on another vessel, shall be prohibited on all non-tidal waters administered by the Division, except by written permission of the Director or designee.

7.6 Use of scuba diving equipment shall be prohibited in all waters administered by the Division, unless written permission is given by the Director. ~~or his authorized agent.~~

7.7 The possession of glass containers within any swimming area or on any beach administered by the Division shall be prohibited.

8.0 Ice Skating

8.1 No person shall ice skate or enter upon any frozen pond, lake or stream administered by the Division except on areas as may be designated by the Division.

8.2 Areas where ice skating is permitted by the Division shall be marked and no person shall be permitted on the ice outside of such designated area.

9.0 Snowmobiles

9.1 Snowmobiles used or operated on lands under the jurisdiction of the Department must be registered with the ~~Department~~ State of Delaware. Exempt from this requirement are snowmobiles owned by non-residents evidenced by a valid registration of another state, province, county or political subdivision thereof, or the United States.

9.2 Registration of a snowmobile hereunder shall not be deemed to grant permission for operation of a snowmobile on any public roadway or highway or on private property.

10.0 Surf Fishing Vehicles

10.1 The Division through its authorized agents shall collect an annual fee and issue an appropriate permit for each four (4) wheeled vehicle equipped for travel upon sand beaches for the purpose of surf fishing at Cape Henlopen State Park, Delaware Seashore State Park, Fenwick Island State Park, and Beach Plum Island.

10.1.1 Surf Fishing Vehicle Permits shall be issued only to those vehicles duly registered and licensed to operate on public highways.

10.1.2 Four (4) wheeled vehicles for purposes of this Section shall mean a vehicle equipped with four (4) wheels which makes contact with the road surface.

10.1.3 No Surf Fishing Permit shall be issued to any vehicle which measures less than seven (7) inches between the lowest point of the vehicle and the ground.

10.1.4 Surf fishing vehicles must be equipped with a shovel, jack, tow rope or chain, board or similar support for the jack and a low-pressure tire gauge.

10.1.5 Failure to possess adequate saltwater fishing tackle, bait and/or lures commonly used for surf fishing shall be deemed prima facie evidence of a violation of this regulation.

10.2 No person shall operate a vehicle upon the beach areas or dune crossings administered by the Division without a permit for such vehicle as set forth in Section 10.1.

10.3 The surf fishing vehicle plate must be properly displayed on the vehicle for which the permit was issued prior to operation on beach areas administered by the Division.

10.3.1 The surf fishing vehicle plate shall be affixed to the front of the vehicle.

10.3.2 The owner's copy of the permit receipt shall be available for inspection at all times when the vehicle is being operated on such beach areas.

10.4 It shall be unlawful to operate any vehicle on any authorized dune crossing or on any beach area administered by the Division at any speed that is greater than is reasonable and prudent under the conditions, and having regard to the actual and potential hazards then existing, but never exceeding 15 m.p.h. In every event, speed shall be controlled and limited to that speed necessary to maintain traction and steering.

10.5 ~~Operation or use of any permitted surf fishing vehicle on the beaches administered by the Division except for traveling to and from fishing areas for the purpose of actively engaging in surf fishing is prohibited. The capacity of the beaches administered by the Division to absorb the impact of vehicles, without substantial environmental~~

degradations and decreased quality of experience for all visitors is limited. Therefore, vehicle use on the designated beaches is restricted to persons actively engaged in surf fishing. Permitted surf fishing vehicle operation on the beaches administered by the Division for reasons other than traveling to and from fishing areas for the express purpose of actively engaging in surf fishing, is prohibited. Any permitted surf fishing vehicle parked for any period of time on the beaches administered by the Division, without one or more persons who arrived in that vehicle being actively engaged in surf fishing is prohibited. When no one who arrived in the surf fishing vehicle is actively engaged in surf fishing, the surf fishing vehicle shall exit the beach immediately. In addition to other penalties prescribed in these rules and regulations and by statute, violation of this subsection is grounds for suspension or revocation of the permit.

10.5.1 Use of a surf fishing permit for the purpose of commercial bait fishing is permitted on the beaches administered by the Division provided all conditions and requirements of said permit are met and a bait fishing permit is obtained from the Director.

10.6 The Division shall designate areas for surf fishing vehicle use on beaches under its jurisdiction. These areas shall be marked with symbol signs indicating 24-hour access, limited access and no access. Operation of a vehicle in an area not authorized for such use or during times and/or dates that the area is closed to vehicles shall be a violation of this regulation.

10.7 The use or operation of any vehicle whatsoever, on, over, or across the sand dunes on Division lands is expressly prohibited, except when it is a vehicle displaying a valid Delaware Surf Fishing Vehicle Permit and is crossing dunes at authorized dune crossings, which are designated and maintained for that purpose by the Division.

10.7.1 Any other use or operation of a vehicle on, over or across the primary sand dunes, except at authorized crossings, is expressly prohibited. Violators of this regulation may be charged under 7 Del. C. §6805(b) which carries a penalty of \$200 to \$5,000 or imprisonment for up to two years or both, in addition to reimbursing the Department for reasonable expenses in remedying damages created.

10.8 Beach areas, including surf fishing areas, may be closed to pedestrians and vehicles, in whole or in part, for resource protection or for health, welfare, and/or safety reasons for such a period as may be determined by the Department. Unauthorized entry into a posted and/or barricaded closed area shall be a violation of this regulation.

10.9 It shall be a violation of this Section to loan a Surf Fishing Vehicle Permit, or to use or attempt to use a Surf Fishing Vehicle Permit on any vehicle other than the vehicle it is assigned to. In addition to other action that may be taken, the permit will be confiscated and held as evidence.

10.10 The Director shall have the right to suspend

Surf Fishing Vehicle Permits for up to 90 days or to revoke permits for up to three (3) years for conviction of reckless operation of a surf fishing vehicle or operation of a surf fishing vehicle under the influence of alcoholic beverages and/or drugs on lands administered by the Division or for violations of these regulations.

11.0 Vehicles

11.1 Vehicles operated on lands administered by the Division shall be in compliance with all State statutes, laws, rules and regulations.

11.1.1 No person shall operate any motorized vehicle upon any lands administered by the Division, unless said vehicle is licensed for use upon public highways and roadways.

11.1.2 Vehicles operated on lands administered by the Division must be properly equipped with brakes, headlights, tail lights, tag light, turn signal, and horn all in good working order.

11.1.3 Towed trailers must have an adequate towing hook-up, complete with safety chains. They must also be equipped with operating tail lights, turn signals, tag light, and be currently registered to be towed on public roads.

11.2 No person shall operate a motor vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle upon any lands administered by the Division, unless said person has been issued and is the holder of a valid license or permit to operate said vehicle on public highways and roadways.

11.2.1 The license or permit shall be in the immediate possession of the licensee at all times when driving a motor vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle and he/she shall display same upon demand of Department Enforcement personnel.

11.3 No person shall authorize or permit a motor vehicle of any type owned by him or under his control to be driven by any person on lands administered by the Division, knowing that said person has no legal right to do so, or shall authorize or permit said vehicle to be driven in violation of any of the provisions of the Division's Rules and Regulations.

11.4 When on lands administered by the Division, the driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle, the traffic and the condition of the roadway or area.

11.5 Every driver shall yield preferential right-of-way at an intersection or other place indicated by stop signs or yield signs authorized and installed by the Division.

11.5.1 Except when directed to proceed by an enforcement officer or traffic control device, every driver of

a vehicle approaching a stop intersection indicated by a stop sign shall come to a complete stop before entering the intersection.

11.5.2 The operator of any vehicle who has come to a full stop, as provided in 11.1.1 of this Regulation, shall not enter upon or across such intersection until such movement can be made in safety.

11.6 Specific motor vehicle speed limits on lands administered by the Division:

11.6.1 Every driver shall observe all posted speed limits. When no special hazard exists the following speed shall be lawful, but any speed in excess of such limits shall be absolute evidence that the speed is not reasonable or prudent and that it is a violation of this Section:

11.6.1.1 25 m.p.h. -- on roads administered by the Division unless otherwise posted or stated in Regulations.

11.6.1.2 10 m.p.h. -- in parking, camping and congested areas unless otherwise posted.

11.7 No person shall operate a motor vehicle on lands administered by the Division in a ~~careless or imprudent manner without due regard for road, weather and traffic conditions~~ willful or wanton disregard for the safety of person or property.

11.7.1 No person shall operate a motor vehicle on lands administered by the Division in a careless, inattentive or imprudent manner without due regard for road, weather and traffic conditions.

11.7.2 The intentional accelerating of a motor vehicle causing spinning of tires or what is commonly known as "burning rubber" on any park facility or roadway within an area administered by the Division is prohibited and shall be a violation of this Section.

11.8 An operator and/or passenger of a motorcycle under the age of 18 must wear a safety helmet of a type approved by the Secretary of Public Safety.

11.9 An operator of a motor vehicle shall not permit any person riding upon any bicycle, coaster, roller skates, sled or toy vehicle to attach same or himself to any motor vehicle being operated on lands administered by the Division.

11.10 While on lands administered by the Division, no person, shall ride upon any vehicle without the consent of the driver, and when any person is riding on any vehicle with the driver's consent, no part of the person's body may protrude beyond the limits of the vehicle.

11.11 No person shall drive or operate a motor vehicle on lands administered by the Division, unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

11.12 No vehicle shall be driven, moved or parked on any lands administered by the Division unless so loaded or constructed as to prevent its contents from dropping, sifting,

leaking or otherwise escaping.

11.13 It shall be unlawful for any person to operate any motor vehicle or any other type of vehicle within any area administered by the Division except on such roads or areas specifically designated by the Division for such purpose.

11.14 No driver shall at any time drive to the left of a solid center line on a roadway when operating a vehicle on lands administered by the Division.

11.15 Where traffic control devices establish one-way traffic, it shall be unlawful to drive in the opposite direction unless directed by a Law Enforcement Officer.

12.0 Parking Violations

12.1 It shall be unlawful to stop, park or leave unattended any motor vehicle on any roadways, berms, trails, no parking zones or in any other areas not specifically designated as a parking area on lands administered by the Division.

12.1.1 No person shall park any vehicle in a parking space marked or signed as a designated handicap parking space unless such vehicle bears a special handicap license plate or displays an authorized identification card indicating that the vehicle is a vehicle of the handicapped and bearing the license number of the vehicle to which it was issued.

12.1.2 No person shall allow park a vehicle and allow said vehicle to remain parked in an area longer than the posted time limit.

12.1.3 No person shall park in any parking space that is signed and marked as reserved for a Park Ranger, emergency vehicles or employee parking.

12.1.4 No person shall park in a "Restricted Use Parking Area" unless parking is for the use of the facility so designated.

12.1.5 No person shall park in any fire lane or within fifteen (15) feet of a fire hydrant.

12.1.6 No person shall park a vehicle in any designated area without first having paid the appropriate rate, fee or charge established by the Division or Department.

12.2 It is said to be unlawful for any vehicle to remain on lands administered by the Division after "closing hours" for any day-use areas closed from sunset until 8 a.m.

12.3 It shall be unlawful to leave any motor vehicle unattended on lands administered by the Division for a period exceeding 24 hours, without prior notification to the Park Administrator or Superintendent or written approval from the Director.

