
Delaware Register of Regulations

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IN THIS ISSUE:

Regulations:
Proposed
Final

General Notices

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, 2022.

Cover Photo
Arun Reddy Katta

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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
 - Agency Hearing and Meeting Notices
 - Other documents considered to be in the public interest.
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CITATION TO THE DELAWARE REGISTER

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

19 **DE Reg.** 1100 (06/01/16)

Refers to Volume 19, page 1100 of the *Delaware Register* issued on June 1, 2016.

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

889

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.

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 16	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.
October 1	September 15	4:30 p.m.

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TABLE OF CONTENTS

Cumulative Tables.....	892
------------------------	-----

PROPOSED

DEPARTMENT OF AGRICULTURE

Thoroughbred Racing Commission

1001 Thoroughbred Racing Rules and Regulations: Section 15.0 and subsection 18.1.....	900
---	-----

DEPARTMENT OF EDUCATION

Office of the Secretary

255 Definitions of Types of Schools.....	903
733 Payment of Substitutes for Teachers.....	905
736 Local School District and Charter School Citizen Budget Oversight Committees.....	907
933 DELACARE: Regulations for Early Care and Education and School-Age Centers.....	910
1101 Standards for School Bus Chassis and Bodies Placed in Production After March 1, 1998 (Terminology and School Bus Types are described in the National Standards for School Transportation 1995).....	915

Professional Standards Board

1532 Middle Level Mathematics Teacher.....	916
1557 Technology Education Teacher.....	921
1565 World Language Teacher.....	927
1581 School Reading Specialist.....	934

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Office of the Alcoholic Beverage Control Commissioner

Rule 705 - Expansion of Outdoor Seating: Procedures, Standards and Fees	940
Rule 910 (Formerly Rule Number 33) A Rule Defining And Regulating The Quantities Of Sales And Methods Of Deliveries Of Certain Off-premises Sales By Licensees	943
Rule 1201 (Formerly Rule 7) A Rule Requiring Persons Between the Ages of 16 and 18 to Secure a Work Permit to be Employed by an On-Premises Licensee	946
Rule 1202 (Formerly Rule 7.1) Employment of Persons Who Have Reached the Age of 18 Years in Package Stores.....	949

DEPARTMENT OF STATE

Division of Professional Regulation

2500 Board of Pharmacy.....	952
5300 Board of Massage and Bodywork	955

FINAL

DELAWARE STATE FIRE PREVENTION COMMISSION

710 Ambulance Service Regulations	957
---	-----

DEPARTMENT OF EDUCATION

Professional Standards Board

1511 Issuance and Renewal of Continuing License.....	958
--	-----

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Office of the Alcoholic Beverage Control Commissioner

Rule 1008 (Formerly Rule 19.1) Bottle Clubs - Licensing and Operation.....	960
--	-----

TABLE OF CONTENTS

891

DEPARTMENT OF STATE

Division of Professional Regulation

1400 Board of Electrical Examiners..... 962

Public Service Commission

3001 Rules for Certification and Regulation of Electric Suppliers 963

GENERAL NOTICES

NEW CASTLE COUNTY

New Castle County Council

Adoption of Implementing Ordinance Relating to Senate Bill 10..... 966

CALENDAR OF EVENTS/HEARING NOTICES

Department of Agriculture, Thoroughbred Racing Commission; Notice of Public Comment..... 967

Department of Education, Notice of Monthly Meeting..... 967

Department of Safety and Homeland Security, Office of the Alcoholic Beverage Control Commissioner,
Notice of Public Comment..... 968

Department of State, Division of Professional Regulation: Board of Pharmacy and Board of Massage and
Bodywork; Notice of Public Hearings and Public Comment Periods..... 968-969

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 COUNCIL ON POLICE TRAINING

801 Delaware Council on Police Training..... 25 **DE Reg.** 673 (Prop.)

DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM

1301 Delaware Criminal Justice Information System Rules and Regulations..... 25 **DE Reg.** 270 (Final)

DELAWARE HEALTH INFORMATION NETWORK

101 Delaware Health Information Network Regulations..... 25 **DE Reg.** 252 (Prop.)
 25 **DE Reg.** 623 (Final)
 102 Delaware Health Information Network Regulations on Participation..... 25 **DE Reg.** 257 (Prop.)
 25 **DE Reg.** 624 (Final)
 104 Delaware Health Care Claims Database Data Access Regulation..... 25 **DE Reg.** 259 (Prop.)
 25 **DE Reg.** 625 (Final)

DELAWARE PUBLIC EMPLOYEE'S RETIREMENT SYSTEM**Delaware Board of Pension Trustees**

2002 State Employees' Pension Plan..... 25 **DE Reg.** 272 (Final)
 2003 State Judiciary Pension Plan..... 25 **DE Reg.** 272 (Final)
 2004 State Police Pension Plan..... 25 **DE Reg.** 272 (Final)
 2005 County and Municipal Employees' Pension Plan..... 25 **DE Reg.** 272 (Final)
 2006 County and Municipal Police/Firefighter Pension Plan..... 25 **DE Reg.** 272 (Final)

DELAWARE RIVER BASIN COMMISSION

Importations of Water Into and Exportations of Water From the Delaware River Basin;
 Discharges of Wastewater from High Volume Hydraulic Fracturing and
 Related Activities..... 25 **DE Reg.** 559 (Prop.)

DELAWARE STATE FIRE PREVENTION COMMISSION

701 Administration and Enforcement..... 25 **DE Reg.** 71 (Final)
 702 Fire Protection in Building Construction..... 25 **DE Reg.** 74 (Final)
 703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems,
 Fire Protection Systems and Fire Extinguishers..... 25 **DE Reg.** 77 (Final)
 704 Hazardous Processes and Operations..... 25 **DE Reg.** 79 (Final)
 705 General Fire Safety..... 25 **DE Reg.** 80 (Final)
 710 Ambulance Service Regulations..... 25 **DE Reg.** 567 (Prop.)

DEPARTMENT OF AGRICULTURE**Food Products Inspection**

302 Produce Safety Regulations..... 25 **DE Reg.** 166 (Final)

Harness Racing Commission

501 Harness Racing Rules and Regulations..... 25 **DE Reg.** 119 (Prop.)
 25 **DE Reg.** 476 (Prop.)
 25 **DE Reg.** 693 (Final)

Plant Industries Section

805 Rules and Regulations for Delaware Domestic Hemp Production Program 25 **DE Reg.** 169 (Final)

Standardbred Breeders' Fund

502 Delaware Standardbred Breeders' Fund Regulations.....	25 DE Reg. 169 (Final)
	25 DE Reg. 220 (Errata)
	25 DE Reg. 273 (Final)

Thoroughbred Racing Commission

1001 Thoroughbred Racing Rules and Regulations.....	25 DE Reg. 221 (Emer.)
	25 DE Reg. 260 (Prop.)
	25 DE Reg. 507 (Final)
	25 DE Reg. 806 (Prop.)

DEPARTMENT OF EDUCATION

Office of the Secretary

105 Residential Child Care Facilities and Day Treatment Programs.....	25 DE Reg. 223 (Emer.)
	25 DE Reg. 225 (Emer.)
	25 DE Reg. 657 (Emer.)
239 Behavioral Health Professional of the Year.....	25 DE Reg. 120 (Prop.)
239 Behavioral Health Professional of the Year.....	25 DE Reg. 402 (Final)
505 High School Graduation Requirements and Diplomas.....	25 DE Reg. 274 (Final)
525 Requirements for Career and Technical Education Programs.....	25 DE Reg. 40 (Prop.)
	25 DE Reg. 404 (Final)
613 Uniform Procedures for Processing Attorney General's Reports.....	25 DE Reg. 479 (Prop.)
	25 DE Reg. 694 (Final)
615 School Attendance.....	25 DE Reg. 360 (Prop.)
	25 DE Reg. 699 (Final)
701 Unit Count.....	25 DE Reg. 41 (Prop.)
	25 DE Reg. 275 (Final)
	25 DE Reg. 405 (Final)
716 Maintenance of Local School District and Charter School Personnel Records	25 DE Reg. 118 (Errata)
815 Health Examinations and Screening.....	25 DE Reg. 170 (Final)
	25 DE Reg. 123 (Prop.)
	25 DE Reg. 227 (Emer.)
	25 DE Reg. 363 (Prop.)
	25 DE Reg. 229 (Emer.)
	25 DE Reg. 410 (Final)
	25 DE Reg. 568 (Prop.)
	25 DE Reg. 660 (Emer.)
	25 DE Reg. 755 (Final)
931 Purple Star Schools.....	25 DE Reg. 484 (Prop.)
	25 DE Reg. 7 02 (Final)
932 Military-Connected Youth.....	25 DE Reg. 367 (Prop.)
	25 DE Reg. 705 (Final)
933 DELACARE: Regulations for Early Care and Education and School-Age Centers.....	25 DE Reg. 233 (Emer.)
	25 DE Reg. 235 (Emer.)
	25 DE Reg. 369 (Prop.)
	25 DE Reg. 663 (Emer.)
934 Regulations for Family and Large Family Child Care Homes.....	25 DE Reg. 237 (Emer.)
	25 DE Reg. 239 (Emer.)
	25 DE Reg. 370 (Prop.)
	25 DE Reg. 665 (Emer.)
	25 DE Reg. 807 (Prop.)
938 Regulations for Youth Camps.....	25 DE Reg. 172 (Final)
	25 DE Reg. 242 (Emer.)
	25 DE Reg. 244 (Emer.)
	25 DE Reg. 371 (Prop.)
	25 DE Reg. 668 (Emer.)
1006 Delaware Interscholastic Athletic Association (DIAA).....	25 DE Reg. 706 (Final)
1011 Interscholastic Athletics during the COVID-19 Pandemic.....	25 DE Reg. 173 (Final)
	25 DE Reg. 175 (Final)

CUMULATIVE TABLES

1203 Scholarship Incentive Program (ScIP)	25 DE Reg. 508 (Final)
Professional Standards Board	
1503 Educator Mentoring	25 DE Reg. 82 (Final)
1511 Issuance and Renewal of Continuing License.....	25 DE Reg. 677 (Prop.)
1532 Middle Level Mathematics Teacher.....	25 DE Reg. 373 (Prop.)
	25 DE Reg. 679 (Prop.)
1534 Middle Level Social Studies Teacher.....	25 DE Reg. 46 (Prop.)
	25 DE Reg. 510 (Final)
1539 Health Education Teacher.....	25 DE Reg. 77 (Prop.)
	25 DE Reg. 708 (Final)
1542 Secondary Mathematics Teacher.....	25 DE Reg. 127 (Prop.)
	25 DE Reg. 512 (Final)
1543 Secondary Science Teacher.....	25 DE Reg. 84 (Final)
1544 Secondary Social Studies Teacher.....	25 DE Reg. 51 (Prop.)
	25 DE Reg. 513 (Final)
1549 Dance Teacher.....	25 DE Reg. 746 (Prop.)
1550 AgriScience Teacher.....	25 DE Reg. 810 (Prop.)
1556 School To Work Transition Teacher.....	25 DE Reg. 55 (Prop.)
	25 DE Reg. 442 (Errata)
	25 DE Reg. 515 (Final)
1558 Theater Teacher.....	25 DE Reg. 572 (Prop.)
	25 DE Reg. 847 (Final)
1559 Skilled and Technical Sciences Teacher.....	25 DE Reg. 177 (Final)
1560 Art Teacher.....	25 DE Reg. 577 (Prop.)
	25 DE Reg. 852 (Final)
1561 Bilingual Teacher	25 DE Reg. 90 (Final)
1562 Teacher of English Learners.....	25 DE Reg. 96 (Final)
1563 Music Teacher.....	25 DE Reg. 582 (Prop.)
	25 DE Reg. 857 (Final)
1564 Physical Education Teacher.....	25 DE Reg. 486 (Prop.)
	25 DE Reg. 815 (Prop.)
1574 Teacher of Students Who Are Deaf or Hard of Hearing.....	25 DE Reg. 178 (Final)
1583 School Psychologist.....	25 DE Reg. 131 (Prop.)
	25 DE Reg. 519 (Final)

DEPARTMENT OF ELECTIONS

Office of the State Election Commissioner

101 Procedures for Addressing Post-Election Voting Machine Audit Discrepancies	25 DE Reg. 101 (Final)
--	------------------------