12.4 Any officer empowered to enforce Division Rules and Regulations during the performance of his duties may remove or cause to be removed from any lands administered by the Division, at the owner's or operator's expense, any motor vehicle, camping unit, or part thereof,

parked or standing illegally or in violation of these regulations.

12.4.1 No vehicle or camping unit removed or caused to be removed pursuant to this Section shall be released until payment is made for such removal and/or storage and proper authority to process and operate said vehicle, camping unit or part thereof displayed by the person attempting to recover said vehicle, camping unit or part thereof.

12.4.2 No liability shall occur to the Division or its authorized agents for any damage or loss caused by such removal or storage.

12.5 A summons in appropriate form adopted by the Division may be attached to an unattended vehicle found in violation of any of the provisions of these Rules and Regulations.

12.5.1 If the identity of an operator of an unattended vehicle in violation is not otherwise apparent, the person in whose name the vehicle is registered shall be held prima facie responsible.

13.0 Bicycles

13.1 Anyone riding a bicycle or propelling a vehicle by human power shall have all the rights and all the duties applicable to the operator of any other vehicle referenced within these Regulations and shall be in compliance with all State laws, rules and regulations when operating on lands administered by the Division.

13.1.1 Bicycling is permitted only on roadways designated for public use, designated and signed bike paths and multiple-use trails designated and signed for such use.

13.1.2 Bicycles must be ridden as far to their right as possible on roadways.

13.1.3 Bicyclists must give hand signals when stopping or turning on Park roadways.

13.1.4 Bicycles operated on designated bike trails/paths shall yield right of way at all locations where the trail or path intersects with any roadway.

13.1.5 Bicycles operated at night shall be equipped with:

13.1.5.1 a lamp on the front which shall emit a white light and be visible for 500 feet.

13.1.5.2 Reflectors or reflectorized material on the rear and both sides visible from 600 feet.

13.1.6 No one shall operate a bicycle on Park roadways with ear plugs in both ears or while wearing a headset covering both ears.

14.0 Roller Skating, Skateboards, Roller Skis

14.1 Using roller skates, skateboards, roller skis or similar devices is prohibited on lands administered by the Division except in areas that may be designated for such use.

14.2 No person shall operate a motorized scooter, moped or similar device not defined in 21 Del.C. §101(53).

15.3 Persons on skateboards, roller skates, coasters, sleds or toy vehicles are prohibited from being towed or propelled by a motor vehicle on lands administered by the Division.

15.0 Aviation

15.1 No person shall voluntarily bring, land or cause to descend or alight on or upon any lands or waters administered by the Division any aircraft, flying machine, balloon, parachute or other apparatus for aviation except with the prior consent of the Director. "Voluntarily" shall mean for purposes of this paragraph anything other than a forced or emergency landing.

15.2 Flying of radio-controlled model aircraft or the launching of model rockets shall not be permitted in areas administered by the Division except in areas set aside and designated for such purposes. Special policies regarding insurance and operating conditions will be posted.

16.0 Domesticated Animals/Pets

16.1 No person shall ride or lead a horse through any area or upon any roadway, trail or path administered by the Division unless such area, trail, roadway or path is designated for such use by the Division.

16.1.1 Animal-drawn vehicles are permitted upon roadways and parking areas and shall be granted all the rights and shall be subject to all the regulations applicable to motor vehicles except for those regulations which by their very nature can have no application.

16.2 ~~Horses shall be permitted on ocean beach areas administered by the Division provided they stay within the same boundaries as those designated for surf fishing vehicles under 10.6.~~ In areas where horses are permitted on ocean beaches administered by the Division, owners/riders must stay within the parameters outlined in the Horseback Riding Policy.

16.2.1 ~~On State Park ocean beach areas, horses must use the surf fishing vehicle crossings for access to the beach. Use of pedestrian crossings or crossing the dunes at other areas is prohibited.~~ On State Park ocean beach areas, horses must use the designated crossings as outlined in the Horseback Riding Policy.

16.2.2 Vehicle and trailers used to transport horses shall be parked in accordance with the Division's Horseback Riding Policy.

16.3 Except guide dogs accompanying blind and/or deaf persons, dogs and other domesticated animals, shall not be permitted within or upon designated picnic areas, nature trails, public buildings, structures and any other designated areas administered by the Division.

16.3.1 Except guide dogs accompanying blind and/or deaf persons, dogs and other domesticated animals shall not be permitted upon or within any Division-administered swimming area, or swimming area

beach or surfboard/sailboard areas at anytime, day or night, from May 1 through September 30 each year, 7 Del.C. §1715.

~~16.3.2 On areas where such animals are permitted, person(s) having custody of said animal must have it restrained on a leash not to exceed six (6) feet in length and must be under proper control and not left unattended. Leashes are not required when lawfully hunting when lawfully hunting with a dog or when training dogs within designated and authorized hunting and/or dog training areas.~~

16.3.3 In areas where such animals are permitted, person(s) having custody of said animal must keep it restrained on a leash not to exceed six (6) feet in length and must be under proper control

16.3.4 Areas where such animals are permitted person(s) having custody of said animal shall not leave the pet unattended.

16.3.5 Any person(s) with a dog or other domesticated animal or pet, which that creates a nuisance or disturbance, or who fails to properly control such animals, may be evicted without refund or reduction of fee.

16.3.6 Owners or persons having custody of dogs or other domesticated animals shall be responsible for the clean up and removal of any animal feces deposited by the animal.

17.0 Conduct

17.1 Disorderly conduct is unlawful and enforcement action may be enforced taken against any person who intentionally causes public inconvenience, annoyance, nuisance, or alarm to any other person who creates a risk thereof by:

17.1.1 Engaging in fighting or in violent, tumultuous or threatening behavior;

17.1.2 Making an unreasonable noise or an offensively coarse utterance, gesture or display or addressing abusive language to any person present;

17.1.3 Disturbing any lawful assembly or meeting of persons without lawful authority;

17.1.4 Obstructing vehicular or pedestrian traffic;

17.1.5 Congregating with other persons and refusing to comply with a lawful order of an enforcement officer to disperse;

17.1.6 Creating a hazardous or physically offensive condition which serves no legitimate purpose; or

17.1.7 Engaging with at least one other person in a course of disorderly conduct, which is likely to cause substantial harm or serious inconvenience, annoyance or alarm and refuses or knowingly fails to obey an order to disperse made by an enforcement officer to the participants.

17.2 No person shall expose themselves in any manner which would be considered as indecent exposure or perform any lewd act which they know is likely to be

observed by others who would be affronted or alarmed by such act or exposure on lands or waters or in facilities administered by the Division.

17.2.1 The disposal of human body waste is prohibited except within designated facilities provided for that purpose.

17.3 Gambling is prohibited and no person shall bring any implement or device commonly used or intended for gambling purposes into any area administered by the Division, with the intention of engaging in a game of chance for money or other valuables.

17.4 Practicing, playing or using equipment pertaining to archery or golf on lands administered by the Division is prohibited except in those areas specifically designated for such use.

17.5 The playing of games on lands administered by the Division involving thrown objects such as hardballs, frisbees, horseshoes, etc. shall be restricted to such areas set aside for such activities.

17.6 While on lands administered by the Division shall, without a valid written permit, use any radio or other sound-producing device or article that, in any way, may annoy or disturb a reasonable person of normal sensitivities.

17.7 While on lands administered by the Division, no person shall at any time use a horn other than as a reasonable warning signal or make any unnecessary or unreasonable harsh sound by means of a horn or other amplified warning devices.

17.8 Reasonable quiet must be maintained at all times within all overnight facilities, particularly between the hours of 10 p.m. and 7 a.m. Unnecessary loud noises or disturbances of any nature, that are disturbing to others, shall be prohibited.

18.0 Fires

18.1 No person shall kindle, build, maintain or use a fire on lands administered by the Division, unless there is written permission from the Director or designee. Said fire ~~is~~ shall be in in a designated area and confined within fireplaces, grills, fire rings or other equipment designed for the purpose of containing cooking fires.

18.1.1 Any fire shall be under the care and direction of a competent person from the time it is kindled until it is extinguished.

18.1.2 All fires must be properly extinguished and the ashes, embers or coals disposed of in receptacles provided for such purpose, so as to cause no danger whatsoever to persons, structures, animals, ~~or~~ plant life, or vehicles.

18.1.3 Fires shall be prohibited on designated swimming/surfing area beaches administered by the Division.

18.1.4 No fires larger than necessary for cooking purposes shall be permitted.

18.1.5 Fires of any type or the use or possession of lanterns which use inflammable fuel, are not permitted on fishing piers.

~~19.0 Fireworks and Explosives~~

~~19.1~~ 18.2 The possession, explosion or discharge of any firecrackers, torpedoes, rockets or other fireworks or explosives in areas administered by the Division is prohibited, except with prior written permission of the Director.

~~20.0 Fuel Containers~~

~~20.1~~ 18.3 No person shall leave fuel containers open and/or unattended within boat launch areas, docks, piers, bulkheads or on lands under the jurisdiction of the Division.

19.0 Property Violations

19.1 It shall be unlawful to place, dump, deposit, throw or leave any garbage, refuse, trash, cans, bottles or other debris of any kind within or upon any public beach, lands or waters administered by the Division, except in receptacles provided for such purpose.

19.1.1 No person shall bring into a State Park from an area outside of the Park any garbage, refuse, waste, rubbish or obnoxious materials for the purpose of disposing of such in park litter receptacles.

19.2 Disposing or discharging of solid waste on lands or waters under the jurisdiction of the Division is prohibited. Violators may be charged under 7 Del.C. §6025(b).

19.3 Unless specifically authorized by the Department for management, research or educational purposes, the cutting, injuring or removal of trees, shrubs, wildflowers, ferns, mosses, or other plants from lands administered by the Division ~~and the defacing, damaging, removing or altering any structures, buildings, natural land features, or other park property or equipment, or the willful harming, collecting, or possessing of wildlife, flora or fauna is strictly prohibited.~~

19.4 Removal or defacing, damaging, removing or altering of any structures, buildings, natural-land features, or other park property or equipment from the lands administered by the Division is strictly prohibited.

19.5 The willful, harming, collecting, harassing or possessing of wildlife, flora, or fauna on lands administered by the Division is strictly prohibited.

19.6 Walking on, over or across a primary dune administered by the Division, except at locations specified by the Department or Division for such use, shall be prohibited.

19.7 Operating a motor vehicle in such a manner as to cause willful, wanton or reckless damage to lands administered by the Division, commonly known as "turfging", is prohibited and shall be a violation of this Section.

19.8 Use of dedicated state nature preserves shall be limited to posted trails and permitted activities. Property

violations are enforceable under these Rules and Regulations and 7 Del.C. Ch. 73.

20.0 Multiple Use Trails

20.1 Bicycle riders shall yield to horseback riders and/or hikers encountered on multiple use trails administered by the Division. Bike riders shall come to a complete stop and allow horseback riders and/or hikers to pass.

20.2 Horseback riders shall yield to hikers encountered on multiple use trails administered by the Division. The horseback rider shall stop and remain stopped until the hiker passes.

21.0 Public Assemblies, Meetings, Distribution and Posting of Printed Matter

21.1 In order to maintain the recreational nature of State Parks as a haven for the public from the rigors of work and the commercial environment, and to promote the State's interest in its concessions and sales to the public, no commercial advertising by the distribution or posting of printed matter, other than by the State or its concessionaires, shall be permitted in State Parks.