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Health Care Quality

3201 Skilled and Intermediate Care Nursing Facilities.....	25 DE Reg. 6 (Emer.)
	25 DE Reg. 443 (Emer.)
	25 DE Reg. 587 (Prop.)
	25 DE Reg. 759 (Final)
3210 Nursing Homes Admitting Pediatric Residents.....	25 DE Reg. 9 (Emer.)
	25 DE Reg. 319 (Emer.)
	25 DE Reg. 446 (Emer.)
	25 DE Reg. 588 (Prop.)
	25 DE Reg. 760 (Final)
3225 Assisted Living Facilities	25 DE Reg. 11 (Emer.)
	25 DE Reg. 448 (Emer.)
	25 DE Reg. 590 (Prop.)
	25 DE Reg. 761 (Final)
3301 Group Home Facilities for Persons with AIDS.....	25 DE Reg. 321 (Emer.)
	25 DE Reg. 591 (Prop.)
	25 DE Reg. 762 (Final)

3305 Group Homes for Persons with Mental Illness.....	25 DE Reg. 13 (Emer.) 25 DE Reg. 324 (Emer.) 25 DE Reg. 449 (Emer.) 25 DE Reg. 592 (Prop.) 25 DE Reg. 764 (Final)
3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities	25 DE Reg. 15 (Emer.) 25 DE Reg. 326 (Emer.) 25 DE Reg. 452 (Emer.) 25 DE Reg. 594 (Prop.) 25 DE Reg. 765 (Final)
3315 Family Care Homes	25 DE Reg. 17 (Emer.) 25 DE Reg. 328 (Emer.) 25 DE Reg. 454 (Emer.) 25 DE Reg. 595 (Prop.) 25 DE Reg. 766 (Final)
3320 Intensive Behavioral Support and Educational Residence	25 DE Reg. 19 (Emer.) 25 DE Reg. 330 (Emer.) 25 DE Reg. 455 (Emer.) 25 DE Reg. 596 (Prop.) 25 DE Reg. 767 (Final)
3330 Regulations Governing Dialysis Centers.....	25 DE Reg. 333 (Emer.) 25 DE Reg. 598 (Prop.) 25 DE Reg. 769 (Final)
3335 Office-Based Surgery.....	25 DE Reg. 335 (Emer.) 25 DE Reg. 599 (Prop.) 25 DE Reg. 770 (Final)
3340 Free Standing Emergency Departments.....	25 DE Reg. 337 (Emer.) 25 DE Reg. 600 (Prop.) 25 DE Reg. 771 (Final)
3345 Personal Assistance Services Agencies.....	25 DE Reg. 21 (Emer.) 25 DE Reg. 339 (Emer.) 25 DE Reg. 457 (Emer.) 25 DE Reg. 601 (Prop.) 25 DE Reg. 772 (Final)
3350 Skilled Home Health Agencies (Licensure).....	25 DE Reg. 602 (Prop.) 25 DE Reg. 773 (Final)
3351 Home Health Agencies--Aide Only (Licensure).....	25 DE Reg. 604 (Prop.) 25 DE Reg. 774 (Final)
4402 Regulations for Adult Day Care Facilities.....	25 DE Reg. 341 (Emer.) 25 DE Reg. 459 (Emer.) 25 DE Reg. 605 (Prop.)
4403 Free Standing Birthing Centers.....	25 DE Reg. 776 (Final) 25 DE Reg. 343 (Emer.) 25 DE Reg. 460 (Emer.) 25 DE Reg. 606 (Prop.)
4405 Free Standing Surgical Centers.....	25 DE Reg. 777 (Final) 25 DE Reg. 346 (Emer.) 25 DE Reg. 383 (Prop.) 25 DE Reg. 627 (Final)
4406 Home Health Agencies--Aide Only (Licensure).....	25 DE Reg. 137 (Prop.) 25 DE Reg. 348 (Emer.) 25 DE Reg. 462 (Emer.) 25 DE Reg. 521 (Final)
4407 Hospital Standards (Construction, Maintenance, and Operation).....	25 DE Reg. 350 (Emer.) 25 DE Reg. 464 (Emer.) 25 DE Reg. 608 (Prop.) 25 DE Reg. 778 (Final)

CUMULATIVE TABLES

4409 Prescribed Pediatric Extended Care Centers (PPECC).....	25 DE Reg. 352 (Emer.) 25 DE Reg. 465 (Emer.) 25 DE Reg. 611 (Prop.) 25 DE Reg. 779 (Final)
4410 Skilled Home Health Agencies (Licensure).....	25 DE Reg. 137 (Prop.) 25 DE Reg. 354 (Emer.) 25 DE Reg. 467 (Emer.) 25 DE Reg. 527 (Final)
4468 Delivery of Hospice Services.....	25 DE Reg. 357 (Emer.) 25 DE Reg. 469 (Emer.) 25 DE Reg. 613 (Prop.) 25 DE Reg. 781 (Final)
Division of Medicaid and Medical Assistance	
Title XIX Medicaid State Plan - Adult Dental.....	25 DE Reg. 139 (Prop.) 25 DE Reg. 419 (Final)
Title XIX Medicaid State Plan - Ambulatory Surgical Center Services	25 DE Reg. 141 (Prop.) 25 DE Reg. 628 (Final)
Title XIX Medicaid State Plan - Assertive Community Integration Support Team (ACIST).....	25 DE Reg. 491 (Prop.) 25 DE Reg. 862 (Final)
Title XIX Medicaid State Plan - Chiropractors' Services.....	25 DE Reg. 616 (Prop.) 25 DE Reg. 868 (Final)
Title XIX Medicaid State Plan - Guardianship Fees - Post-Eligibility Protection of Income.....	25 DE Reg. 614 (Prop.) 25 DE Reg. 866 (Final)
Title XIX Medicaid State Plan - Medication-Assisted Treatment (MAT)	25 DE Reg. 184 (Final)
Title XIX Medicaid State Plan: Drug Utilization Review (DUR) - Opioid Provisions.....	25 DE Reg. 190 (Final)
Title XIX Medicaid State Plan - Program of All-Inclusive Care for the Elderly (PACE) State Plan Amendment.....	25 DE Reg. 384 (Prop.) 25 DE Reg. 864 (Final)
Title XIX Medicaid State Plan - Streamline Application.....	25 DE Reg. 414 (Final)
Division of Public Health	
4202 Control of Communicable and Other Disease Conditions.....	25 DE Reg. 246 (Emer.) 25 DE Reg. 248 (Emer.) 25 DE Reg. 262 (Prop.) 25 DE Reg. 471 (Emer.) 25 DE Reg. 493 (Final) 25 DE Reg. 619 (Prop.) 25 DE Reg. 670 (Emer.)
4402 Regulations for Adult Day Care Facilities.....	25 DE Reg. 23 (Emer.)
4403 Free Standing Birthing Centers	25 DE Reg. 25 (Emer.)
4406 Home Health Agencies--Aide Only (Licensure).....	25 DE Reg. 27 (Emer.) 25 DE Reg. 521 (Final)
4407 Hospital Standards (Construction, Maintenance, and Operation)	25 DE Reg. 29 (Emer.)
4409 Prescribed Pediatric Extended Care Centers (PPECC).....	25 DE Reg. 33 (Emer.)
4410 Skilled Home Health Agencies (Licensure)	25 DE Reg. 35 (Emer.) 25 DE Reg. 527 (Final)
4462 Public Drinking Water Systems.....	25 DE Reg. 494 (Prop.) 25 DE Reg. 713 (Final)
4468 Delivery of Hospice Services.....	25 DE Reg. 37 (Emer.)
Division of Social Services	
Child Care for Families Receiving Temporary Assistance for Needy Families (TANF): DSSM 11003.....	25 DE Reg. 192 (Final)
Delaware's Temporary Assistance for Needy Families (TANF) - Definition: DSSM 3000.....	25 DE Reg. 144 (Prop.) 25 DE Reg. 534 (Final)

Funding: DSSM 3000.1.....	25	DE Reg. 144 (Prop.) 25 DE Reg. 534 (Final)
DSSM 11002.5 Responsibility For The Administration Of Delaware’s Child Care Subsidy Program.....		25 DE Reg. 147 (Prop.) 25 DE Reg. 537 (Final)
DSSM 11002.5.1 Responsibility for Direct Administration of Delaware’s Child Care Subsidy Program.....		25 DE Reg. 147 (Prop.) 25 DE Reg. 537 (Final)
DSSM 11002.10 Establishing Program Integrity in Child Care.....		25 DE Reg. 147 (Prop.) 25 DE Reg. 537 (Final)
DSSM 1104 Processing Applications for Child Care.....		25 DE Reg. 280 (Final)
DSSM 11006.4.8 Completing Correct Transactions.....		25 DE Reg. 153 (Prop.) 25 DE Reg. 536 (Final)
DSSM 11006.4.9 Completing Manual Adjustments.....		25 DE Reg. 153 (Prop.) 25 DE Reg. 536 (Final)
DSSM 14920 Retroactive Coverage.....		25 DE Reg. 821 (Prop.)
DSSM 15200 Retroactive Coverage.....		25 DE Reg. 821 (Prop.)
Division of Substance Abuse and Mental Health		
1201 Driving Under the Influence Evaluation Program, Courses of Instruction, Programs of Rehabilitation and Related Fees.....		25 DE Reg. 496 (Prop.) 25 DE Reg. 782 (Final)
1204 Drinking Driver Programs Standard Operating Procedures.....		25 DE Reg. 499 (Prop.) 25 DE Reg. 783 (Final)
6001 Substance Abuse Facility Licensing Standards.....		25 DE Reg. 473 (Emer.)
6003 DUI Programs.....		25 DE Reg. 500 (Prop.) 25 DE Reg. 783 (Final) 25 DE Reg. 826 (Prop.)

DEPARTMENT OF INSURANCE

Office of the Commissioner

902 Prohibited Unfair Claim Settlement Practices [Formerly Regulation 26]....	25	DE Reg. 156 (Prop.)
1003 Credit for Reinsurance.....		25 DE Reg. 263 (Prop.) 25 DE Reg. 630 (Final)
1322 Requirements for Mandatory Minimum Payment Innovations in Health Insurance.....		25 DE Reg. 684 (Prop.) 25 DE Reg. 828 (Prop.)
1404 Long-Term Care Insurance.....		25 DE Reg. 60 (Prop.) 25 DE Reg. 714 (Final)
1409 Insurance Coverage for Telemedicine and Telehealth.....		25 DE Reg. 285 (Final)
1411 Registration of Pharmacy Benefits Managers.....		25 DE Reg. 715 (Final)
1801 Insurance Holding Company System Regulation With Reporting Forms and Instructions.....		25 DE Reg. 832 (Prop.)

DEPARTMENT OF JUSTICE

Fraud and Consumer Protection Division

105 Health Spa Act Regulation.....	25	DE Reg. 264 (Prop.) 25 DE Reg. 539 (Final)
------------------------------------	----	---

DEPARTMENT OF LABOR

Division of Industrial Affairs

1326 Workplace Fraud Act Regulations	25	DE Reg. 61 (Prop.) 25 DE Reg. 287 (Final)
1329 Delaware Contractor Registration Act Regulations		25 DE Reg. 62 (Prop.) 25 DE Reg. 288 (Final)
1331 Industrial Accident Board Regulations.....		25 DE Reg. 620 (Prop.)

CUMULATIVE TABLES

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Division of Air Quality

1102 Permits.....	25 DE Reg. 386 (Prop.)
1103 Ambient Air Quality Standards.....	25 DE Reg. 388 (Prop.)
1124 Control of Volatile Organic Compound Emissions: Section 33.0 Solvent Cleaning and Drying.....	25 DE Reg. 196 (Final)
1130 Title V State Operating Permit Program.....	25 DE Reg. 394 (Prop.)

Division of Climate, Coastal and Energy

2103 Regulations for the Green Energy Program	25 DE Reg. 63 (Prop.)
	25 DE Reg. 721 (Final)

Division of Fish and Wildlife

3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.....	25 DE Reg. 103 (Final)
3541 Atlantic Sharks.....	25 DE Reg. 290 (Final)
3542 Tilefish.....	25 DE Reg. 64 (Prop.)
	25 DE Reg. 295 (Final)
3550 Cobia (<i>Rachycentron canadum</i>).....	25 DE Reg. 66 (Prop.)
	25 DE Reg. 297 (Final)

Division of Watershed Stewardship

7401 Surface Water Quality Standards.....	25 DE Reg. 837 (Prop.)
7402 Shellfish Sanitation Regulations.....	25 DE Reg. 268 (Prop.)
	25 DE Reg. 726 (Final)

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Delaware Council on Police Training

801 Regulations of the Delaware Council on Police Training.....	25 DE Reg. 839 (Prop.)
---	------------------------

Delaware Sex Offender Management Board

1100 Delaware Sex Offender Management Board.....	25 DE Reg. 301 (Final)
--	------------------------

Office of the Alcoholic Beverage Control Commissioner

Rule 1008 (Formerly 19.1) Bottle Clubs - Licensing and Operation.....	25 DE Reg. 301 (Final)
---	------------------------

DEPARTMENT OF STATE

Division of Professional Regulation

100 Board of Accountancy.....	25 DE Reg. 160 (Prop.)
	25 DE Reg. 871 (Final)
1400 Board of Electrical Examiners.....	25 DE Reg. 691 (Prop.)
1700 Board of Medical Licensure and Discipline.....	25 DE Reg. 161 (Prop.)
1900 Board of Nursing.....	25 DE Reg. 199 (Final)
	25 DE Reg. 318 (Errata)
	25 DE Reg. 395 (Prop.)
	25 DE Reg. 786 (Final)
2500 Board of Pharmacy.....	25 DE Reg. 621 (Prop.)
2700 Board of Registration for Professional Land Surveyors.....	25 DE Reg. 69 (Prop.)
	25 DE Reg. 632 (Final)
2900 Real Estate Commission.....	25 DE Reg. 842 (Prop.)
3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals.....	25 DE Reg. 844 (Prop.)
2925 Real Estate Commission Education Committee.....	25 DE Reg. 505 (Prop.)
	25 DE Reg. 789 (Final)
2930 Council on Real Estate Appraisers.....	25 DE Reg. 163 (Prop.)
	25 DE Reg. 633 (Final)
3500 Board of Examiners of Psychologists.....	25 DE Reg. 622 (Prop.)
	25 DE Reg. 752 (Final)
3800 State Board of Dietetics/Nutrition.....	25 DE Reg. 201 (Final)
4100 Board of Home Inspectors.....	25 DE Reg. 845 (Prop.)

Uniform Controlled Substance Act Regulations.....	25 DE Reg. 506 (Prop.) 25 DE Reg. 873 (Final)
Public Service Commission	
3001 Rules for Certification and Regulation of Electric Suppliers.....	25 DE Reg. 396 (Prop.)
3008 Rules and Procedures to Implement the Renewable Energy Portfolio Standard (Opened August 23, 2005).....	25 DE Reg. 541 (Final)
DEPARTMENT OF TRANSPORTATION	
Division of Motor Vehicles	
2223 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees.....	25 DE Reg. 874 (Final)
OFFICE OF THE STATE TREASURER	
Cash Management Policy Board	
1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds.....	25 DE Reg. 399 (Prop.) 25 DE Reg. 728 (Final)

Symbol Key

Arial 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 AGRICULTURE**THOROUGHBRED RACING COMMISSION**Statutory Authority: 3 Delaware Code, Section 10103(c) (3 **Del.C.** §10103(c))3 **DE Admin. Code** 1001**PUBLIC NOTICE****1001 Thoroughbred Racing Rules and Regulations**Summary

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend Rule 15.0 to update references to the current version of ARCI Controlled Therapeutic Medical Schedules and 18.1 to increase flexibility in scheduling of steward's hearings by increasing the time to schedule the hearing from three racing days to five calendar days. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the April 1, 2022 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before May 2, 2022. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after May 2, 2022, following review of the public comment, the Thoroughbred Racing Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

Effective Date of Amendments to Regulations

If adopted by the Thoroughbred Racing Commission, the amendments shall take effect ten days after being published as final in the *Delaware Register of Regulations*.

Delaware Thoroughbred Racing Commission
Sarah A. Crane, Executive Director

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 900RFA 04-01-22.pdf>

1001 Thoroughbred Racing Rules and Regulations (Break in Continuity of Sections)

15.0 Medication; Testing Procedures

(Break in Continuity Within Section)

15.17 Androgenic-Anabolic Steroids

15.17.1 The Commission hereby adopts by reference the Androgenic-Anabolic Steroids Rule, including the plasma thresholds, of the Association of Racing Commissioners International (ARCI) (ARCI-011-020, ~~Part I, December 2013~~ Section (K) v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Androgenic-Anabolic Steroids Rule, the provisions of the Commission's regulations shall prevail.

(Break in Continuity Within Section)

15.18 ARCI Uniform Classification Guidelines for Foreign Substances. The Commission hereby adopts by reference the ARCI Uniform Classification Guidelines for Foreign Substances, ~~Version 7.0, January 2014~~ 14.4, December 2020. If there is any inconsistency between the Commission's regulations and the ARCI Uniform Classification Guidelines for Foreign Substances, the provisions of the Commission's regulations shall prevail.

15.19 ARCI Multiple Medications Violations Penalties. The Commission hereby adopts by reference the Association of Racing Commissioners International (ARCI-011-020, Part B.(13), ~~December 2013~~ v.11.0 January 2022) Multiple Medications Violations Penalties. If there is any inconsistency between the Commission's regulations and the ARCI Multiple Medications Violations Penalties, the provisions of the Commission's regulations shall prevail.

15.20 ARCI NSAID Stacking Rule

15.20.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Non-Steroidal Anti-Inflammatory Drug Stacking rule (ARCI-011-020, Part E.(1)(C)), ~~version 5.9 approved December 12, 2014~~ v.11.0 January 2022.

15.21 ARCI Cobalt Rule.

~~15.21.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Cobalt rule (ARCI Drug Testing and Practices Committee, Recommendations 1 and 2), approved April 23, 2015. [Reserved.]~~

15.22 ARCI Veterinary Practices Rule.

15.22.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Veterinary Practices rule (ARCI-011-010, Model Rules ~~v7.0, 2017~~ v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Veterinary Practices rule, the provisions of the Commission's regulations shall prevail.

PROPOSED REGULATIONS

15.23 ARCI Prohibited Practices Rule.

15.23.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Prohibited Practices rule including Annex I Prohibited Substances (ARCI-011-015, Model Rules ~~v7.0, January 2017~~ v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Prohibited Practices rule, the provisions of the Commission's regulations shall prevail.

15.24 ARCI Out of Competition Testing Rule.

15.24.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Out of Competition Testing rule (~~ARCI-022-010~~ ARCI-011-022, Model Rules ~~v7.0, 2017~~ v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Out of Competition Testing rule, the provisions of the Commission's regulations shall prevail.

15.25 ARCI Out-of-Competition Testing - Responsible Persons Definition.

15.25.1 The Commission hereby adopts by reference the Association of Racing Commissioners Out-of-Competition Testing rule definition of Responsible Persons (ARCI-011-022(10), Model Rules ~~v8.3, April 2018~~ v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Out-of-Competition Testing rule, the provisions of the Commission's regulations shall prevail.

15.26 ARCI Trainer Other Responsibilities Rule.

15.26.1 The Commission hereby adopts by reference the Association of Racing Commissioners Trainer Other Responsibilities Rule Recordkeeping, Reporting and Corticosteroid and Intra-Articular Injection Reporting Requirements (ARCI-008-020 C.17-19, Model Rules v8.3, April 2018). If there is any inconsistency between the Commission's regulations and the ARCI Trainer Other Responsibilities Rule Recordkeeping, Reporting and Corticosteroid and Intra-Articular Injection Reporting Requirements, the provisions of the Commission's regulations shall prevail.

15.27 ARCI Veterinary Practice Rule.

15.27.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Veterinary Practice Rule, Veterinarian's Reports (ARCI-011-010 D., Model Rules ~~v8.3, April 2018~~ v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Veterinary Practice Rule, Veterinarian's Reports rule, the provisions of the Commission's regulations shall prevail.

15.28 Bisphosphonates. It is a prohibited practice to administer bisphosphonates to any horse under four years of age. Horses four years of age or older may only be administered bisphosphonates under the following circumstances:

15.28.1 Only bisphosphonates that are FDA approved for use in the horse may be administered according to label requirements and only for diagnosed cases of navicular disease.

15.28.2 If a horse older than four years of age is administered bisphosphonates the Commission Veterinarian must be notified within 24 hours of the administration, and the horse shall be placed on the Veterinarian's List for a minimum of six months after the last administration. Prior to returning to racing, the horse must work for the Commission Veterinarian as required by ARCI 011-030(B)(4) v.11.0 January 2022.

15.28.3 If any bisphosphonate is detected in an out of competition or post-race test sample and the Commission has not received timely notification (24 hours as provided in Rule 15.28.2) of an administration, the detection shall be treated as the finding of an illicit substance. The horse shall be placed on the Veterinarian's List for a minimum of six months from the date of sampling and be required to work for the Commission Veterinarian as described in ARCI Model Rules section ARCI 011-030(B)(4) v.11.0 January 2022.

15.29 ARCI Non-Steroidal Anti-Inflammatory Drugs (NSAIDs) Rule.

15.29.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Non-Steroidal Anti-Inflammatory Drugs (NSAIDs) Rule, (~~ARCI Item 3, December 12, 2019~~ ARCI-011-020 E. v.11.0 January 2022). If there is any inconsistency between the

Commission's regulations and the ARCI Non-Steroidal Anti-Inflammatory Drugs (NSAIDs) Rule, the provisions of the Commission's regulations shall prevail.

15.30 ARCI Intra-articular Joint Injections Rule.

15.30.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Intra-articular Joint Injections Rule (ARCI-011-020 F. v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Intra-articular Joint Injections Rule, the provisions of the Commission's regulations shall prevail.

15.31 ARCI Stacking of Corticosteroids Rule.

15.31.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Stacking of Corticosteroids Rule (ARCI-011-020 G. v.11.0 January 2022). If there is any inconsistency between the Commission's regulations and the ARCI Stacking of Corticosteroids Rule, the provisions of the Commission's regulations shall prevail.

(Break in Continuity of Sections)

18.0 Disciplinary Measures

18.1 Disciplinary Measures by Stewards:

(Break in Continuity Within Section)

18.1.5 Summary Suspension

18.1.5.1 If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety or welfare, the stewards may summarily suspend the license pending a hearing.

18.1.5.2 A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the ~~third racing~~ fifth calendar day after the license was summarily suspended. The licensee may waive his/her right to a hearing on the summary suspension within the ~~three racing-day~~ five calendar-day limit.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

1001 Thoroughbred Racing Rules and Regulations

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122, 29 Delaware Code, Section 10407

(14 Del.C. §122, 29 Del.C. §10407)

14 DE Admin. Code 255

PUBLIC NOTICE

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

255 Definitions of Types of Schools

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. §122, the Secretary of Education intends to amend 14 DE Admin. Code 255 Definitions of Types of Schools. This regulation is being reviewed as required by 29 Del.C. §10407 which states regulations are to be reviewed every four years. This regulation is being amended to include magnet schools, provide general

clarification and to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 2, 2022 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOeregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education by clarifying school types.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level. The amended regulation clarifies that reorganized school districts may designate schools offering unique curriculum as magnet schools.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision-making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 903RFA 04-01-22.pdf>

255 Definitions of Types of Schools

1.0 Purpose

The purpose of this regulation is to define various types of schools and educational entities operating in the State of Delaware identified in Title 14 of the Delaware Code.

20 DE Reg. 547 (01/01/17)

2.0 Definitions

The following words and terms are applicable unless a specific regulation, statute or the context in which they are used clearly indicates otherwise terms, when used in this regulation, have the following meaning:

"**Charter School**" means a non-home-based public school including two or more of grade kindergarten through twelve, operating in an approved physical plant for the personal physical

attendance of all students and is managed by a board of directors. It exists under a charter granted by a public school district or the Delaware Department of Education, with the approval of the State Board of Education, pursuant to 14 **Del.C.** Ch. 5.

"**Homeschool**" means a nonpublic school as defined in 14 **Del.C.** §2703A.