21.2 Public meetings, assemblies, gatherings, demonstrations and/or the distribution or posting of printed matter are permitted on lands administered by the Division provided that a permit or approval to do so has been issued by the Park Administrator or Superintendent.

21.3 An application for such a permit shall set forth the name of the applicant, the name of the organization (if any), the date, time, duration and the number of persons expected to attend or participate, the location of the proposed distribution or posting of printed matter, and a statement designating the equipment and facilities to be used in connection therewith. The application shall be submitted to the Park Administrator or Superintendent at least 72 hours in advance of the proposed event, distribution or posting.

21.4 Within 48 hours the Park Administrator or Superintendent shall ~~within 48 hours~~ issue a permit unless:

21.4.1 A prior application for a permit for the same time and location has been made, which has been or will be granted; and the activities authorized by that permit do not reasonably allow multiple occupancy of the particular area;

21.4.2 It appears that the event or the distribution or posting of printed matter will present a clear and present danger to the health or safety of park visitors and/or general public by inciting riots of public disturbances, or by encouraging injury to others, damage to property, or the violation of other's civil rights; or

21.4.3 The event or the distribution or posting is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for considering possible damage to park resources or facilities, impairment of a protected area's atmosphere of peace and

tranquility, interference with Park program activities or impairment of public use facilities.

21.5 The Park Superintendent or Administrator shall designate on a map, which shall be available in the Park office, the locations available for public assemblies and/or distribution or posting of printed matter. Locations may be designated as not available only if such activity would:

21.5.1 cause injury or damage to Park resources;

21.5.2 be contrary to the purposes for which the natural, historic, development and special use zones are maintained;

21.5.3 unreasonably interfere with interpretive, visitor service or other program activities or with the administrative function of the area; or

21.5.4 substantially impair the operation of public use facilities or services of concessionaires or contractors.

21.6 The permit may contain such conditions as are reasonably consistent with protection and use of the area for the purposes for which it is maintained.

21.7 Persons engaged in the distribution or posting of printed matter under this Section shall not obstruct or impede pedestrians or vehicles, harass visitors with physical contact or verbal demands, misrepresent the purposes or affiliations of those engaged in the distribution or misrepresent whether the printed matter is available without cost or donation.

21.8 A permit may be revoked under any of those conditions as listed in paragraph d of this Section which constitutes grounds for denial of a permit, or for violation of the terms or conditions of the permit, Park Regulations or Park Policies. Such a revocation shall be made in writing with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by a written confirmation.

22.0 Solicitations and Concessions

22.1 Vending of merchandise, services or food upon lands administered by the Division is prohibited without the express written approval of the Director.

22.2 No person shall solicit for money or goods or services on any lands administered by the Division without the written permission of the Director.

22.3. No person, group of persons, nor any business or commercial entity shall utilize parks or their facilities for business gain, whether for profit or otherwise, except those concessionaires or groups who have followed procedures, met established requirements, paid appropriate program charges and have been authorized by the Director.

23.0 Alcoholic Beverages and Drugs

23.1 The sale of alcoholic beverages without a permit from the Division of Alcoholic Beverage Control and

written permission from the Director is prohibited on lands and waters administered by the Division.

23.2 No person under the age of twenty-one (21) years shall possess or consume alcoholic beverages of any type. Any person suspected of being in violation of this subsection, and who fails to provide sufficient identification to prove otherwise may, in addition to any other action taken, be evicted without refund of any fee.

23.3 No person who is of legal age to possess or consume alcoholic beverages shall sell, give or in any way provide alcoholic beverages to a person under the age of twenty-one (21) years.

23.4 No person under the influence of alcohol, narcotics or any other drug, to the extent of being considered publicly intoxicated, shall enter or remain upon or within lands or waters administered by the Division.

23.5 The unlawful possession, use or consumption of narcotics, drugs, drug substances, or controlled substances and/or drug paraphernalia as listed and defined in Title 16, Delaware Code is expressly prohibited upon lands or waters or within facilities administered by the Division.

23.6 Unless authorized by the Director the possession, consumption, or public display of alcoholic beverages or intoxicating liquors within or upon the following areas is prohibited:

23.6.1 Brandywine Creek State Park -- Prohibited on all areas.

23.6.2 Fort Delaware State Park -- Prohibited on all areas.

23.6.3 Wilmington State Parks-Prohibited in all areas.

24.6.4 Fox Point State Park-Prohibited in all areas.

23.6.5 Specific Areas Within all State Parks -- All nature trails, nature preserves, youth camps public restrooms, bath houses, parking facilities, roadways, designated swimming areas, pools, surfing beach areas or other areas designated by the Director.

23.7 No person shall operate or be in actual physical control of any motorized vehicle, vessel, bicycle or any other means of conveyance while under the influence of alcohol or any drug.

23.7.1 Possession and/or use of any alcoholic beverage and/or drugs while aboard Division rental vessels shall be prohibited.

23.8 The bringing in of draft beer in kegs or by a vehicle equipped to dispense draft beer shall not be permitted upon lands administered by the Division without prior written permission from the Director.

24.0 Hunting, Fishing and Wildlife Management

24.1 No person shall hunt, pursue, trap, shoot, injure, kill or molest in any way by gun, archery equipment or dog any wild bird or animal on lands or waters

administered by the Division, nor shall any person have any such wild bird or animal in his possession; provided however, that such wild bird or animal was not hunted, pursued, trapped, injured or killed by gun, archery equipment or dog in areas designated by the Division for hunting when such hunting is lawful.

24.2 Hunting may be permitted in certain areas ~~as designated at times authorized~~ by the Division. ~~during legal game seasons set forth by the Division of Fish and Wildlife.~~ Hunting shall be in accordance with State and Federal laws, rules and regulations.

24.3 It shall be unlawful to display, possess or discharge firearms of any description, air rifles, B.B. guns, sling shots or archery equipment upon any lands or waters administered by the Division, except by those persons lawfully hunting in those areas specifically designated for hunting by the Division, or those with prior written approval of the Director.

24.4 ~~A Division Hunting Permit, A hunter registration card issued by the Division~~ in addition to a valid Delaware hunting license, is required for hunting on lands administered by the Division that are opened for hunting. ~~Permits~~ Hunting registration cards shall be issued by the Park Administrator or Park Superintendent and shall be valid for the entire hunting season unless revoked for violations of hunting laws, rules or regulations. All hunting activities shall be regulated by ~~permit~~ the registration card and all ~~permit card holders~~ shall abide by the conditions of ~~said permit(s)~~ the registration card. ~~The permit~~ This hunting registration card shall not be valid for deer hunting on any park where a drawing is held for assignment of deer stands or hunting areas. A special ~~permit~~ registration card is required in areas that regulate deer hunting by lottery. ~~Persons hunting on State Park lands without a valid Division Hunting Permit or a special Deer Hunting Permit, when required, shall be in violation of these Regulations.~~

24.4.1 ~~On~~ areas where elevated deer stands are provided, hunters must remain on their assigned stand during the shotgun season. Archery deer hunters must stay within the area assigned to their stand.

24.4.2 Trapping is prohibited except for management purposes as authorized by the Director.

24.4.3 Raccoon hunting is restricted to chase by dogs only, with firearms prohibited. Firearms are prohibited while raccoon hunting.

24.5 Persons under the influence of alcoholic beverages, liquors or drugs or possessing and/or consuming alcoholic beverages, liquors or drugs shall not be permitted to hunt on Division lands.

24.6 Fishing shall be permitted, in accordance with the laws and regulations as set forth by the Division of Fish and Wildlife. A fishing license is required for non-tidal waters.

24.6.1 Fishing is not permitted in designated

swimming areas and surfboard areas during day-use hours.

24.7 The disturbance of nesting or interference with the raising of young of wildlife, including amphibians, reptiles, birds or mammals on any lands or waters administered by the Division is prohibited.

24.7.1 The heronry at Pea Patch Island Nature Preserve shall be closed to the public ~~from April 15 to October 15 of each year round.~~ Entry without specific prior written authorization by the Division Director is prohibited.

24.8 No person, pet or vehicle shall be permitted to enter an area designated and posted by the Division as a bird-nesting/breeding area.

24.9 It shall be prohibited for any person to bring in or otherwise introduce any species of domestic or wild animal onto lands administered by the Division.

25.0 Rates, Fees and Charges

25.1 No person shall use or gain admittance to, or attempt to use or gain admittance to, any area or facilities for which a rate, fee, or charge is made by the Division or Department unless he/she pays the rate, fee or charge established by said Division or Department.

25.2 The purchase or resale of a daily entrance fee ticket, except through an authorized Division agent, is prohibited.

25.3 The use or attempt to use any altered daily entrance fee ticket is prohibited.

25.4 The vehicle permit for entering a State Park shall be affixed to a conspicuous place on the vehicle as designated by the Division. Adhesive backing on the permit shall be used to attach the permit to the vehicle. Use of any other material or device to attach the permit shall be prohibited.

26.0 Facility Rentals and Special Events

26.1 No person shall make use of or attempt to make use of any State Park pavilion or other facility which has been reserved, unless they are a member of the family or group reserving the pavilion or facility.

26.2 No person, group, or organization shall schedule, hold or conduct an activity or event that requires special arrangements, considerations and/or planning by the staff unless a written request is submitted to the Director or their designee for approval at least ~~72 hours~~ 7 days prior to the ~~holding~~ of the activity or event. ~~Such~~ Additional costs may be charged for special arrangements, considerations and/or planning may include but not be limited to traffic and crowd control, parking, special equipment use, and the use of facilities for activities other than their intended purposes.

27.0 Enforcement Powers

27.1 In accordance with the provision set forth in 7 **Del.C.** §4701(a)(8), the Division may employ personnel who shall have all the powers of investigation, detention and

arrest, conferred by law on peace officers, sheriffs, or constables for the enforcement of the Division Rules and Regulations.

27.2 Powers, duties and functions of ~~Environmental Protection Officers~~ Law Enforcement Officers of the Department of Natural Resources and Environmental Control:

27.2.1 In accordance with 29 **Del.C.** §8003(a), ~~Environmental Protection Officers~~ Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall see to the enforcement of all laws, regulations, rules, permits, licenses, orders and program requirements of the Department of Natural Resources and Environmental Control.

27.2.2 ~~Environmental Protection Officers~~ Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall have police powers similar to those of sheriffs, constables, peace officers and other police officers when enforcing the laws, rules, regulations, permits, licenses, orders and program requirements of the Department of Natural Resources and Environmental Control. Such police powers shall include, but not be limited to, powers of investigation, search, seizure, detention and arrest, conferred by law on sheriffs, constables, peace officers and other police officers.

27.2.3 ~~Environmental Protection Officers~~ Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall have the authority to serve and return summonses, subpoenas and warrants.

27.3 Each employee vested with the enforcement responsibility as authorized in paragraphs a and b shall be required to show proper identification as issued by the Department of Natural Resources and Environmental Control or other county or state law enforcement agencies.

27.4 No person shall willfully fail or refuse to comply with any lawful order or direction of any Enforcement Officer on lands or waters administered by the Division.

27.5 Anyone interfering with enforcement personnel during the performance of their duty in enforcing these regulations shall be cited for "interfering with enforcement personnel in the performance of his or her duty".

28.0 Penalty and Court Powers

28.1 In accordance with the provisions set forth in the 7 **Del.C.** §4702(a), violators of the Rules and Regulations promulgated by the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, shall be fined not less than \$25.00 nor more than \$250.00 and costs for each offense, or imprisoned not more than thirty (30) days or both. For each subsequent like offense, he/she shall be fined not less than \$50.00 nor more

than \$500.00. In addition to such fines, costs or imprisonment, any person who is convicted of any violation involving the damage, destruction or removal of property owned or administered by the State shall be required to make restitution to the Department for replacement or restoration of such property. Furthermore, in lieu of or in addition to the aforesaid penalties, the court may order violators convicted of violations involving the damage, destruction, or removal of State Park property to perform work projects in State Parks.

28.2 Justices of the Peace shall severally ~~throughout the State~~ have jurisdiction of violations of the Rules and Regulations of the Department of Natural Resources and Environmental Control, Division of State Parks and Recreation, throughout the state, with the condition that any person arrested for such violation be taken before the closest available magistrate in the county where such violation is alleged to have occurred. An arresting officer may issue a summons to any person arrested for any violation of these Rules and Regulations and have said person appear at a subsequent date at the Justice of the Peace Court which is the nearest available Justice of the Peace to the place of arrest during the regularly scheduled hours of said court. For the purposes of this Section, the summons for later appearance shall be sufficient to grant jurisdiction over the offense to the said nearest available Justice of the Peace. A Justice of the Peace is available when he is at his office or court.

28.3 Failure to answer any summons issued for violations of these Rules and Regulations shall result in an additional charge of Failure to Answer Summons.

28.4 Nothing contained herein shall preclude an action being brought in a court of equity for injunctive or other relief.

Effective Date:

These Amended Rules and Regulations are to take full force and effect at midnight, June 30, 2002

Adoption:

I, ~~Christophe A.G. Tulou~~, John A. Hughes, Secretary of the Department of Natural Resources and Environmental Control, hereby adopt and establish for the Division of Parks and Recreation the foregoing Rules and Regulations of the Department pursuant to Title 7, Delaware Code, Chapter 47, Subsection 4702(c).

Date John A. Hughes, Secretary
Department of Natural Resources and
Environmental Control

Symbol Key

Roman type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. [**Bracketed Bold language**] indicates text added at the time the final order was issued. [~~Bracketed stricken through~~] indicates language deleted at the time the final order was issued.

Final Regulations

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of Regulations. At the conclusion of all hearings and after receipt within the time allowed of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the Register of Regulations, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF PROFESSIONAL GEOLOGISTS**
Statutory Authority: 24 Delaware Code
Section 3606(1) (24 **Del.C.** 3606(1))

ORDER

The Board of Geology of the State of Delaware (“the Board”) held a properly noticed, public hearing on February 6, 2004, to receive comment on a proposed amendment to Board regulation 6.8.3. (Attached to this Order as “Exhibit A”). No members of the public appeared for comment. No written comments were received by the Board.

Based upon the evidence received, the Board finds the following facts to be supported by the the evidence.

1. This change will increase the availability of C.E.U.’s.

THE LAW

The Board of Geology’s rulemaking authority is provided by 24 **Del.C.** §3606(1) that states:

The Board of Geologists shall have authority to:

- (1) Formulate rules and regulations, with appropriate notice to those affected.

DECISION

The Board hereby adopts the Regulation as proposed and a copy of the Regulation as adopted is attached to this order.

IT IS SO ORDERED, this 12th day of March, 2004.

William S. Schenck, President	Steven M. Smailer, VP
Dana Long	Theodore Ressler
Eric Trinkle	Stephen Williams.

6.0 Continuing Education

6.1 The Board will require continuing education as a condition of license renewal. Continuing education shall be waived for the first licensure renewal following the effective date of the Board’s Rules and Regulations.

6.2 The continuing education period will be from August 1st to July 31st of each biennial licensing period.

6.3 Each licensed geologist shall complete, biennially, 24 units of continuing education as a condition of license renewal. The licensee is responsible for retaining all certificates and documentation of participation in approved continuing education programs. Upon request, such documentation shall be made available to the Board for random audit and verification purposes 60 days prior to renewal. A continuing education unit is equivalent to one contact hour (60 minutes), subject to the Board’s review. The preparing of original lectures, seminars, or workshops in geology or related subjects shall be granted one (1) contact

hour for preparation for each contact hour of presentation. Credit for preparation shall be given for the first presentation only.

6.4 A candidate for renewal may be granted an extension of time in which to complete continuing education hours upon a showing of hardship. "Hardship" may include, but is not limited to, disability; illness; extended absence from the jurisdiction; or exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period for which it is made.

6.5 Continuing education shall be prorated for new licensees in the following manner:

6.5.1 If at the time of renewal, a licensee has been licensed for less than one year, no continuing education is required; if he/she has been licensed for more than one year, but less than two years, twelve of the twenty-four hours will be required; if he/she has been licensed for two years or more the full twenty-four hours is required.

6.6 In his/her personal records, each licensee must keep proof of attendance for each activity listed on the CE log form. If the Board conducts an audit of a licensee's CE records, the Board will request the licensee's documentation of attendance to the CE event listed on the form. Failure to submit proof of attendance during an audit will result in loss of CE credit for that event.

6.7 Continuing education must be in a field related to Geology. Approval will be at the discretion of the Board. CEUs earned in excess of the required credits for the two-(2) year period may not be carried over to the next biennial period.

6.8 Categories of Continuing Education & Maximum Credit Allowed:

- 6.8.1 Courses – 24 CEUs
- 6.8.2 Professional Meetings & Activities/Field Trips – 12 CEUs
- 6.8.3 ~~Peer Reviewed Publications – 12 CEUs~~
Peer Review of (12 CEUs) or Peer Reviewed Geologic Publications (12 CEUs)
- 6.8.4 Presentations – 12 CEUs
- 6.8.5 Research/Grants – 12 CEUs
- 6.8.6 Specialty Certifications – 12 CEUs
- 6.8.7 Home Study Courses – 12 CEUs
- 6.8.8 Teaching – 12 CEUs
- 6.8.9 Service on a Geological Professional Society, Geological Institution Board/Committee or Geological State Board – 6 CEUs
- 6.8.10 For any of the above activities, when it is possible to claim credit in more than one category, the licensee may claim credit for the same time period in only one category.

6.9 Automatic Approval for course work sponsored by the following Professional Societies:

- 6.9.1 American Association of Petroleum

- Geologists (AAPG)
- 6.9.2 American Association of Stratigraphic Palynologists (AASP)
- 6.9.3 American Geological Institute (AGI)
- 6.9.4 American Geophysical Union (AGU)
- 6.9.5 American Institute of Hydrology (AIH)
- 6.9.6 American Institute of Professional Geologists (AIPG)
- 6.9.7 Association of American State Geologists (AASG)
- 6.9.8 Association of Earth Science Editors (AESE)
- 6.9.9 Association of Engineering Geologists (AEG)
- 6.9.10 Association of Ground Water Scientists & Engineers (AGWSE)
- 6.9.11 Association of Women Geoscientists (AWG)
- 6.9.12 Clay Mineral Society (CMS)
- 6.9.13 Council for Undergraduate Research-Geology Div. (CUR)
- 6.9.14 Geologic Society of America (GSA)
- 6.9.15 Geoscience Information Society (GIS)
- 6.9.16 International Association of Hydrogeologists/US National Committee (IAH)
- 6.9.17 Mineralogical Society of America (MSA)
- 6.9.18 National Association of Black Geologists and Geophysicists (NABGG)
- 6.9.19 National Association of Geoscience Teachers (NAGT)
- 6.9.20 National Association of State Boards of Geology (ASBOG)
- 6.9.21 National Earth Science Teachers Association (NESTA)
- 6.9.22 National Speleological Society (NSS)
- 6.9.23 Paleontological Research Institution (PRI)
- 6.9.24 Paleontological Society (PS)
- 6.9.25 Seismological Society of America (SSA)
- 6.9.26 Society of Economic Geologists (SEG)
- 6.9.27 Society of Exploration Geophysicists (SEG)
- 6.9.28 Society of Independent Professional Earth Scientists (SIPES)
- 6.9.29 Society for Mining, Metallurgy, and Exploration, Inc. (SME)
- 6.9.30 Society for Organic Petrology (TSOP)
- 6.9.31 Society for Sedimentary Geology (SEPM)
- 6.9.32 Society of Vertebrate Paleontology (SVP)
- 6.9.33 Soil Science Society of America (SSSA)
- 6.9.34 Other professional or educational organizations as approved periodically by the Board.
- 6.10 Courses not pre-approved by the Board may be submitted for review and approval throughout the biennial licensing period.

Note: Since regulation 6.9 provides the list of sponsors that are automatically approved by the Board for any course work used for Continuing Education units (CEU) towards the total of 24 CEUs in the biennial license period, please note that regulation 6.10, allowing for pre-approval of courses for CEUs, only pertains to courses NOT offered by a sponsor listed in the list provided in regulation 6.9. Furthermore, one CEU = one Contact Hour.

*** PLEASE NOTE: AS THE REST OF THE REGULATIONS WERE NOT AMENDED, THEY ARE NOT BEING PUBLISHED.**

DEPARTMENT OF EDUCATION

14 DE Admin. Code §122

Statutory Authority: 14 Delaware Code,
Section 220 (14 Del.C. §2200)

Regulatory Implementing Order

511 Credit Requirements for High School Graduation 515 High School Diplomas and Certificate of Performance

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the consent of the State Board of Education to amend regulations 511 Credit Requirements for High School Graduation, 515 High School Diplomas and Certificate of Performance and 520 Options for Awarding Credit Toward High School Graduation by combining them into a single regulation, 505 High School Graduation Requirements and Diplomas. Regulation 520 Options for Awarding Credit Toward High School Graduation was under review as per the five year review cycle and the Department decided that combining these three regulations was a more efficient and helpful method of presenting the regulatory material contained in these regulations. In 2.1.5 of 505 the words nationally accredited were removed from correspondence schools because the meaning was not universally understood and in addition, schools and districts make the primary decision as to the quality of any correspondence schools under consideration for use for high school credit. In 2.1.7 of 505 a line was added to require that middle school credit granted toward high school graduation in one school district or charter school will be accepted in another district or charter school.

This regulation was re-advertised in order to include charter schools in the regulation and to insert new language in 2.1 of 505 to assure that school districts and charter schools (if they choose to do so) have local policies concerning other means of accruing credit toward graduation

than seat time. The change also requires that if local districts or charter school governing boards have multiple high schools that they all follow the same policy.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on January 23, 2004 in the form hereto attached as *Exhibit "A"*. Comments were received from the Governors Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. Both groups endorsed the proposed regulation but did recommend enhancing the graduation requirements for health and physical education. The Department does not currently plan to add to the current graduation requirements for health (½ credit) and physical education (1 credit). It should be noted the 14 DE Admin.Code 851 K-12 Comprehensive Health Education Program sets forth extensive requirements including hours per grade level for health education and family life education.

At the request of the State Board of Education the language in 2.16 of 505 Distance Learning Courses, was rewritten for clarity.