"**Local Education Agency (LEA)**" or "**LEA**" means a reorganized traditional school district, ~~vocational/technical~~ vocational-technical school district, or ~~Charter School~~ charter school, legally constituted and established under Delaware law for either administrative control or direction of public elementary or secondary ~~school(s)~~ schools.

"**Magnet School**" means a physical plant having any or all of grades kindergarten through twelve, supported primarily from public funds and under the supervision of public school administrators. It exists under a designation granted by a reorganized school district.

"**Nonpublic School**" means a private school or any home school as defined in this regulation or 14 **Del.C.** §2703A.

"**Private School**" means a school having any or all of grades kindergarten through twelve, operating under a board of trustees and maintaining a faculty and plant which are properly supervised.

"**Public School**" means a physical plant having any or all of grades kindergarten through twelve, supported primarily from public funds and under the supervision of public school administrators. A ~~Charter School~~ charter school, as defined herein, is also a public school.

"**Reorganized School District**" means a clearly defined geographic subdivision of the state organized for the purposes of administering public education ~~in that area~~ pursuant to 14 **Del.C.** Ch. 10.

"**School District**" means either a ~~Reorganized School District or a Vocational-Technical School District~~ reorganized school district or a vocational-technical school district or both depending upon the context in which the term is used.

"**Vocational-Technical School District**" means a subdivision of the state, the boundaries of which are co-extensive with the boundaries of the county in which it is located, organized for the purposes of administering vocational and technical education ~~in that area~~ pursuant to 14 **Del.C.** Ch. 10.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapter 13 (14 **Del.C.** Ch. 13)
14 **DE Admin. Code** 733

PUBLIC NOTICE

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

733 Payment of Substitutes for Teachers**A. TYPE OF REGULATORY ACTION REQUIRED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** Ch. 13, the Secretary of Education intends to amend 14 **DE Admin. Code** 733 Payment of Substitutes for Teachers. The Department has reviewed the regulation in order to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years and concluded that the regulation should be amended to clarify statutory authority and funding rates for substitute teachers who are on paid leave for the birth or adoption of a child. This regulation is also being amended to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 2, 2022 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal

Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education. The amended regulation identifies a funding source for substitute teachers needed when teachers are on paid leave for childbirth or adoption.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the substitute teacher decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision-making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 905RFA 04-01-22.pdf>

733 Payment of Substitutes for Teachers

1.0 Payment of Substitutes for Teachers

- 1.1 State substitute teacher funds may be used to pay substitutes for ~~State-funded~~ state-funded teachers when the ~~State-funded~~ state-funded teachers are unavailable for duty under the provisions of 14 **Del.C.** §1318, 14 **Del.C.** §1333, 29 **Del.C.** §5524 and 29 **Del.C.** §5933 (for sick leave calculations for teachers qualifying for workers' compensation).
- 1.2 Substitutes for ~~State-funded~~ state-funded teachers may also be paid from ~~State~~ state substitute teacher funds for:
 - 1.2.1 Military leave for training or duty not in excess of 15 working days per year.
 - 1.2.2 Teachers participating in Department of Education led professional learning and project assignments.
- 1.3 Substitutes for ~~State-funded~~ state-funded teachers who are absent without pay may be charged to ~~State~~ state funds.
- 1.4 Substitutes for teachers who are paid from federal funds shall be paid from federal funds from the federal program involved or local funds.

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- 1.5 Substitutes for teachers who are paid from local funds shall be paid from local funds.
- 1.6 Substitutes for teachers who are paid from State state funds for a fractional part of a State state teacher unit and a fractional part from other funds shall be paid on the same proportional basis.
- 1.7 Substitutes for teachers who are on paid leave for birth of a child or adoption of a child may be funded at the rates provided in 14 Del.C. §1326, including applicable other employment costs.
- ~~4.7~~ 1.8 Substitutes shall be paid from State state substitute teacher funds in the amounts authorized for the various classes of substitutes as provided for in 14 **Del.C.** §1326. School districts paying more for teacher substitutes than prescribed in 14 **Del.C.** §1326 shall do so from local or federal funds. Federal funds may be used only if the federal program permits that use.
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OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 1508 (14 **Del.C.** §1508)
14 **DE Admin. Code** 736

PUBLIC NOTICE

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

736 Local School District and Charter School Citizen Budget Oversight Committees

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §1508, the Secretary of Education intends to amend 14 **DE Admin. Code** 736 Local School District and Charter School Citizen Budget Oversight Committees. The Department has reviewed the regulation in order to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years and concluded that the regulation only needs grammatical correction in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 2, 2022 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected. Citizen oversight is an important element of school district and charter school governance.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates

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

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

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.

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

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

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 907RFA 04-01-22.pdf>

736 Local School District and Charter School Citizen Budget Oversight Committees

1.0 Purpose

The purpose of this regulation is to outline procedures, criteria and responsibilities related to Local School District and Charter School Citizen Budget Oversight Committees (~~CBOC~~) or "CBOC" required pursuant to 14 Del.C. §1508. CBOCs are established to oversee the financial position of each ~~Local School District and Charter School~~ local school district and charter school for which it was appointed. The ~~Local School District and Charter School Board~~ local school district and charter school board shall retain all policy and decision-making authorities granted pursuant to Delaware Code.

2.0 Definitions

"**Certificate of Completion**" means the document provided by the Department of Education indicating the individual has attended and completed Financial Responsibility Training.

"**Charter School**" means a non-home based full-time public school that is operated in an approved physical plant under a charter granted by, or transferred to, the Department of Education or other authorizing body for the personal physical attendance of all students.

"**Local School District**" means a reorganized school district or vocational technical school district established pursuant to 14 Del.C. Ch. 10.

"**Trainer**" means an individual or organization approved by the Department of Education to provide Financial Responsibility Training.

3.0 Committee Members for Local School Districts and Charter Schools

3.1 Each ~~Local School District and Charter School~~ local school district and charter school shall be required to establish a CBOC. The CBOC shall have access either electronically or in hard copy format to financial documents and financial information the ~~Local School District or Charter School~~ local school district and charter school has in its possession and that are relevant to the financial position of the District or Charter School, with redactions permitted only to protect confidential personal information regarding students or employees as permitted by the state's Freedom of Information Act.

3.1.1 The ~~Local School District's~~ local school district's CBOC shall have at least five (~~5~~) members. Representation shall consist of parents, educators and taxpayers residing in the district. In addition, where possible, the CBOC shall have at least two members with formal educational or vocational backgrounds amenable to oversight of school district financial statements. Further provided, CBOC members shall not be compensated, except for allowable mileage for training or similar activities, for participation on such CBOC.

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- 3.1.2 The ~~Charter School's~~ charter school's CBOC shall have at least five ~~(5)~~ members. Representation shall consist of educators and parents of students in the school, with no more than two being ~~Charter School Board~~ charter school board members and one being a representative of the Department. In addition, where possible, the CBOC shall have at least two members with formal educational or vocational backgrounds amenable to oversight of school financial statements. Further provided, CBOC members shall not be compensated, except for allowable mileage for training or similar activities, for participation on such CBOC.
- 3.2 Each ~~Local School District and Charter School~~ local school district and charter school shall establish its own selection policy for its CBOC, and shall submit the selection policy to the Department of Education for review. The ~~Department's~~ Department of Education's Finance Office shall review the proposed policy and make a decision within fifteen ~~(15)~~ work days to approve or request revisions. The decision to approve or request revisions shall be based on whether the selection policy meets the provisions in subsection 3.3.
- 3.3 The ~~Department's~~ Department of Education's CBOC membership provisions shall be as follows:
- 3.3.1 Use the appropriate ~~District or Charter School~~ district or charter school application form, as developed and maintained by the Department of Education, that delineates standard application language and additional information that includes, but is not limited to, the following:
- 3.3.1.1 Membership pursuant to subsections 3.1.1 and 3.1.2;
- 3.3.1.2 Conflict of interest, and disqualification from membership upon identification thereof, criteria;
- 3.3.1.3 Selection, ~~or removal, or removal~~ of the Chairperson to be determined by a majority of the membership of the CBOC;
- 3.3.1.4 Term length shall be two ~~(2)~~ years with an option at the end of the term to approve an additional two-year term based on the majority vote of the other existing members of the CBOC, provided that the cumulative number of extensions shall not exceed three ~~(3)~~; however, a member may terminate ~~his or her~~ a position upon written notice to the Chairperson; and
- 3.3.1.5 Experience and statement of reason for participation on the CBOC.
- 3.3.2 Post the request for CBOC members for at least fifteen ~~(15)~~ work days on its website and on all school building main entrance doors;
- 3.3.3 Identify and post on its website the selection committee that consists of one educator from the ~~Local School District or Charter School~~ local school district or charter school, one ~~Local School Board or Charter School Board~~ local school district or charter school board member, one member of the local teacher's union, and at least two parents or community members who are not ~~Local School District or Charter School~~ local school district or charter school employees or board members; and
- 3.3.4 Use the selection rubric developed and approved by the Department of Education.
- 4.0 District School Board and Charter School Board Financial Responsibility Training Requirement**
District School Board, Charter School Board and Citizen Budget Oversight Committee Financial Responsibility Training, including frequency and required trainings, is outlined in 14 **DE Admin. Code** 734.
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PROPOSED REGULATIONS

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 3001A-3005A (14 Del.C. §§3001A-3005A)
14 DE Admin. Code 933

PUBLIC NOTICE

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

933 DELACARE: Regulations for Early Care and Education and School-Age Centers

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. §3003A, the Secretary of Education intends to amend 14 DE Admin. Code 933 DELACARE: Regulations for Early Care and Education and School-Age Care. This regulation is being amended to address the current child care staffing crisis. The amended regulation modifies some qualifications and eliminates positions that are less vital to the safety of children and program operations. The amended regulation also provides general clarification to help protect the health, safety, and well-being of children in care. Other changes were made to ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*.

The proposed changes include the following:

- Revising the definition to adding organization and schools as applicants and aligning the youth camp definition with the current DELACARE Regulations for Youth camps;
- Requiring public and private schools serving children below kindergarten to be licensed by July 1, 2024;
- Changing provisional license issuance to be time-limited;
- Requiring youth camps that receive POC to be licensed;
- Beginning January 1, 2023, increasing the fine for unlicensed care to \$1000 or imprisoned not more than 6 months;
- Requiring OCCL to have immediate access to the center during the hours of operation;
- Requiring a State business license or verification of tax-exempt status for licensure and renewals;
- Allowing for OCCL to investigate complaints typically investigated by other entities if the complaint involves a violation of OCCL's regulations;
- Requiring notification to OCCL within one business day of accidental ingestion of a medication or drug, when the center is informed the child required medical or dental treatment other than any first aid provided at the center;
- Requiring a licensee to notify OCCL in writing within 30 days of a change in governing body and if the change in governing body creates a change in the licensee's designated representative, the new designated representative must complete a comprehensive background check.
- Allowing OCCL to seek to suspend or revoke a licensee whose governing body engages in any activity, policy, practice, or conduct that adversely affects or is deemed by OCCL to be detrimental to the education, health, safety, or well-being of children.
- Requiring a licensee who is alleged to have abused or neglected a child to not be present in the center when children are present until the completion of the Institutional Abuse Unit's investigation;
- Requiring a licensee to design effective positive behavioral supports or to make reasonable accommodations to comply with provisions in an Individualized Family Service Plan (IFSP) or Individualized Education Plan (IEP);
- Allowing early childhood (EC) administrators who work in Montessori programs to be qualified with an associate or bachelor's degree and a Montessori Full or Associate Credential from a MACTE approved training course;
- Removing the requirement for an early childhood curriculum coordinator (ECCC) to be hired when the center's capacity is greater than 60;