II. Findings of Facts

The Secretary finds that it is appropriate to amend this regulation in order to do the following: combine these three regulations into a single regulation; remove the words nationally accredited from the words correspondence schools; add the requirement that middle school credit granted toward high school graduation in one school district or charter school will be accepted in another district or charter school; include charter schools in the regulation and assure that school districts and charter schools (if they choose to do so) have local policies concerning other means of accruing credit toward graduation than seat time. The change also requires that if local districts or charter school governing boards have multiple high schools that they all follow the same policy.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend the regulation. Therefore, pursuant to 14 Del.C. §122, the regulation attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), the regulation 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 the regulation amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 DE Admin.Code §505 in the *Regulations of 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 March 18, 2004. 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 18th day of March 2004.

DEPARTMENT OF EDUCATION

Valerie A. Woodruff, Secretary of Education

APPROVED THIS 18TH DAY OF MARCH 2004

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President
Jean W. Allen, Vice President
Richard M. Farmer, Jr.
Mary B. Graham, Esquire
Valarie Pepper
Dennis J. Savage
Dr. Claibourne D. Smith

511—Credit Requirements for High School Graduation

~~1.0 No public school student shall be granted a State of Delaware Diploma unless such student shall have successfully completed a minimum of twenty-two credits in order to graduate including:~~

~~4 credits in English Language Arts, 3 credits in mathematics, 3 credits in science, 3 credits in social studies, 1 credit in physical education, 1/2 credit in health, 1 credit in computer literacy, 3 credits in a career pathway, and 3 1/2 credits in elective courses.~~

~~1.1 Definitions:~~

~~1.1.1 "Credit" means a minimum of 135 hours of actual classroom instruction or a demonstration of competency.~~

~~1.1.2 "Credit for Computer Literacy" means credit granted toward graduation at any point when the student can demonstrate competency in the required skill areas either through an integrated approach, a specific course, or a demonstration of accumulated knowledge over the student's educational career.~~

~~1.1.3 "Career Pathway" means a planned program of sequenced or specialized courses designed to develop knowledge and skills in a particular career or academic area.~~

~~2.0 Local school boards may establish requirements over and above the minimum number of credits required by the~~

State Department of Education.

See 4 DE Reg. 995 (12/1/00)

515—High School Diplomas and Certificate of Performance

~~1.0 A State sanctioned diploma shall be granted to students who meet the state and local district requirements for graduation pursuant to regulation 511 Credit Requirements for High School Graduation and to 14 Del. C. §152(b)(c)and(d).~~

~~2.0 A State sanctioned certificate of performance will be granted to students who meet the requirements of 14 Del. C. §152 (e).~~

~~3.0 Diplomas from one school year shall not be issued after December 31 of the next school year.~~

~~4.0 Duplicate diplomas or certificates of performance will not be issued, but legitimate requests for validation of the diploma or the certificate of performance will be satisfied through a letter of certification. Requests for diploma information from graduates of Delaware high schools should be directed to the high school the student was attending at the time of graduation. If the school does not have the records then the student should contact the Department of Education in Dover for a notarized letter of certification that contains the name of the applicant, the name of the school, the date of graduation, and the diploma registry number (if available).~~

~~5.0 State High School Diploma for World War II veterans pursuant to 14 Del. C. § 159 (a) (b) (c)-~~

~~5.1 "World War II Veteran" means any veteran who performed wartime service between December 7, 1941 and December 31, 1946. If the veteran was in the service on December 31, 1946, continuous service before July 16, 1947 is considered World War II.~~

~~5.2 The Department of Education shall provide a high school diploma to any World War II veteran who:~~

~~5.2.1 Left a Delaware high school prior to graduation in order to serve in the armed forces of the United States.~~

~~5.2.2 Did not receive a high school diploma, or received a G.E.D., as a consequence of such service and,~~

~~5.2.3 Was discharged from the armed forces under honorable circumstances.~~

~~5.3 The diploma may also be awarded posthumously if the deceased veteran meets the qualifications in 4.2.1 through 4.2.3.~~

~~5.4 Applications for this high school diploma shall be made on forms designated by the Delaware Department of Education and the Delaware Commission of Veterans Affairs~~

and shall have a copy of the candidate's honorable discharge papers attached to the application.

See 5 DE Reg. 625 (9/1/01)

520 Options for Awarding Credit Toward High School Graduation

1.0 The following options are approved by the Department of Education as means for awarding credit toward high school graduation. In all cases listed the option or options selected shall be approved ahead of time by the local school board or their designee(s) and shall incorporate the appropriate state content standards.

1.1 Courses taken at or through an accredited community college, two or four year college.

1.2 Voluntary community service as defined in 14 Del.C. §§ 8901A, 8902A.

1.3 Supervised work experience in the school and the community which meets the educational objectives or special career interest of the individual student.

1.4 Independent Study.

1.5 Nationally Accredited Correspondence Courses.

1.6 Distance Learning Courses. These courses may be synchronous or asynchronous via videos or online format.

1.7 High school courses taken while in the middle school in conjunction with an articulated agreement between the district middle school and the district high school(s).

1.8 Course credit transferred from another high school.

1.9 Course credit earned through summer or evening school classes, as a member of the military service and/or as part of the James H. Groves Adult High School.

1.10 Tutoring programs taught by a teacher certified in the subject being taught.

1.11 Course credit awarded by agencies or instrumentalities of the state other than public schools which provide educational services to students. A description of the program provided to the student, grades given, and the number of clock hours of instruction or a demonstration of competency must be provided to the school district prior to receipt of credit.

See 2 DE Reg. 1542 (3/1/99)

505 High School Graduation Requirements and Diplomas

1.0 Credit Requirements

1.1 No public school student shall be granted a State of Delaware Diploma unless such student shall have successfully completed a minimum of twenty-two credits in order to graduate including: 4 credits in English Language Arts, 3 credits in mathematics, 3 credits in science, 3 credits in social studies, 1 credit in physical education, 1/2 credit in health, 1 credit in computer literacy, 3 credits in a career pathway, and 3 1/2 credits in elective courses.

1.2 Definitions:

"Career Pathway" means a planned program of sequenced or specialized courses designed to develop knowledge and skills in a particular career or academic area.

1.3 Local school boards and [charter schools charter school boards] may establish requirements over and above the minimum number of credits required by the State Department of Education.

"Credit" means a minimum of 135 hours of actual classroom instruction or a demonstration of competency.

"Credit for Computer Literacy" means credit granted toward graduation at any point when the student can demonstrate competency in the required skill areas either through an integrated approach, a specific course, or a demonstration of accumulated knowledge over the student's educational career.

See 4 DE Reg. 995 (12/1/00)

2.0 Options for Awarding Credit Toward High School Graduation

2.1 Local school boards and charter school boards of directors are authorized to award credit toward high school graduation for the following activities, on the condition that the activities incorporate any applicable state content standards. Before awarding credit for any of the following activities, the local school board or charter school board of directors shall have adopted a policy approving the activity for credit and establishing any specific conditions for the award of credit for the activity. Such policy shall be applicable to each school within the district or governed by the charter school board of directors.

2.1.1 Courses taken at or through an accredited community college, two or four year college.

2.1.2 Voluntary community service as defined in 14 Del.C. §§ 8901A, 8902A.

2.1.3 Supervised work experience in the school and the community which meets the educational objectives or special career interest of the individual student.

2.1.4 Independent study.

2.1.5 Correspondence Courses.

2.1.6 Distance learning courses. These courses may be [synchronous or asynchronous via videos or online format, delivered by the teacher to the learner in real time, online or by video].

2.1.7 High school courses taken while in the middle school in conjunction with an articulated agreement between the district middle school and the district high school(s). Such credit shall also transfer to a high school in another district.

2.1.8 Course credit transferred from another high school.

2.1.9 Course credit earned through summer or evening school classes, as a member of the military service and/or as part of the James H. Groves Adult High School.

2.1.10 Tutoring programs taught by a teacher certified in the subject being taught.

2.1.11 Course credit awarded by agencies or instrumentalities of the state other than public schools which provide educational services to students. A description of the program provided to the student, grades given, and the number of clock hours of instruction or a demonstration of competency must be provided to the school district prior to receipt of credit.

See 2 DE Reg. 1542 (3/1/99)

3.0 High School Diplomas and the Certificate of Performance

3.1 A State sanctioned diploma shall be granted to students who meet the state and local district or charter school requirements for graduation pursuant to regulation 14 Del. C. §152 (a) (b) (c) and (d).

3.2 A State sanctioned certificate of performance will be granted to students who meet the requirements of 14 Del.C. §152 (e).

3.3 Diplomas from one school year shall not be issued after December 31 of the next school year.

3.4 Duplicate diplomas or certificates of performance will not be issued, but legitimate requests for validation of the diploma or the certificate of performance will be satisfied through a letter of certification. Requests for diploma information from graduates of Delaware high schools should be directed to the high school the student was attending at the time of graduation. If the school does not have the records then the student should contact the Department of Education in Dover for a notarized letter of certification that contains the name of the applicant, the name of the school, the date of graduation, and the diploma registry number (if available).

3.5 State High School Diploma for World War II veterans pursuant to 14 Del.C. §159 (a) (b) (c)).

3.5.1 "World War II Veteran" means any veteran who performed wartime service between December 7, 1941 and December 31, 1946. If the veteran was in the service on December 31, 1946, continuous service before July 16, 1947 is considered World War II.

3.5.2 The Department of Education shall provide a high school diploma to any World War II veteran who:

3.5.2.1 Left a Delaware high school prior to graduation in order to serve in the armed forces of the United States.

3.5.2.2 Did not receive a high school diploma, or received a G.E.D., as a consequence of such service and.

3.5.2.3 Was discharged from the armed forces under honorable circumstances.

3.5.3 The diploma may also be awarded posthumously if the deceased veteran meets the

qualifications in 3.5.2.1 through 3.5.2.3.

3.5.4 Applications for this high school diploma shall be made on forms designated by the Delaware Department of Education and the Delaware Commission of Veterans Affairs and shall have a copy of the candidate's honorable discharge papers attached to the application.

See 5 DE Reg. 625 (9/1/01)

DEPARTMENT OF EDUCATION PROFESSIONAL STANDARDS BOARD

Repeal Of Certification Regulations 342, 373, 374, 383

Order Repealing Rules and Regulations

I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to repeal regulations 342, 373, 374, and 383 from the *Regulations of the Department of Education*. All regulations listed concern the requirements for certification of educational personnel. As part of a continuing effort to reduce the number of regulations which govern virtually every aspect of State government, it is recommended that the above-referenced regulations be repealed. The incidence of issuance of certificates pursuant to these regulations is extremely low, and all individuals are eligible to hold other certificates. All areas are incorporated into other standard certificates.

Notice of the proposed repeal of the regulations was published in the News Journal and Delaware State News on January 21, 2004, in the form hereto attached as Exhibit "A". The notice invited written comments. Written comments were received regarding regulations 364 and 365. As a result of those comments, it has been decided to take no action to repeal regulations 364 Certification Interpreter Tutor for the Hearing Impaired and 365 Certification Resident Advisor. No written comments were received regarding regulations 342, 373, 374, or 383.

II. Findings of Facts

The Professional Standards Board and the State Board of Education find that it is appropriate to repeal these regulations as the incidence of issuance of certificates pursuant to these regulations is extremely low, and all individuals are eligible to hold other certificates.

III. Decision to Repeal the Regulations

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude the identified regulations should be repealed. Therefore, pursuant to 14 **Del.C.** §1203 and §1205(b), the regulations attached hereto as Exhibit "B" are hereby repealed.

IV. Text and Citation

The text of the regulations 342, 373, 374 and 383, attached hereto as Exhibit "B" are repealed, and said regulations shall be deleted from the *Regulations of the Department of Education*.

V. Effective Date of Order

The effective date of this Order shall be ten (10) days from the date this Order is published in the **Delaware Register of Regulations**.

APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 5TH DAY of MARCH, 2004

Harold Roberts, Chair	Leslie Holden
Sharon Brittingham	Carla Lawson
Heath Chasanov	Mary Mirabeau
Patricia Clements	John Pallace
Edward Czerwinski	Karen Schilling Ross
Karen Gordon	Carol Vukelich
Barbara Grogg	Geraldine A. Williams
Bruce Harter	

FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED This 18th Day Of March, 2004

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President
 Jean W. Allen, Vice President
 Richard M. Farmer, Jr.
 Mary B. Graham, Esquire
 Valarie Pepper
 Dennis J. Savage
 Dr. Claibourne D. Smith

~~342 Endorsement Trade And Industrial (T&I) Teacher~~

~~Special Education Teacher Endorsement
 Effective July 1, 1993~~

~~1.0 The following shall be required for the Standard Endorsement~~

~~1.1 A Standard License in Trade and Industrial Education and;~~

~~1.2 Twelve semester hours of college-level coursework~~

~~to include the following:~~

~~1.2.1 Introduction/Education of Exceptional Children~~

~~1.2.2 Methods/Curriculum for Exceptional Children~~

~~1.2.3 Diagnosis/Assessment of Exceptional Children~~

~~1.2.4 Behavior Management/Applied Behavior Analysis~~

~~2.0 Endorsements that may be issued for this position include Standard Endorsement and Limited Standard Endorsement.~~

~~The Limited Standard Endorsement may be issued upon request of a Delaware public school district for a teacher employed for this position who meets the standards set forth in 2.3 of regulation 301 General Regulations for Certification of Professional Public School Personnel.~~

~~364 Certification Interpreter Tutor For The Hearing Impaired~~

~~Effective July 1, 1976~~

~~1.0 The following shall be required for the Standard License~~

~~1.1 High school or college graduate and;~~

~~1.2 Registered member of Interpreters of the Deaf (National) and/or Licensed as a teacher for the deaf and;~~

~~1.3 Adequate competency in the language of signs and finger spelling receptively and expressively as determined by an agency authorized by the Delaware Department of Education.~~

~~2.0 The License that may be issued for this position is the Standard License.~~

~~365 Certification Resident Advisor (Houseparent)~~

~~Effective July 1 1993~~

~~1.0 The following shall be required for the Standard License.~~

~~1.1 Bachelor's degree from an accredited college and;~~

~~1.2 Demonstrated competency in manual communications as determined by employer and;~~

~~1.3 Professional Education~~

~~1.3.1 Completion of a program in teacher education in any area or;~~

~~1.3.2 A Minimum of 18 semester hours from at least 4 of the following areas: Survey/Introduction/Psychology/Education of Exceptional Children Child Growth and Development/Human Development Behavior Problems/Behavior Management/Behavior Disorders/Behavior Modification Educational Psychology/Psychology of Learning/Learning Theory/Child Psychology/Psychology of Adolescence Interpersonal Relationships/Functioning~~

~~Principles and Practices of Guidance/Guidance in the Classroom/Tools and Techniques of Counseling/Group Counseling Alternative Communications Audiology Manual Communications Course(s) in any specific disability of Exceptional Children~~

~~2.0 The following shall be required for the Limited Standard License (not renewable)~~

~~2.1 This License may be issued for a period of three years at the request of a Delaware public school district to a person who meets the requirements listed below and who is employed as a Resident Advisor to allow for the completion of the requirements for the Standard License in 1.0:~~

~~2.1.1 Requirements of 1.1 and;~~

~~2.1.2 Completion of minimum nine semester hours as listed in 1.3.1.1.~~

~~3.0 Licenses that may be issued for this position include Standard and Limited Standard.~~

~~**373 Certification Coordinator, Cooperative Occupational/Vocational Education And/Or Work Study Programs**
Effective July 1, 1993~~

~~1.0 The following shall be required for the Standard License
1.1 Bachelor's degree from a regionally accredited college and;~~

~~1.2 Specialized Professional Preparation~~

~~1.2.1 Meets certification requirements for Standard License in the area of one of these specific occupational vocational fields: Agriculture, Business and Office Education, Marketing Education, Technology Education, Health Occupations, Family and Consumer Science and/or other acceptable vocational baccalaureate degree programs and;~~

~~1.3 Experience~~

~~1.3.1 Two thousand hours of related work experience in organizations/businesses related to the area of the specific occupational/vocational fields stated above. The related work experience may consist of prior full time and/or full time part time work in the different organizations. (See Trade and Industry License for an exception related to that License.)~~

~~2.0 The license that may be issued for this position is the Standard License.~~

~~**374 Certification Counselor Career Guidance And Placement**
Effective July 1, 1993~~

~~1.0 The following shall be required for the Standard License
1.1 Master's degree from a regionally accredited college and;~~

~~1.2 Eligibility for a Standard License as a Secondary~~

~~School Counselor and;~~

~~1.3 One calendar year (twelve months) of full time (or equivalent permanent part time) occupational experience in a non-educational setting.~~

~~2.0 The following shall be required for the Limited Standard License~~

~~2.1 The limited Standard License shall be issued for a period of three years at the request of a Delaware public school district to allow for the completion of the requirements for the Standard License as described 1.0.~~

~~2.1.1 Bachelor's degree from a regionally accredited college and;~~

~~2.1.2 A minimum of three years of professional experience in a secondary school setting; or three years of appropriate experience as approved by the Department of Education; or a supervised school counseling internship of one full year in a secondary school setting which is part of a graduate degree program in secondary school counseling or arranged through the Department of Education. The internship experience may be completed over a two year period on a half time basis and;~~

~~2.1.3 One calendar year (twelve months) of full-time (or equivalent permanent part-time) occupational experience in a non-educational setting and;~~

~~2.1.4 Specialized Professional Preparation of a minimum of one graduate level course in each of the following areas: Principles and Practices of the Guidance Program, Individual Counseling Skills, Group Counseling Skills, Career Development, Individual and Group Testing for Counselors.~~

~~3.0 Licenses that may be issued for this position include Standard and Limited Standard.~~

~~**383 Certification Visiting Teacher**
Revised July 1, 1994~~

~~1.0 The following shall be required for a Standard License
1.1 Bachelor's degree from a regionally accredited college and;~~

~~1.2 Three years of successful full-time experience in the school setting and;~~

~~1.3 Specialized Professional Preparation with a minimum of 15 semester hours of graduate level coursework with at least one course in each of the following:~~

~~1.3.1 Child Development~~

~~1.3.2 Family Systems/Family Counseling/
Family Therapy~~

~~1.3.3 Counseling Theory (to include both individual and group theory*)~~

~~1.3.4 Counseling Techniques (to include both individual and group techniques*)~~

~~1.3.5 Legal Issues in Education~~

~~*Note: Content related to both the group and the individual must be documented for each of these courses. If not present, additional coursework will be necessary. If additional coursework is required, the original semester hours may be used toward meeting the requirement for a Limited Standard.~~

~~2.0 The following shall be required for the Limited Standard License~~

~~2.1 The limited Standard License shall be issued for a period of three years at the request of a Delaware public school district to allow for the completion of the requirements for the Standard License as described in 1.0.~~

~~2.1.1 Bachelor's degree from a regionally accredited college and;~~

~~2.1.2 Experience as specified in 1.2 and;~~

~~2.1.3 Professional Preparation~~

~~2.1.3.1 Completion of a minimum of 6 semester hours toward meeting the requirements in 1.3.~~

~~3.0 Licenses that maybe issued for this position include Standard and Limited Standard~~

PROFESSIONAL STANDARDS BOARD Regulatory Implementing Order

Regulation 1511 Issuance and Renewal of Continuing License

I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend this regulation. This regulation concerns requirements for the issuance and renewal of a continuing license. This regulation shall apply to the issuance and renewal of a continuing license as established by 14 **Del.C.** §1211 and §1213. It is necessary to amend this regulation to clarify some of the requirements for options for renewal of a continuing license and to set forth requirements for professional development providers to issue documentation to educators who participate in professional development activities

Notice of the proposed amendment of the regulation was published in the News Journal and the Delaware State News on January 21, 2004, in the form hereto attached as Exhibit "A". The notice invited written comments. No comments were received.

II. Findings of Facts

The Professional Standards Board and the State Board of Education find that it is appropriate to amend this regulation to comply with changes in statute regarding the licensure and certification of educators.

III. Decision to Adopt the Regulation

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation 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 the regulation amended shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin.** Code §1511 in the *Regulations of the Department of Education*.

V. Effective Date of Order

The effective date of this Order shall be ten (10) days from the date this Order is published in the **Delaware Register of Regulations**.

APPROVED BY THE PROFESSIONAL
STANDARDS BOARD THE 4TH DAY OF MARCH, 2004

Harold Roberts, Chair	Leslie Holden
Sharon Brittingham	Carla Lawson
Heath Chasanov	Mary Mirabeau
Patricia Clements	John Pallace
Edward Czerwinski	Karen Schilling Ross
Karen Gordon	Carol Vukelich
Barbara Grogg	Geraldine A. Williams
Bruce Harter	

FOR IMPLEMENTATION BY THE DEPARTMENT
OF EDUCATION:

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED THIS 18TH DAY OF MARCH,
2004

STATE BOARD OF EDUCATION

Dr. Joseph A. Pika, President
Jean W. Allen, Vice President
Richard M. Farmer, Jr.

Mary B. Graham, Esquire
Valarie Pepper
Dennis J. Savage
Dr. Claibourne D. Smith

1511 Issuance and Renewal of Continuing License

1.0 Content:

This regulation shall apply to the issuance and renewal of a continuing license for educators, pursuant to **14 Del.C.** §1211 and §1212.

2.0 Definitions:

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

“College credit” means graduate or undergraduate level coursework and continuing education units (CEUs) completed at, or through, a regionally accredited college or university.

“Clock-hour” means actual time spent in professional development, not credit hours.

“Clusters” means focused groups of approved professional development activities that lead to measurable and observable knowledge and skills. Clusters must be approved by the Standards Board and the State Board.

“Cooperating teacher or intern supervisor” means an individual working with student teachers or graduate or undergraduate interns as part of a state-approved educator preparation program.

“Curriculum or assessment development” means work with a local, state, national, or international education agency or organization designing curriculum or assessments for improved educational practice in an area related to an individual’s professional responsibilities.

“Delaware Administrator Standards” means standards for education administrators approved by the Secretary of Education and the State Board of Education, as per **14 DE Admin. Code** 1594, Delaware Administrator Standards.

“Delaware Professional Teaching Standards” means standards of teaching approved by the Secretary of Education and the State Board of Education, as per **14 DE Admin. Code** 1593, Delaware Professional Teaching Standards.