- Requiring a program director without a degree who was qualified before January 1, 2007, to have a qualified early childhood (EC) teacher with at least an associate degree creating, developing, and evaluating curriculum and monitoring its implementation;
- Allowing a qualified early childhood curriculum coordinator (ECCC) to function as an early childhood teacher;
- Requiring the EC administrator to have 15 hours of specialized training in Infant and Toddler development and curriculum, if the center serves infants and toddlers. No longer allowing the ECCC to have this training;
- Requiring the EC administrator to have 15 hours of specialized training in school-age care if the center serves school-age children. No longer allowing the ECCC to have this training;
- Requiring EC and school-age (SA) interns to complete OCCL's approved Health and Safety Training for Child Care Professionals as a part of their 15-clock-hours of quality-assured training;
- Allowing qualified EC interns and SA interns to be alone with toddlers through school-age children after working at the center for at least one month, being determined eligible by the Criminal History Unit (CHU), and being at least 18 years old;
- Requiring a comprehensive background check (of each required component) every 5 years of employment or volunteering at a center to comply with the Child Care and Development Block Grant;
- Requiring volunteers who are used to meet the staff-to-child ratios to have an orientation that meets the requirements of a staff member;
- Increasing the time from 30 days to 45 business days for a center to hire an EC administrator when one leaves;
- Removing the requirement to have an ECCC when 25% of the children are preschool-age and 75% are school-age children;
- Requiring supervised experience to be observed by the EC or SA administrator rather than the ECCC;
- Removing the requirement to have an OCCL approved plan for centers that have another person handling the human resources or fiscal aspect of a center rather than the administrator;
- Requiring the EC administrator to be on-site at least 50% of the hours of operation;
- Removing the 20-hour minimum requirement for an EC administrator to be on site;
- Removing the allowance for the EC administrator and ECCC to share being present 60% of hours of operation;
- Reducing the qualifications of school-age administrators to those of school-age site coordinators;
- Removing the position of school-age site coordinators from the regulations;
- Requiring infants and toddlers who are mixed with older children during certain times of the day to be in areas that are suitable for the younger age group;
- Requiring an owner who works on site at least 7 hours per week and provides direct care to have an administration of medication certificate on file;
- Requiring all staff, substitutes, and volunteers working at least 5 days or 40 hours per year to complete OCCL's approved Health and Safety Training for Child Care Professionals as part of the orientation to comply with the Child Care and Development Block Grant, rather than permitting the EC administrator to devise that training;
- Adding the approved training topic of disability non-discrimination, accommodations, or modifications;
- Requiring annual training to be completed at least 30 days before license expiration;
- Requiring staff members to be respectful by using non-threatening tones and actions when speaking and interacting with others at the center;
- Requiring when enrolling a child to inquire if the child has an IFSP or IEP and to discuss with a parent or guardian and service providers as applicable, any reasonable accommodations or modifications needed by a child with a disability to access the program or services;
- Requiring attendance records to show when classes of children are combined;
- Requiring the center to be free from illegal drugs;
- Not allowing visitors who are not touring the center or providing a service to be present in areas where children are located;
- Prohibiting the burning of candles or incense and use of air fresheners due to health concerns;
- Clarifying that all areas, furnishings, and equipment in the center must be clean, hazard-free, and in a safe condition;

PROPOSED REGULATIONS

- Clarifying when a food establishment permit is required based on Division of Public Health (DPH) standards. A licensee is not required to obtain a Food Establishment Permit unless the center will provide food to members of the general public. DPH will assist with reviewing satellite and food transportation operation;
- Raising the acceptable food temp to comply with DPH from 40° F to 41° F or colder;
- Clarifying when two exits are needed from a fenced in area based on guidance from the State fire marshal. A licensee shall ensure fenced areas have at least two (2) exits, with at least one (1) being remote from the building. If the fenced-off area is divided by fencing to separate age groups, each fenced-off section does not require two exits. If a larger play area contains a fenced smaller play area (to separate age groups), only one exit is required in the smaller play area if another exit remote from the building is available;
- Requiring that when a licensee cannot meet the outdoor space requirement, the licensee shall provide a minimum of 700 square feet with 75 square feet of open, accessible indoor play space for large muscle activity for each child who will use this area at one time;
- Requiring indoor play space used for large muscle activity to have a protective surface of an approved resilient material, such as rubber mats, to absorb falls beneath and in the fall zones of climbing equipment, slides, swings, and similar equipment. This material must be at a sufficient depth or thickness as required by the manufacturer's specifications or other approved entity;
- Including the additional requirements and explanations of safety hazards to children:

A licensee shall take the following measures to prevent hazards to children in care:

- o To prevent cuts, abrasions, and punctures, equipment, materials, and other objects on the premises that have sharp edges, protruding nails, bolts, or other dangers must be repaired, removed, or made inaccessible to children. Sharp edges on natural wooden equipment must be sanded;
 - o To prevent burns, equipment, materials, or products that may be hot enough to injure a child must be made inaccessible to children;
 - o To prevent sheering, crushing, or pinching, broken or cracked equipment, materials, and objects must be repaired, removed, or made inaccessible to children;
 - o To prevent entrapment, freezers, refrigerators, washers, dryers, compost bins, and other entrapment dangers must be inaccessible to children unless being actively supervised;
 - o To prevent tripping, uneven indoor walkways, damaged flooring or carpeting, or other tripping hazards must be removed or repaired; To prevent injuries and death, large objects that pose a risk of falling or tipping must be securely anchored. Large objects include, but are not limited to, televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units; and
 - o To prevent injuries, equipment in poor condition (rusty parts, flaking paint, or other dangers) must be repaired, removed, or made inaccessible to children.
- Providing clarification on the type of thermometer that needs to be cleaned and sanitized. Thermometers that contact the skin or mouth must be cleaned with a soap and water solution and then disinfected;
 - Requiring written parent or guardian permission before taking a field trip or routine program outing. The permission for a field trip must state the location and date of the trip and who will provide transportation, if applicable. The permission for a routine program outing must state the location, frequency, and method of transportation which may include walking;
 - Changing that semi-solid foods are required once an infant is six months old rather than 8 months unless the parent or guardian provides documentation from the infant's health care provider stating otherwise;
 - Changing the breast milk regulations to comply with the Center for Disease Control's guidelines to state, "Thawed, previously frozen breast milk may be kept at room temperature for one to two (2) hours. Breast milk must be used within two hours after a feeding has finished. Expressed breast milk must be returned to the parent if it is in an unsanitary bottle, partially used, or if it has been unrefrigerated for more than four hours or within two hours after a feeding has finished. Refrigerated, unused, freshly expressed breast milk that was never frozen must be returned to the parent after four days.";

- Requiring a licensee to allow services to be provided at the center for a child with disabilities, including services through an IEP or IFSP and at the request of a parent or guardian, a licensee shall permit qualified professionals to complete an observation or assessment of the child while at the center;
- Prohibiting the use of pressure or accordion gates in any area of the center;
- Requiring that interactions are adapted to support all children's learning;
- Requiring the licensee to ensure each parent or guardian, whose child is enrolled in overnight care, is asked if there are any special preferences, habits, or disability or health related needs or accommodations regarding bedtime and waking and this information is shared with the staff member in charge of the child;
- No longer requiring the notification of OCCL when the EC coordinator or SA site coordinator leaves the program;
- Beginning January 1, 2023, requiring the licensee to receive an eligibility determination or a provisional eligibility notification before a staff member starts employment to comply with the Child Care Development Block Grant.
- Clarifying the prohibition of portable sinks in all areas, including the outdoor area;
- Aligning the regulations and study guide on what is considered a medication error. Medication errors include giving the wrong medication, giving the wrong dose, failing to give the medication at the correct time or at all, giving medication to the wrong child, giving the medication by the wrong route, or giving medication without documenting the administration;
- Clarifying when two staff are not required. A licensee shall ensure during field trips or routine program outings, a licensee maintains the following staff-to-child ratios with a minimum of two (2) staff members present at all times except when the children are school-age or riding in a buggy/stroller;
- Requiring the EC admin or SA admin to conduct performance appraisals;
- Clarifying when activity areas are required. A licensee shall ensure for children 24 months to school-age, indoor physical space is organized into activity areas where an identifiable space with related equipment and materials are kept in an orderly fashion;
- Changing terms of staff/child ratio to staff-to-child ratio, parent/guardian to parents and guardians or parent or guardian; DE First to DEEDS Early Learning, and Positive Behavior Management to Positive Behavior Supports;
- Removing the requirement for 30-minute visits for the SA admin and requiring the SA administrator to be present 50% of the hours of operation and to be responsible for no more than two sites;
- To comply with the Lead Prevention Act requiring a child to have second lead screening at 24 months and if the child enrolls after 12 months of age proof of a lead screening will be required at 24 months or after;
- Allowing qualified EC interns and SA interns to be alone with toddlers through school-age children after working at the center for at least one month for 25 hours per week for EC interns and 15 hours per week for SA interns, being determined eligible by the Criminal History Unit (CHU), and being at least 18 years old;
- Allowing a person to be qualified as an EC administrator with an Associate's or Bachelor's degree in Early Childhood Education rather than requiring additional classes if the coursework did not include the specific coursework listed in these regulations.
- Beginning July 1, 2023, requiring a licensee to ensure for children who have not begun kindergarten, the child's parent or guardian completes the Department's approved developmental and social emotional screening tool upon within 45 days of enrollment and annually.
 - Requiring a licensee to ensure that for children younger than kindergarten and initially enrolled in child care before July 1, 2023, the child's parent or guardian completes the Department's approved developmental and social emotional screening tool by December 31, 2023.
 - Allowing the licensee or staff member may assist the parent or guardian in completing the screening or, if necessary, complete the assessment.
 - Exempting children with current IFSPs or IEPs from being screened.
- Adding exemptions for public and private schools serving children under kindergarten; and
- Add changing text to comply with the Drafting Manual.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or

before May 2, 2022 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, https://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable and safe education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help the Office of Child Care Licensing in its efforts to ensure students' health and safety are adequately protected.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision-making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision-making authority and accountability for addressing the subject to be regulated.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation. The amended regulation modifies some personnel qualifications that may have been barriers to persons entering the child care service industry.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note:**

(1) **The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 910RFA 04-01-22.pdf>

(2) **Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

933 DELACARE: Regulations for Early Care and Education and School-Age Centers

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))
14 **DE Admin. Code** 1101

PUBLIC NOTICE

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

1101 Standards for School Bus Chassis and Bodies Placed in Production After March 1, 1998 (Terminology and School Bus Types are described in the National Standards for School Transportation 1995)

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(d), the Secretary of Education intends to amend 14 **DE Admin. Code** 1101 Standards for School Bus Chassis and Bodies Placed in Production After March 1, 1998 (Terminology and School Bus Types are described in the National Standards for School Transportation 1995). The Department has reviewed the regulation in order to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years and concluded that the regulation should only be amended in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 2, 2022 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive safe transportation to a school for an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected as they travel to and from Delaware schools.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level regarding transportation choices.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision-making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation does not impact other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less

burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? The amended regulation should not any material increases in student transportation costs. Transportation costs, including accessing safe buses, are part of each school district's annual budget.

***Please Note:**

(1) **The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 915RFA 04-01-22.pdf>

(2) **Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

1101 Standards for School Bus Chassis and Bodies Placed in Production After March 1, 1998

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))
14 DE Admin. Code 1532

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del.C. §122(d)

1532 Middle Level Mathematics Teacher

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1532 Middle Level Mathematics Teacher. The regulation concerns the requirements for a Middle Level Mathematics Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments included specifying the courses for which the Middle Level Standard Certificate is required in Section 1.0; adding defined terms in, and striking a defined term from, Section 2.0; clarifying the requirements for issuing a Middle Level Mathematics Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Middle Level Mathematics Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Middle Level Mathematics Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

The proposed amendments were initially published in the *Register of Regulations* on October 1, 2021. The Board received one written submittal from Sam Golder, Senior Director of Teaching and Learning, and Christine Smith, Director of Human Resources, for the Red Clay Consolidated School District. They commented that the proposed regulation "would force LEAs that offer courses above Algebra 1 in the middle school to ensure that at least one high school certified teacher is on staff to teach all courses above Algebra 1" and that the Praxis Subject Assessment - Middle School Mathematics (ETS Test Code #5169) includes 38% Geometry content whereas the Praxis Subject Assessment for high school math contains 20% Geometry content and almost half of the test covers Calculus and other advanced math concepts. On November 4, 2021, the Board considered the written submittal, withdrew the proposed regulation, and requested further information regarding Geometry courses taught at the middle school level.