“Department” means the Delaware Department of Education.

“Educational project” means an individual professional growth project of 15 or more clock hours, including a research project not related to a course for which credit is claimed, completed to enhance the individual’s professional practice, with the development of a final product or report.

“Educational travel” means a travel experience

including 15 or more clock hours of work time directly related to the individual’s professional responsibilities, including a final project to be used to enhance the individual’s work.

“Educator” means a public school employee who holds a license issued under the provisions of **14 Del.C. Chapter** 12, and includes teachers and administrators, and as otherwise defined by the Standards Board and the State Board, pursuant to **14 Del.C.** §1203, but does not include substitute teachers.

“Exigent circumstances” means unanticipated circumstances or circumstances beyond the educator’s control, including, but not limited to, expiration of a license during the school year, serious illness of the educator or a member of his/her immediate family, activation to active military duty, and other serious emergencies which necessitate the educator’s temporarily leaving active service.

“Formal study group” means documented participation in a study group, related to an individual’s professional responsibilities, such as reviewing, discussing, and implementing strategies from a book or creating a group product as part of an action research project, as a form of professional development.

“Initial License” means a license issued as part of the three-tiered licensure system set forth in **14 Del.C.** §1210.

“Knowledge and skills” means understandings and abilities that, when acquired by educators, lead to more effective instruction.

“Mentoring” means training and service in providing mentoring support or assistance through a formally organized and approved state or district mentoring program to educators during the initial licensure period.

“NBPTS or similar national certification” means a certificate from the National Board for Professional Teaching Standards, or similar body as approved by the Standards Board, verifying completion of all requirements in an individual’s job-related area of the profession or, in the case of an individual seeking, but not earning, the national certificate, verification of the clock hours devoted to completing the requirements for the national certificate.

“Peer coaching” means training and service as a peer coach or peer assistant in a formally organized and approved state or school district peer-coaching or peer assistance program.

“Presentation” means preparation and presentation as a workshop or conference presenter or course instructor on a topic related to the individual’s professional responsibilities.

“Professional conference, workshop, institute, or academy” means a program offered either within, or outside, the state that contributes to the participant’s professional knowledge or skills in effectively conducting his/her work in education.

“Professional development” means classes, seminars, workshops, collaborative work groups, learning

communities, cohort school or district teams which result in the acquisition of knowledge and skills which lead to more effective instruction.

“Professional development activities” means activities designed to enhance knowledge and skill to promote continuous professional growth and to improve educator performance.

“Professional development cluster” or **“cluster”** means a focused group of professional development activities that leads to measurable and observable knowledge and skills.

“Professional portfolio” means a formal collection of artifacts and exhibits that include required examples of an individual’s professional work based upon specific performance tasks or standards.

“Professional programs or committees” means job related service, designed to enhance the profession.

“Publication” means the preparation of a formally published book, article, report, study, or grant that contributes to the education profession or adds to the body of knowledge in an individual’s specific field, but does not include such items prepared as part of a course for which an individual is also claiming credit.

“Standards Board” means the Professional Standards Board established pursuant to 14 **Del.C.** §104.

“State” means State of Delaware.

“State Board” means the State Board of Education of the State of Delaware established in response to 14 **Del.C.** §104.

3.0 Issuance of Initial Continuing License:

In accordance with 14 **Del.C.** §1211, the Department shall issue, upon application, a continuing license to an educator who has successfully completed the requirements under the initial licensure as set forth in 14 **Del.C.** §1210 and §1211. The Department shall issue a continuing license to an applicant licensed as an educator in another jurisdiction who provides evidence of having completed three (3) or more years of successful teaching experience. A continuing license is valid for 5 years unless extended pursuant to 14 **Del.C.** §1216 or revoked for cause, as defined in 14 **Del.C.** §1218.

3.1 An applicant for a continuing license shall submit the approved application form to the Department. Copies of DPAS II annual summative evaluations for the period of initial licensure shall be submitted with an initial application for a Continuing License. An applicant with more than one (1) unsatisfactory DPAS II annual summative evaluation during the period of initial licensure is ineligible to be issued a continuing license. Incomplete applications will not be processed.

3.2 The Department shall not act on an application for licensure if the applicant is under official investigation by any state or local authority with the power to issue educator

licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation’s resolution.

3.2.1 “Immorality” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

4.0 The Department may issue a continuing license to an educator who previously held a valid Delaware certificate that has expired.

4.1 An educator returning to employment and holding a current standard or professional status certificate will be issued a continuing license upon employment.

4.2 An educator who previously held a valid Delaware standard or professional status certificate which has expired and who has been out of the profession for less than three (3) years may be issued a continuing license, valid for 5 years, upon employment and application on the approved form and evidence of previous Delaware certification.

4.3 An educator who has completed three (3) or more years of successful teaching and who holds a continuing license which has expired who has been out of the profession for more than three (3) years may be issued a continuing license, but must, within the first year of employment, successfully complete a district-sponsored mentoring program which focuses on current best practices in curriculum, instruction and assessment aligned to state standards.

4.4 An educator holding a limited standard or temporary certificate and currently employed as an educator in a Delaware public school will be issued a continuing license upon completing all requirements for the current standard certificate. Requirements must be completed by the expiration date of the limited standard or temporary certificate.

4.5 An educator holding a current or expired professional status or standard certificate assigned to work outside the area covered by the professional status or standard certificate will be issued a continuing license, with an emergency certificate for the new area issued for a period of three years to enable the educator to fulfill the requirements for the standard certificate in the area of the new assignment. Professional status or standard certificates held by an educator at the time of reassignment will be added to the continuing license as standard certificates.

5.0 Renewal of a Continuing License:

In accordance with 14 **Del.C.** §1212, the Department shall renew a continuing license, valid for an additional 5

years, to an educator who has fulfilled the 90-clock hour requirement for professional development. At least one-half of the required hours (45 hours every five years) for educators must be in activities ~~to~~ that relate to the educator's work with students or staff. Satisfactory evidence of such completion, as set forth in Section ~~3-4~~ 5.1, shall be submitted to the Department with the application for renewal. The 90-

clock hours of professional development must have taken place during the term of the continuing license.

5.1 Options for Relicensure

RE-LICENSURE OPTIONS – SPECIFICATIONS – TEACHERS/SPECIALISTS/ADMINISTRATORS

OPTION	MAX. HOURS	HOURLY VALUE	VERIFICATION	CRITERIA
College Credit	No limit	1 semester hour = 15 clock hours. 1 quarter hr./CEU = 10 clock hours.	Official Transcripts. Original Grade Slips. Original Certificate of Completion for CEUs.	Must be completed at a regionally accredited college. Must be taken for credit with grade of "C" or better or a "P" in pass/fail course.
"Clusters" of skills & knowledge. Planned school Prof. Dev. Day if activities Part of Approved Cluster	No limit	Verified clock hours in completion of cluster activities.	Approval Slip or Form Verifying Completion.	Cluster must be prior-approved by Professional Development & Associated Compensation Committee, the Professional Standards Board and the State Board of Education.
<u>Planned school professional development day.</u>	No limit	<u>Verified clock hours actively involved in professional development activities.</u>	<u>Certificate of Attendance provided by school district or school sponsoring the professional development.</u>	<u>Must focus on district or school identified curriculum, instruction, assessment, school climate, or other need identified in district or school improvement plan.</u>
Professional Conference/ Workshop/ Institute or Academy	30 clock hours per year 45 clock hours per cycle	Verified clock hours actively involved in workshop or conference sessions	Original Certificate of Attendance or Completion OR Letter from Supervisor/Conference Staff. Copies/ Exhibits of products developed by Applicant. Course Attendance Slip	Must include only time spent in those portions of the workshop or conference program that contribute to the participant's knowledge, competence, performance, or effectiveness in education. Includes workshops offered by districts or other employing authorities either as part of professional development day or after school hours.
Mentoring	30 per year 45 per cycle	Verified clock hours involved in mentoring activities	Activity Documentation Form. (No prior approval required)	Must be mentoring of teacher, administrator, or specialist. Must be part of a formal state/local program.
Cooperating Teacher/Intern Supervisor	30 per year 45 per cycle	Verified clock hours involved in support of student teacher or intern	Activity Documentation Form completed by higher education director of field-based clinical studies. (No prior approval required)	Must be supervision of graduate or undergraduate intern or student teacher in a state-approved educator preparation program.
Presentation	10 per 3 clock hour course; 30 per longer course; 45 per cycle	Verified clock hours preparing and presenting	Activity Documentation Form* (Prior approval required)	Must include only actual time preparing and presenting a course, workshop, or presentation. (Clock hours limited to first preparation and presentation of individual course, workshop, or presentation.)
Educational Project	30 per year 45 per cycle	Verified clock hours completing project. Minimum of 15 clock hours	Activity Documentation Form* (Prior approval required)	Project must have been prior approved by the Professional Development & Associated Compensation Committee. Must have obtained final approval after completion and verification by PDAC
Curriculum/ Assessment Development	30 per year 45 per cycle	Verified clock hours of service; Minimum of 3 clock hours	Original documentation from committee chair verifying actual clock hours of participation	Must be service on formal committee organized by local, state, national, or international education agency or organization.
Educational Travel	3 per day 30 per cycle	Verified clock hours of experience. Minimum of 15 clock hours per travel activity. Final Project.	Activity Documentation Form* (Prior approval required)	Must be prior approved by Professional Development & Associated Compensation Committee. Must have obtained final approval after completion and verification by PDAC.

Professional Programs/ Committees	30 per year 45 per cycle	Verified clock hours of service or experience.	Original documentation from committee chair or activity leader verifying actual clock hours of participation.	Must be a formal activity provided through a recognized local, state, national, or international education agency or organization
Peer Coaching	30 per year 45 per cycle	Verified clock hours of service or experience.	Activity Documentation Form. (No prior approval required)	Must be part of a formal program.
Publication	30 per year 45 per cycle	30 clock hours for book. Up to 15 clock hours per other publication.	Copy of Publication or Document.	Must contribute to the education profession or add to the body of knowledge in the individual's specific field. Must be commercially published or a formally approved document or formally published in a medium sanctioned by a recognized state or national agency or organization. If a grant, must be approved for funding.
Professional Portfolio (to be developed by Standards Board).	30 per year 45 per cycle	45 clock hours for completed and approved portfolio.	The Completed/Approved Portfolio.	Must satisfy the standards established for teaching portfolios. Must be submitted to DOE by December 31 of the final year of the certificate for assessment and approval.
NBPTS Certification or similar National Certification	30 per year 45 per cycle	45 clock hours for attaining national certification Not complete –verified clock hours completing portfolio activities.	A Valid Copy of the National Certificate. For candidate not completing certificate - Activity Documentation Form. (No prior approval required)	Holds a certificate indicated by NBPTS as related to an individual's work or assignment. Certificate or participation as a candidate must be completed and verified by the expiration date of the Delaware certificate.
Formal Study Groups	30 per year 45 per cycle	Verified clock hours working as a member of a study group.	Activity Documentation Form and The Product of the Study. [§] (Prior approval required)	Must relate to the individual's work or assignment. Must include a product.