On December 2, 2021, the Board considered information on the development of the amendments to the

regulation, data on the number of teachers who currently teach Geometry or Integrated Math II at the middle school level, and data on the Praxis Subject Assessment - Middle School Mathematics. The Board also heard from the Department's Mathematics Education Associates. The Board voted to publish the amendments that were originally published on October 1, 2021 and did not propose any further changes at that time.

On January 1, 2022, the proposed amendments that were initially published in the *Register of Regulations* on October 1, 2021 were published in the *Register of Regulations* again. The Board received one written submittal from Eugene Montano, the Acting Director of Secondary Curriculum for the Capital School District, who commented that he supported the proposed amendments.

On February 3, 2022, the Board considered the written submittal and voted to propose the amendments that were published on January 1, 2022 for adoption by the Department subject to the State Board of Education's approval. However, the motion did not receive the required number of affirmative votes, so the motion failed.

On March 3, 2022, the Board voted to withdraw the amendments that were published on January 1, 2022 and to publish Sections 1.0 and 9.0 without specifying the courses that an educator holding the Middle Level Standard Certificate can teach. In addition, the proposed amendments include revising the definition of the term "Valid and Current License or Certificate" in Section 2.0 to clarify it is referring to an educator's license or certificate; moving the section concerning Secretary of Education review up to Section 6.0 and renumbering the subsequent sections concerning validity and disciplinary actions; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address. The other proposed amendments are the same as the proposed amendments that were published on October 1, 2021 and January 1, 2022.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before May 3, 2022 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOeregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' health and safety is protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** §1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Middle Level Mathematics Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 6.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 5.0 apply to individual applicants. In addition, the requirements in Section 10.0 apply to individual applicants and Educators.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The amended regulation is consistent with, and not an impediment to, the implementation of other state educational policies, and 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? There is not a less burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 916RFA 04-01-22.pdf>

1532 Middle Level Mathematics Teacher

1.0 Content

- 1.1 This regulation shall apply to the issuance of a Middle Level Mathematics Teacher Standard Certificate pursuant to 14 ~~Del.C. §1220(a)~~, ~~for Middle Level Mathematics Teacher~~. This ~~certification~~ Standard Certificate is required for grades 6, 7 and 8 in a ~~Middle Level~~ middle level Delaware public school. Notwithstanding the above requirement, the Secondary Mathematics Teacher ~~Certification~~ Standard Certificate may be used for grades 6, 7 and 8 in a ~~Middle Level~~ middle level school in lieu of ~~this certification~~ the Middle Level Mathematics Teacher Standard Certificate.
- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 The following ~~word~~ words and ~~term~~ terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:
- "Department"** means the Delaware Department of Education.
- "Educator"** means a person licensed and certified by the State under 14 ~~Del.C. Ch. 12~~ to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.
- "Employing Authority"** means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.
- "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 the educator's unfitness or otherwise.
- "License"** means a credential which authorizes the holder to engage in the practice for which the license is issued.
- ~~**"Passing Score"** means a minimum score as established by the Professional Standards Board, in consultation with the Department and with the approval of the State Board of Education.~~
- "Regionally Accredited"** means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of

education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill 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.

"Valid and Current License or Certificate" means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 **Issuance of a Standard Certificate**

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Middle Level Mathematics Teacher Standard Certificate as a Middle Level Mathematics Teacher to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
 - 3.1.2 Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a middle level mathematics teacher issued by another state or jurisdiction.
 - ~~3.1.3 Has satisfied the additional requirements in this regulation.~~
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Middle Level Mathematics Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 **Additional Prescribed Education, Knowledge, and Skill Requirements**

- 4.1 An educator shall have also met the following:
- 4.1.1 achieved on the Praxis Subject Assessment – Middle School Mathematics (ETS Test # 5169) a Passing Score of 165.
 - 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
 - 4.1.1 The applicant shall have:
 - 4.1.1.1 Obtained and currently maintain a Mathematics certificate from the National Board for Professional Teaching Standards; or
 - 4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in middle level mathematics education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
 - 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach middle level mathematics as provided in 14 Del.C. §§1260 - 1266; or

PROPOSED REGULATIONS

- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in middle mathematics education.
- 4.1.2 The applicant shall have achieved a minimum score on one of the following examinations:
 - 4.1.2.1 A minimum score of 155 on the Praxis Subject Assessment - Middle School Mathematics (ETS Test Code # 5164).
 - 4.1.2.2 A minimum score of 165 on the Praxis Subject Assessment - Middle School Mathematics (ETS Test Code # 5169); or
- 4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved a minimum score on the Praxis Subject Assessment as provided in subsection 4.1.2.

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 An applicant must disclose the applicant's criminal conviction history upon application for a Middle Level Mathematics Teacher Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of a Middle Level Mathematics Teacher Standard Certificate as specified in 14 Del.C. §1219.
- 5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Middle Level Mathematics Teacher Standard Certificate:
 - 5.3.1 Evidence of obtaining and maintaining a Mathematics certificate from the National Board for Professional Teaching Standards, if applicable; and
 - 5.3.2 Official transcript from the applicant's Regionally Accredited college or university.
 - 5.3.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
 - 5.3.2.2 Sealed paper transcripts may be submitted.
 - 5.3.2.3 The Department will not accept copies of transcripts; and
 - 5.3.3 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
 - 5.3.4 Additional documentation as required by the Department.
- 5.4 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Middle Level Mathematics Teacher Standard Certificate:
 - 5.4.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and
 - 5.4.2 Additional documentation as required by the Department.
- 5.5 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate as a middle level mathematics teacher, the following documentation is required in the application for a Middle Level Mathematics Teacher Standard Certificate:
 - 5.5.1 An official copy of the Valid and Current License or Certificate; and
 - 5.5.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

- 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Middle Level Mathematics Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Middle Level Mathematics Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.
 - 6.1.1 For school districts, requests shall be approved by the superintendent of the school district.
 - 6.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

7.0 Validity of a Standard Certificate

- 7.1 A Middle Level Mathematics Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 7.2 A Middle Level Mathematics Teacher Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

- 8.1 An Educator's Middle Level Mathematics Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 8.2 An Educator's Middle Level Mathematics Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 **Del.C.** §1222.
- 8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

9.0 Past Certificate Recognized

The Department shall recognize a Middle Level Mathematics Teacher Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach middle level mathematics.

10.0 Contact Information and Change of Name or Address

- 10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 10.2 An Educator who legally changes the Educator's name and wishes to change the name on the Middle Level Mathematics Teacher Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1557

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del.C. §122(d)

1557 Technology Education Teacher

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1557 Technology Education Teacher. The regulation concerns the requirements for a Technology

and Engineering Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include revising the title of the regulation; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Technology and Engineering Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Technology and Engineering Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns requests for the Secretary of Education to review standard certificate applications; adding Section 7.0, which concerns the validity of a Technology and Engineering Teacher Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns recognizing past certificates that were issued by the Department; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before May 3, 2022 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOERegulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' health and safety is protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Technology Education Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 6.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 5.0 apply to individual applicants. In addition, the requirements in Section 10.0 apply to individual applicants and Educators.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The amended regulation is consistent with, and not an impediment to, the implementation of other state educational policies, and 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? There is not a less burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 921RFA 04-01-22.pdf>

1557 Technology ~~Education and Engineering~~ Teacher

1.0 Content

- 4.1 This regulation shall apply to the issuance of a Technology and Engineering Teacher Standard Certificate, Certificate pursuant to 14 **Del.C.** §1220(a), ~~for Technology Education Teacher~~. This certification is required for grades 9 to 12, and in grades 6 to 8 in a Middle Level school Technology and Engineering Teacher Standard Certificate is required to teach Technology and Engineering Education in grades 5 to 12 in a Delaware public school.
- 4.2 Except as otherwise provided, the requirements set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.

2.0 Definitions

- 2.1 The definitions set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.
- 2.2 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.

"Educator" means a person licensed and certified by the State under 14 **Del.C.** Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

"Employing Authority" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.

"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 the educator's unfitness or otherwise.

"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.

"Passing Score" means a minimum score as established by the Professional Standards Board, in consultation with the Department and with the approval of the State Board of Education.

"Regionally Accredited" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill 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.

"Technology and Engineering Education" means a study of technology, which provides an opportunity for students to learn about the processes and knowledge related to technology that are needed to solve problems and extend human capabilities. This study includes the application of the Design Process, the Systems Model, technological resources, engineering design and Design Briefs. Technology Education is not a curricular area defined by the study and application of computer-based skills e.g., keyboarding, word processing, spreadsheets, data bases and/or multi-media presentations

PROPOSED REGULATIONS

the study of STEM in the core contexts of: Computation, Automation, Artificial Intelligence, and Robotics; Material Conversion and Processing; Transportation and Logistics; Energy and Power; Information and Communication; the Built Environment; Medical and Health-Related Technologies; Agricultural and Biological Technologies. The study is defined by the core disciplinary standards and practices identified in the Standards for Technological and Engineering Literacy.

"Valid and Current License or Certificate" means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 ~~Del.C.~~ §1220(a), the Department shall issue a Technology and Engineering Teacher Standard Certificate ~~as a Technology Education Teacher~~ to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License~~; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, ~~2003~~; 2003 and meets the requirements in Section 4.0 of this regulation; or
- 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and~~ Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a technology and engineering teacher issued by another state or jurisdiction.
- 3.1.3 ~~Has satisfied the additional requirements in this regulation.~~
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Technology and Engineering Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 Additional Prescribed Education, Knowledge, and Skill Requirements

- 4.1 An educator shall have also met the following:
- 4.1.1 ~~achieved on the Praxis Subject Assessment—Technology Education (ETS Test # 5051) a Passing Score of 159.~~
- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have satisfied one of the following education requirements:
- 4.1.1.1 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in Technology and Engineering Education from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or
- 4.1.1.2 Satisfactorily completed an alternative routes for licensure or certification program to teach Technology and Engineering Education as provided in 14 Del.C. §§1260 - 1266; or
- 4.1.1.3 Satisfactorily completed a Department-approved educator preparation program in Technology and Engineering Education; or
- 4.1.1.4 If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 DE Admin. Code 1510, earned a bachelor's degree from a Regionally Accredited college or university in any content area and also

satisfactorily completed 15 college credits or an equivalent number of hours in professional development with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department related to Technology and Engineering Education of which at least six credits focus on pedagogy.

4.1.1.4.1 The applicant, in consultation with the applicant's Employing Authority, shall select the 15 credits or the equivalent number of hours in professional development subject to the Department's approval.

4.1.1.4.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional development in consultation with the Department and subject to the Department's approval.

4.1.1.4.3 For the purpose of subsection 4.1.1.4, professional development means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change the participants' attitudes, insights, and perspectives and ultimately results in improved professional practice.

4.1.1.4.4 Professional development hours may be approved if the applicant shows that the activity meets all of the following criteria:

4.1.1.4.4.1 Relevant courses from a Regionally Accredited college or university in Technology and Engineering Education are not available to the applicant online or in the applicant's county of residence; and

4.1.1.4.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in Technology and Engineering Education; and

4.1.1.4.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the Technology and Engineering certification; and

4.1.1.4.4.4 The activity is part of a professional development program that includes knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

4.1.2 The applicant shall have achieved a minimum score of 159 on the Praxis Subject Assessment - Technology Education (ETS Test Code # 5051).

4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved the minimum score on an examination as provided in subsection 4.1.2.

5.0 Application Requirements

5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.

5.2 An applicant must disclose the applicant's criminal conviction history upon application for a Technology and Engineering Teacher Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of a Technology and Engineering Teacher Standard Certificate as specified in 14 Del.C. §1219.

5.3 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Technology and Engineering Teacher Standard Certificate:

5.3.1 Official transcript from the applicant's Regionally Accredited college or university.

5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.3.1.2 Sealed paper transcripts may be submitted.

5.3.1.3 The Department will not accept copies of transcripts; and

5.3.2 Documents verifying successful completion of Department-approved professional development, if applicable; and

5.3.3 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and

5.3.4 Additional documentation as required by the Department.

5.4 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Technology and Engineering Teacher Standard Certificate:

5.4.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and

5.4.2 Additional documentation as required by the Department.

5.5 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate as a technology and engineering teacher from another state or jurisdiction, the following documentation is required in the application for a Technology and Engineering Teacher Standard Certificate:

5.5.1 An official copy of the Valid and Current License or Certificate; and

5.5.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Technology and Engineering Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Technology and Engineering Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.

6.1.1 For school districts, requests shall be approved by the superintendent of the school district.

6.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

7.0 Validity of a Standard Certificate

7.1 A Technology and Engineering Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

7.2 A Technology and Engineering Teacher Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

8.1 An Educator's Technology and Engineering Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.

8.2 An Educator's Technology and Engineering Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 **Del.C.** §1222.

8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

9.0 Past Certificate Recognized

The Department shall recognize a Technology Education Teacher Standard Certificate issued prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach Technology and Engineering Education.

10.0 Contact Information and Change of Name or Address

- 10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
 - 10.2 An Educator who legally changes the Educator's name and wishes to change the name on the Technology and Engineering Teacher Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
 - 10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.
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PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))

14 DE Admin. Code 1565

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del.C. §122(d)

1565 World Language Teacher

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

The Professional Standards Board ("Board") received written correspondence from Blythe Milbury-Steen, World Language Education Advisor and Program Coordinator at the University of Delaware, concerning teacher candidates who are facing "pandemic-related learning challenges." Ms. Milbury-Steen stated that "the cancellation of nearly all of [the University of Delaware's] study abroad programs has had a negative effect on [its] students' oral proficiency" and that "students [are] struggling to attain the Advanced Low rating on their [ACTFL] OPI and [she expects the] next cohort of student teachers next year to have similar challenges." On March 3, 2022, the Board considered Ms. Milbury-Steen's written correspondence as well as written correspondence from Gregory Fulkerson, Ph.D., the Department's Education Associate for World Languages and Dual Language Immersion. Dr. Fulkerson stated that the Department "is keenly aware of the state's current dearth of world language teachers and that COVID has negatively impacted university world language teacher candidates' opportunities to student abroad" but he did not support "the permanent change of lowering the proficiency requirement for world language teacher certification from Advanced-Low to Intermediate-High." Dr. Fulkerson asked the Board to "consider the potential long-term implications of permanently lowering the proficiency level requirement . . . and consider doing so for only a short amount of time to accommodate the impacts of COVID or not do so at all."

After considering the written correspondence to the Board, and pursuant to 14 Del.C. §§1203 and 1205(b), the Board developed amendments to 14 DE Admin. Code 1565 World Language Teacher. The regulation concerns the requirements for a World Language Teacher Standard Certificate in accordance with 14 Del.C. §1220. As a result of the written correspondence, the Board proposes to amend the required minimum level on the ACTFL in subsection 4.1.2.2 and if the proposed amendment goes into effect, the Board intends to review subsection 4.1.2.2 again prior to March 2024.

In addition, the Board developed proposed amendments to align the regulation with other regulations concerning Standard Certificates for Educators, including adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a World Language Teacher Standard Certificate in Section 3.0; clarifying the education, knowledge, and skill requirements for obtaining a World Language Teacher Standard Certificate in Section 4.0, the application requirements in Section 5.0, Secretary of Education review in Section 6.0, the validity of a World Language Teacher Standard Certificate in Section 7.0, disciplinary actions in Section 8.0, and

recognizing past certificates that were issued by the Department in Section 9.0; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address. The aforementioned proposed changes are not a result of the written correspondence to the Board.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before May 3, 2022 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' health and safety is protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a World Language Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 6.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 5.0 apply to individual applicants. In addition, the requirements in Section 10.0 apply to individual applicants and Educators.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The amended regulation is consistent with, and not an impediment to, the implementation of other state educational policies, and 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? There is not a less burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 927RFA 04-01-22.pdf>

1565 World Language Teacher

1.0 Content

4.1 This regulation shall apply to the issuance of a ~~Standard Certificate, World Language Teacher Standard Certificate~~ pursuant to 14 **Del.C.** §1220(a), ~~for World Language Teacher~~. This ~~Certification Standard Certificate~~ is required ~~for to teach a world language in grades K to 12 in a Delaware public school. The World Language Standard Certificate is limited to the world language for which the Standard Certificate is requested and issued.~~

4.1.1 ~~This Certification is limited to the world language in which the Standard Certificate is requested.~~

2.0 Definitions

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 person licensed and certified by the State under 14 Del.C. Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.~~

~~"Employing Authority" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.~~

~~"Fifteen (15) Credits or the Equivalent in Professional Development" means college credits or an equivalent number of hours with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to a degree program from a regionally accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a regionally accredited college or university or other Department approved provider.~~

~~"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 or otherwise.~~

~~"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.~~

~~"Major or Its Equivalent" means a minimum of thirty (30) semester hours of course work in a particular content area.~~

~~"Passing Score" means a minimum score as established by the Professional Standards Board, in consultation with the Department, and with the approval of the State Board of Education.~~

~~"Professional Development" means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants' attitudes, insights, and/or perspectives; and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.~~

~~"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill 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.~~

~~"Target Language" means, for the purpose of this regulation, the specific world language in which the Standard Certificate is requested and issued. World language means any language other than English~~

PROPOSED REGULATIONS

that is used by peoples around the world for communicating information and ideas and transmitting its ~~culture(s)~~ culture or cultures, including American Sign Language (ASL), Latin, and Greek.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the educator applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 ~~Del.C.~~ §1220(a), the Department shall issue a World Language Teacher Standard Certificate for World Language Teacher to an Educator applicant who:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License, License~~ or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
- 3.1.2 Has met the requirements for ~~licensure~~ an educator's license in Delaware and ~~holds~~ presents proof of a Valid and Current License or Certificate from Another State in world language education; or as a world language teacher issued by another state or jurisdiction.
- ~~3.1.3 Has met the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.~~
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for ~~Certification~~ a World Language Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the ~~alleged conduct involves allegations of~~ allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of ~~credentials, credentials~~ until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Knowledge, Skill, and Education, Knowledge, and Skill Requirements

- 4.1 For ~~applicants applying for their first Standard Certificate~~ an applicant who does not hold a content area Standard Certificate, the ~~applicants~~ applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have satisfied one of the following education requirements:
- 4.1.1.1 The applicant shall have obtained a World Languages certificate in the Target Language from the National Board for Professional Teaching Standards; or
- 4.1.1.2 The applicant shall have ~~completed~~ earned a bachelor's, master's, or doctoral degree from a ~~regionally accredited~~ Regionally Accredited college or university with a ~~Major or Its Equivalent~~ minimum of 30 semester hours of coursework in the Target Language from an educator preparation program approved or recognized by ~~the National Council for the Accreditation of Teacher Education (NCATE); the Council for the Accreditation of Educator Preparation (CAEP); (CAEP)~~ or a state where the state approval body employed the appropriate standards; or
- 4.1.1.3 The applicant shall have satisfactorily completed an alternative routes for licensure or certification program to teach world language as provided in ~~14 DE Admin. Code 1507 14~~ Del.C. §§1260 - 1266; or
- 4.1.1.4 The applicant shall have satisfactorily completed a Department-approved educator preparation program in world language education; or
- 4.1.1.5 ~~The applicant shall have completed a bachelor's degree from a regionally accredited college or university in any content area and satisfactorily completed fifteen (15) credits or the equivalent in Department-approved Professional Development related to world language education of which at least 6 credits must focus on pedagogy. If the applicant is~~

applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 DE Admin. Code 1510, the applicant earned a bachelor's degree from a Regionally Accredited college or university in any content area and also satisfactorily completed 15 college credits in world language education of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department.

- 4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the ~~Fifteen (15) Credits or the Equivalent in Professional Development~~ 15 credits or the equivalent number of hours in professional development subject to the Department's approval.
- 4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the ~~Fifteen (15) Credits or the Equivalent in Professional Development~~ 15 credits or the equivalent number of hours in professional development in consultation with the Department and subject to the Department's approval.
- 4.1.1.5.3 For the purpose of subsection 4.1.1.5, professional development means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change the participants' attitudes, insights, and perspectives and ultimately results in improved professional practice.
- 4.1.1.5.4 Professional development hours may be approved if the applicant shows that the activity meets all of the following criteria:
 - 4.1.1.5.4.1 Relevant courses from a Regionally Accredited college or university in the Target Language are not available to the applicant online or in the applicant's county of residence; and
 - 4.1.1.5.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in world language; and
 - 4.1.1.5.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the world language certification; and
 - 4.1.1.5.4.4 The activity is part of a professional development program that includes knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.
- 4.1.2 The applicant shall have demonstrated oral and written proficiency in the Target Language by either achieving the minimum score on one of the following examinations:
 - 4.1.2.1 ~~Achieving on~~ For the *Praxis* Subject Assessment:
 - 4.1.2.1.1 A minimum score of 164 on the Chinese (Mandarin): World Language (ETS Test # 5665) ~~a Passing Score of 164~~; or
 - 4.1.2.1.2 A minimum score of 162 on the French: World Language (ETS Test # 5174) ~~a Passing Score of 162~~; or
 - 4.1.2.1.3 A minimum score of 163 on the German: World Language (ETS Test # 5183) ~~a Passing Score of 163~~; or
 - 4.1.2.1.4 A minimum score of 152 on the Latin (ETS Test # 5601) ~~a Passing Score of 152~~; or
 - 4.1.2.1.5 A minimum score of 168 on the Spanish: World Language (ETS Test # 5195) ~~a Passing Score of 168~~; or
 - 4.1.2.2 Based on the American Council on the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines:
 - 4.1.2.2.1 ~~Achieving a minimum level of Advanced-Low~~ Intermediate High on the ACTFL Oral Proficiency Interview (OPI) in the Target Language, and

PROPOSED REGULATIONS

- 4.1.2.2.2 Achieving a Passing Score minimum level of Intermediate High on the ACTFL Writing Proficiency Test (WPT) in the Target Language.
- 4.1.2.2.2.1 ~~For tests using the Roman alphabet, a Passing Score means achieving a minimum level of Advanced Low.~~
- 4.1.2.2.2.2 ~~For tests using a non-Roman alphabet, a Passing Score means achieving a minimum level of Intermediate High.~~
- 4.2 ~~For applicants applying for their second or subsequent Standard Certificate, the applicants shall have satisfied the following requirement: For an applicant who holds at least one content area Standard Certificate, the applicant shall have demonstrated oral and written proficiency in the Target Language as provided in subsection 4.1.2 of this regulation.~~
- 4.2.1 ~~Demonstrated oral and written proficiency in the Target Language as provided in subsection 4.1.2 of this regulation.~~
- 4.3 ~~Notwithstanding the requirements in subsections 4.1 and 4.2 of this regulation, applicants applying for a Standard Certificate in World Language – American Sign Language, shall have met the following requirements: for an applicant who is applying for a World Language - American Sign Language Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.3.1 and 4.3.2.~~
- 4.3.1 ~~Completion of Fifteen (15) credits or Its Equivalent in Professional Development in American Sign Language related to teaching and learning American Sign Language as approved by the Department; and The applicant shall have satisfactorily completed 15 college credits related to teaching and learning American Sign Language of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department as provided in subsections 4.1.1.5.1 through 4.1.1.5.4.~~
- 4.3.2 ~~Achieving on the American Sign Language Proficiency Interview a Passing Score of 3. The applicant achieved a minimum score of 3 on the American Sign Language Proficiency Interview.~~

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 An applicant must disclose the applicant's criminal conviction history upon application for a World Language Teacher Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of a World Language Teacher Standard Certificate as specified in 14 Del.C. §1219.
- 5.2 ~~5.3~~ For applicants who are applying for their first Standard Certificate an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a World Language Teacher Standard Certificate for World Language Teacher:
- 5.2.1 ~~5.3.1~~ Evidence of obtaining a World Languages certificate from the National Board for Professional Teaching Standards, if applicable; and
- 5.2.2 ~~5.3.2~~ Official transcript from the applicant's regionally accredited Regionally Accredited college or university.
- 5.2.2.1 ~~5.3.2.1~~ Electronic transcripts may be submitted by the Employing Authority or by the applicant's regionally accredited Regionally Accredited college or university; or
- 5.2.2.2 ~~5.3.2.2~~ Sealed paper transcripts may be submitted.
- 5.2.2.3 ~~5.3.2.3~~ The Department will not accept copies of transcripts; and
- 5.2.3 ~~5.3.3~~ If applicable, documents verifying successful completion of Professional Development Documents verifying successful completion of Department-approved professional development, if applicable; and
- 5.2.4 ~~5.3.4~~ Official scores on the Praxis Subject Assessment or ACTFL OPI and WPT as provided in subsection 4.1.2; and

~~5.2.5~~ If applicable, an experience form must be completed in full and signed by the applicant; and

~~5.2.6~~ ~~5.3.5~~ Additional documentation as required by the Department.