5.2 Documentation of Clock Hours for Relicensure

5.2.1 For renewal of the continuing license, educators may complete and document clock hours for the variety of activities described under relicensure options. When college or university courses are used to fulfill the requirements, the following equivalencies will be used: 1 semester hour = 15 clock hours, 1 quarter hour = 10 clock hours, 1 CEU = 10 clock hours. To be documented for clock hours, activities must meet the criteria set forth in the regulations and must be appropriately verified and applied for. ~~Activities requiring prior approval must be approved by the educator's immediate supervisor. No additional requirements may be imposed as part of that approval.~~ Professional development activities that are part of a DPAS II assistance plan may be used to satisfy this requirement. Individuals, schools or school districts, or other agencies organizing or conducting professional development activities which may be used for fulfilling the requirements for renewal of a license are responsible for providing documentation of participation to all participants. [Each educator is responsible for obtaining any necessary approvals, as set forth in 5.1, from his or her employer before participating in a professional development activity. An employer may not impose additional activity requirements on the award of clock hours towards renewal of a continuing license.]

5.2.2 Criteria for determining if activities are acceptable for clock hour credit [for an educator] include the following:

5.2.2.1 The activity enhances the knowledge

and skills in the educator's job or contributes to his/her school or profession.

5.2.2.2 The activity meets one of the relicensure options.

5.2.2.3 The activity addresses one of the standards for the educator's area of the profession.

5.2.2.4 The activity is completed during the term of the educator's current continuing license.

5.2.2.5 The activity addresses specific Professional Teaching or Administrator Standards.

5.2.2.6 Participation in, or completion of, the activity can be documented.

5.3 The Re-Licensure Application, Activity Documentation Form, and, where required, original or official documents will be used to verify activities for renewal of a continuing license. Official transcripts or original grade slips are required documentation for successful completion of college courses.

5.4 For applicants who change positions (grade levels, content areas, areas of supervisory responsibility, etc.) during the five-year term of a continuing license, clock hours documented must have been appropriate to the educator's position at the time the clock hours were completed.

6.0 To obtain renewal of a continuing license, educators are required to participate in professional development activities totaling 90 clock hours every five years. The 90 clock hours must be completed during the five-year term of the license. All activities must relate to the 14 **DE. Admin. Code** 1593, Delaware Professional Teaching or 14 **DE. Admin. Code**

1594, Delaware Administrator Standards.

7.0 Candidates for renewal of a continuing license may select from a variety of professional development options, as set forth in the relicensure options approved by the Professional Standards Board, set forth in Section 5.1 and contained in the Guidelines for Issuance and Renewal of a Continuing License. The activities selected must be beyond the normal or specified requirements of the position. Professional development activities which fulfill the criteria for relicensure for which educators receive compensation may be submitted in fulfillment of the 90-clock hour requirement for relicensure. Graduate or undergraduate credits used to satisfy the 90 clock hour requirement for license renewal may also be used for a salary increment on the state salary schedule, if they meet the requirements set forth in 14 **DE Admin. Code** 1505. The activities or options used to satisfy the 90 clock hour requirement for license renewal may be part of an approved professional development cluster eligible for a salary supplement.

8.0 The Department may extend a continuing license for a period not to exceed one year, exigent circumstances warranting the necessity of such extension.

9.0 An educator may take a leave of absence of up to three years with no effect upon the validity or expiration of the continuing license.

10.0 An applicant shall disclose his or her criminal conviction history upon application for a continuing license. Failure to disclose a criminal conviction history is grounds for denial or revocation of a continuing license as specified in 14 **Del.C.**, § 1219.

11.0 This regulation shall apply to all requests for continuing license, issuance and renewal, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate expiring on June 30, 2001 shall have until June 30, 2007 to meet the new continuing license renewal standards. All administrators in instructional areas issued a continuing license as of July 1, 2001, shall have until June 30, 2007 to meet the new continuing license renewal standards. Educators holding a Professional Status Certificate or a Standard Certificate expiring July 1, 2001 or thereafter shall be required to satisfy the new continuing license renewal standards as set forth herein.

12.0 A license holder whose license expires during the school year may have the continuing license extended until the last day of the school year. This extension shall be considered an exigent circumstance and shall not exceed one (1) year in length.

13.0 The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a continuing license on an individual basis and grant a continuing license to an applicant who otherwise does not meet the requirements for a continuing license, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF PHARMACY
PUBLIC NOTICE

The Division of Professional Regulation, Board of Pharmacy will hold a hearing pursuant to 29 Del.C. §2509, on May 12, 2004 at 10:00 a.m. in the Jesse Cooper Building, Room 309 (third floor conference room), Federal and Water Streets, Dover, DE 19901. The Board has developed and proposes to adopt new Regulations 3 and 15. Some space requirements have been eliminated for pharmacy areas in Regulation 3. Regulation 15 has been modified to clarify the use of and the approval process for automated pharmacy systems. The Board will receive and consider input from any person on the proposed Regulation.

Written comment can be submitted at any time prior to the hearing in care of David Dryden, Executive Secretary, at the above address. In addition to publication in the Register of Regulations, copies of the proposed regulation can be obtained from David Dryden, Executive Secretary, by calling (302) 739-4798. Notice of the hearing and the nature of the proposal are also published in two Delaware newspapers of general circulation.

DEPARTMENT OF AGRICULTURE
PUBLIC NOTICE

The State of Delaware, Department of Agriculture, proposes these regulations pursuant to 3 Del.C. §§ 6301 and 7101. The proposed regulations contain the following general sections: Authority, Purpose, Definitions, Registration, Sale or transfer of poultry leaving the state, Selling or trading poultry in Delaware, Non-commercial poultry leaving the state and returning under the same ownership, Commercial poultry, Violations and hearings procedures, Appeals, Civil penalties. These regulations are intended to more clearly define the role of DDA in the Delaware poultry industry.

The proposed regulations will be considered at a public hearing scheduled for May 7, 2004 at 1:00 p.m. at the Delaware Department of Agriculture building conference room #1 located at 2320 S. Dupont Hwy, Dover, DE.

The hearing is being held for the purpose of receiving information, factual evidence, and public reaction as it relates to proposed Poultry Disease Prevention Regulations under **Title 3, Delaware Code**, Chapters 63 and 71, Poultry and Animal Health. The hearing will be conducted in accordance with **Title 29**, Chapter 101, and the

Administrative Procedures Act.

Copies of the proposed regulations may be obtained from the Department of Agriculture by calling the 1-800-282-8685; by writing the Delaware Department of Agriculture, 2320 S. Dupont Hwy., Dover, DE 19901; or, by visiting the Register of Regulations site at: <http://www.delregs.state.de.us/index.html>. Public comments may be submitted in writing to Bruce R. Walton, Executive Assistant to the Secretary of the Department of Agriculture on or before 1:00 p.m. on May 7, 2004 and/ or in person at the public hearing.

STATE BOARD OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, April 15, 2004 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES
DIVISION OF LONG TERM CARE RESIDENTS
PROTECTION
PUBLIC NOTICE

The Department of Health and Social Services, Division of Long Term Care Residents Protection, has drafted three proposed regulations pertaining to training and qualifications of nursing assistants and certified nursing assistants pursuant to 16 Del.C. Section 3306A. These proposed regulations clarify the responsibility of nursing facilities to pay the costs of training nursing assistants in accordance with federal regulations.

Invitation For Public Comment

Public hearings will be held as follows:

Monday, May 3, 2004, 9:00 AM
 Room 301, Main Building
 Herman Holloway Campus
 1901 North DuPont Highway
 New Castle

Tuesday, May 4, 2004, 10:00 AM
 Department of Natural Resources &
 Environmental Control Auditorium
 89 Kings Highway
 Dover

For clarification or directions, please call Gina Loughery at 302-577-6661.

P.O. Box 637
Dover, Delaware 19903-0637

Written comments are invited on these proposed regulations and should be sent to:

Elise MacEwen, RN
Division of Long Term Care Residents Protection
Mill Road, Suite 308
Wilmington, DE 19806

Written comments will be accepted until the conclusion of the May 4 public hearing.

DIVISION OF PUBLIC HEALTH
PUBLIC NOTICE

Notice of Public Hearing

Pursuant to 16 Del.C. Section 122(1) and (3)h and 29 Del.C. Section 7904, the proposed regulations remove outdated Board of Health language and include additional definitions recognizing Endocrine Disorders and The Newborn Screening Advisory Committee. The proposed regulations also remove unnecessary descriptive language pertaining to the Division of Public Health Newborn Screening Program.

The Community Health Care Access Section, Division of Public Health, Department of Health and Social Services will hold a public hearing to discuss the proposed Delaware Regulations Pertaining to the Testing of Newborn Infants for Metabolic, Hematologic and Endocrinologic Disorders. The public hearing will be held on April 22, 2004 at 1:00 p.m., in the Third Floor Conference Room of the Jesse Cooper Building, Federal and Water Streets, Dover, Delaware.

Copies of the proposed regulations are available for review by calling the following location:

Community Health Care Access Section
Jesse Cooper Building
Federal and Water Streets, Dover, Delaware
Telephone: (302) 744-4554

Anyone wishing to present his or her oral comments at this hearing should contact David Walton at (302) 744-4700 by April 21, 2004. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by April 30, 2004 to:

David P. Walton, Hearing Officer
Division of Public Health

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL**
PUBLIC NOTICE

Title of the Regulations:

Green Energy Fund Program Regulation

Brief Synopsis Of The Subject, Substance And Issues:

The purpose of this regulation is to prescribe the procedures relating to the Green Energy Fund. It is the goal in establishing this regulation to provide a streamlined procedure for distributing Green Energy Funds through the use of grants.

Notice Of Public Comment:

A Public Hearing has been scheduled at the Delaware Energy Office, 146 South Governors Avenue, Dover, DE 19901 for 6:00 p.m. on April 27, 2004.

Prepared By:

Charlie T. Smisson, Jr., State Energy Coordinator,
Delaware Energy Office, 302-739-1530

DIVISION OF PARKS AND RECREATION
PUBLIC NOTICE

Title Of The Regulation:

Delaware State Parks Rules and Regulations.

Brief Synopsis Of The Subject, Substance And Issues:

Changes in the current version of the Rules and Regulations (adopted 12/31/93). Additions, modifications and deletions reflect changes in park resources and changes from the Delaware Code. Changes include but are not limited to the Wilmington State Parks, Holts Landing Fishing Pier, protection of exhibits, established bicycle trails and facility rentals/special events.

Notice Of Public Comment:

A previous Public Hearing and Public Workshop were held in the Richardson and Robbins Building on October 29, 2003. Due to a promulgation error within the Division, an additional public hearing will be held on **April 28, 2004 from 1000-1100** a.m. in the Auditorium of the Richardson

and Robbins Building. This building is located at 89 Kings Hwy. Dover, Delaware.

7. Prepared By:

Wayne Kline (work) 302-739-4405
302-644-5019

wkline@state.de.us

**DELAWARE RIVER BASIN
COMMISSION
PUBLIC NOTICE**

The Delaware River Basin Commission will meet on Wednesday, April 21, 2004 at 9:30 a.m. in Albany, New York at the New York State Department of Environmental Conservation (NYSDEC) located at 625 Broadway. For more information contact Pamela M. Bush, Esq., Commission Secretary and Assistant General Counsel, at 609-883-9500 extension 203.

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