~~5.3~~ ~~5.4~~ For applicants who are applying for their second or subsequent Standard Certificate an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a World Language Teacher Standard Certificate ~~for World Language Teacher~~:

~~5.3.1~~ ~~5.4.1~~ Official scores on the Praxis Subject Assessment or ACTFL OPI and WPT as provided in subsection ~~4.2.4~~ ~~4.2~~; and

~~5.3.2~~ ~~5.4.2~~ Additional documentation as required by the Department.

~~5.5~~ For an applicant who is applying for a World Language Teacher - American Sign Language Standard Certificate, the following documentation is required with the application:

~~5.5.1~~ Official transcript from the applicant's Regionally Accredited college or university:

~~5.5.1.1~~ Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

~~5.5.1.2~~ Sealed paper transcripts may be submitted.

~~5.5.1.3~~ The Department will not accept copies of transcripts; and

~~5.5.2~~ Documents verifying successful completion of Department-approved professional development, if applicable; and

~~5.5.3~~ Official scores on the American Sign Language Proficiency Interview; and

~~5.5.4~~ Additional documentation as required by the Department.

~~5.4~~ ~~5.6~~ For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate ~~from Another State in a world language as a world language teacher from another state or jurisdiction~~, the following documentation is required in the application for a World Language Teacher Standard Certificate ~~for World Language Teacher~~:

~~5.4.1~~ ~~5.6.1~~ ~~An official copy of the valid and current educator license or certificate from another state or professional license.~~ Valid and Current License or Certificate; and

~~5.6.2~~ Additional documentation as required by the Department.

6.0 Secretary of Education Review

~~6.1~~ The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a World Language Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a World Language Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.

~~6.1.1~~ For school districts, requests shall be approved by the superintendent of the school district.

~~6.1.2~~ For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

~~6.0~~ 7.0 Validity of a Standard Certificate

~~6.1~~ ~~7.1~~ A World Language Teacher Standard Certificate for World Language Teacher is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

~~6.2~~ ~~7.2~~ A World Language Teacher Standard Certificate for World Language Teacher is not subject to renewal.

~~7.0~~ 8.0 Revocation of a Standard Certificate Disciplinary Action

~~8.1~~ An Educator's World Language Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.

PROPOSED REGULATIONS

~~7.1~~ 8.2 An Educator's World Language Teacher Standard Certificate for World Language Teacher shall be revoked ~~in the event if~~ the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's ~~Standard Certificate~~ application in accordance with 14 **Del.C.** §1222.

~~7.2~~ 8.3 An Educator whose ~~Standard Certificate~~ certificate is noticed for ~~revocation~~ disciplinary action is entitled to a full and fair hearing before the Standards Board.

~~7.2.4~~ Hearings shall be conducted in accordance with ~~the Standards Board's~~ 14 DE Admin. Code 1515 Hearing Procedures and Rules.

8.0 Secretary of Education Review

~~The Secretary of Education may, upon the written request of the superintendent of a local school district, review credentials submitted in an application for a Standard Certificate for World Language Teacher on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate for World Language Teacher but whose effectiveness is documented by the local school district.~~

9.0 Past Certification Certificate Recognized

The Department shall recognize a World Language Teacher Standard Certificate for World Language Teacher issued ~~before~~ prior to the effective date of this regulation. An Educator holding such a Standard Certificate issued ~~by the Department before the effective date of this regulation~~ shall be considered certified ~~as a World Language Teacher to teach the Target Language for which the certificate was issued.~~

10.0 Contact Information and Change of Name or Address

10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.

10.2 An Educator who legally changes the Educator's name and wishes to change the name on the World Language Teacher Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.

10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1581

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del.C. §122(d)

1581 School Reading Specialist

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1581 School Reading Specialist. The regulation concerns the requirements for a School Reading

Specialist Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments that were initially published in the *Register of Regulations* on November 1, 2020 included adding defined terms to Section 2.0; clarifying the requirements for issuing a School Reading Specialist Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a School Reading Specialist Standard Certificate in Section 4.0; adding reciprocity requirements in Section 5.0; specifying the application requirements in Section 6.0; adding Section 7.0, which concerns the validity of a School Reading Specialist Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 10.0, which concerns recognizing past certificates that were issued by the Department.

On January 1, 2021, the Board considered the written submittals that it received concerning the proposed amendments and republished the proposed amendments that were originally published on November 1, 2020, without any additional amendments, to allow additional time for written submittals to be submitted to the Board and an opportunity for a public hearing. On February 4, 2021, the Board held a public hearing concerning the proposed amendments. On March 4, 2021, the Board deliberated on the comments made during the public hearing in addition to the written submittals received. The Board sought additional information, including information concerning school reading specialists, International Literacy Association ("ILA") standards, and International Dyslexia Association ("IDA") standards. As a result, the Board withdrew the proposed amendments that were republished on January 1, 2021.

On April 1, 2021, the Board had presentations regarding school reading specialists, ILA standards for reading/literacy specialists, and IDA standards. The Board decided to republish the proposed amendments that were published on November 1, 2020 and republished on January 1, 2021 without any additional amendments. The proposed amendments were published again in the *Register of Regulations* on May 1, 2021. The Board received written submittals from Sarah Beth Theaker and Leah Wasserman.

On June 3, 2021, the Board considered the written submittals and ultimately withdrew the regulation that was published on May 1, 2021.

The Board continued working on developing proposed amendments to the regulation. The proposed amendments to this regulation include revising the definition of the term "Valid and Current License or Certificate" in Section 2.0 to clarify it is referring to an educator's license or certificate; revising the requirements for reciprocity in Section 3.0 and removing the section on reciprocity that was previously proposed; revising subsection 4.1.1.1 to clarify the requirements and add the IDA standards as an option; revising the course title in subsection 4.1.1.1.2.5; moving the section concerning Secretary of Education review up to Section 6.0 and renumbering the subsequent sections concerning validity and disciplinary actions; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address. The other proposed amendments are the same as the proposed amendments that were published on November 1, 2020, January 1, 2021, and May 1, 2021.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before May 3, 2022 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOeregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' health and safety is protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students' legal rights

are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a School Reading Specialist Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 6.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 5.0 apply to individual applicants. In addition, the requirements in Section 10.0 apply to individual applicants and Educators.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The amended regulation is consistent with, and not an impediment to, the implementation of other state educational policies, and 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? There is not a less burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the adopted regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 934RFA 04-01-22.pdf>

1581 School Reading Specialist

1.0 Content

- 4.1 This regulation shall apply to the ~~requirements for a issuance of a School Reading Specialist Standard Certificate, pursuant pursuant to 14 Del.C. §1220(a), for School Reading Specialist. This certification~~ The School Reading Specialist Standard Certificate is required for all School Reading Specialists in Delaware public schools.
- 4.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 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.
- "Educator"** means a person licensed and certified by the State under 14 **Del.C.** Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

"Employing Authority" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.

"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 the educator's unfitness or otherwise.

"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.

"Reading Specialist" means an educator whose responsibility is to improve reading achievement in their the educator's assigned school or district position. A Reading Specialist provides may provide one-on-one or small group, diagnostic teaching of reading. Responsibilities may include coaching and leading school reading programs. Reading Specialists' assignments may include Title I reading teachers, reading resource teachers and educators who work with teachers in reading and communication skills, including, but not limited to literacy coaches and coordinators, and individuals employed as building or district coordinators of reading or in Reading Cadre positions. Reading Specialists may also serve as a resource in reading and writing for educational support personnel, administrators, teachers, and the community, provide professional development based on historical and current literature and research, work collaboratively with other professionals to build and implement reading programs for individuals and groups of students, and serve as advocates for students who struggle with reading.

"Regionally Accredited" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill 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.

"Valid and Current License or Certificate" means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 **Issuance of a Standard Certificate**

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a School Reading Specialist Standard Certificate as a School Reading Specialist to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; and, and meets the requirements set forth in Section 4.0 of this regulation; or
 - 3.1.2 Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and, Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a Reading Specialist issued by another state or jurisdiction.
 - 3.1.3 Has satisfied the additional requirements in this regulation.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a School Reading Specialist Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as

PROPOSED REGULATIONS

Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 **Additional Prescribed Education, Knowledge, and Skill Requirements**

An educator must also have met the following additional requirements:

4.1 Education requirements:

4.1.1 An educator shall also have satisfied at least one (1) of the following additional education requirements:

4.1.1.1 A Master's degree or its equivalent from a regionally accredited college or university in Reading offered by an NCATE specialty organization recognized educator preparation program or state approved educator preparation program where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards; or

4.1.1.2 Completion of either a Bachelor's degree plus (30) graduate level credit hours or a Master's degree, from a regionally accredited college or university in any content area; and

4.1.1.2.1 The successful completion of twenty four (24) graduate level credit hours in the following content areas:

4.1.1.2.1.1 Assessment and Instruction in Writing (3 credits);

4.1.1.2.1.2 Assessment and Instruction in Reading (6 credits);

4.1.1.2.1.3 Practicum in Reading to include application of strategies in assessment, instruction and parent involvement (6 credits);

4.1.1.2.1.4 Literacy in the Content Areas (3 credits);

4.1.1.2.1.5 Teaching English as a Second Language (3 credits); and either

4.1.1.2.1.6 Literacy Acquisition (3 credits); or

4.1.1.2.1.7 Coaching Adult Learners (3 credits).

4.2 Experience requirements:

4.2.1 An educator must have a minimum of three (3) years of teaching experience.

4.1 An applicant for a School Reading Specialist Standard Certificate shall have satisfied the requirements in subsections 4.1.1 through 4.1.3.

4.1.1 The applicant shall have satisfied both of the education requirements in subsections 4.1.1.1 and 4.1.1.2.

4.1.1.1 The applicant shall have satisfied one of the following:

4.1.1.1.1 Earned a master's degree in reading or literacy or its equivalent from a Regionally Accredited college or university or a state-approved educator preparation program for a reading/literacy specialist; or

4.1.1.1.2 Earned a bachelor's degree and completed 30 graduate-level credit hours in any content area from a Regionally Accredited college or university. In addition, the applicant shall have satisfactorily completed 24 graduate-level credit hours that are aligned to either the International Literacy Association (ILA) Standards for Reading/Literacy Specialists or the International Dyslexia Association (IDA) Standards for Teachers of Reading in the following areas:

4.1.1.1.2.1 Assessment and instruction in writing (three credits);

4.1.1.1.2.2 Assessment and instruction in reading that is based on the five core principles of phonological awareness, phonics, fluency, vocabulary, and comprehension (six credits);

4.1.1.1.2.3 Practicum in reading to include application of strategies in assessment, instruction, and parent involvement (six credits);

4.1.1.1.2.4 Literacy in the content areas (three credits);

- 4.1.1.1.2.5 Teaching diverse reading profiles, including teaching English as a Second Language (three credits); and
- 4.1.1.1.2.6 Literacy acquisition (three credits).
- 4.1.1.1.3 Earned a master's degree in any content area and satisfactorily completed 24 graduate-level credit hours that are aligned to either the International Literacy Association (ILA) Standards for Reading/Literacy Specialists or the International Dyslexia Association (IDA) Standards for Teachers of Reading in the areas specified in subsections 4.1.1.1.2.1 through 4.1.1.1.2.6.
- 4.1.1.2 The applicant shall have satisfactorily completed at least one course related to leadership, adult learning theory, or coaching adult learners, taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university.
- 4.1.2 The applicant shall have achieved the minimum score on one of the following examinations:
 - 4.1.2.1 A minimum score of 164 on the Praxis Subject Assessment - Reading Specialist (ETS Test Code # 5301); or
 - 4.1.2.2 A minimum score of 165 on the Praxis Subject Assessment - Reading Specialist (ETS Test Code #5302).
- 4.1.3 The applicant shall have completed a minimum of three years of teaching experience, including meeting students on a regularly scheduled basis, planning and delivering instruction, developing or preparing instructional materials, and evaluating student performance under a state credential in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department.

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 An applicant must disclose the applicant's criminal conviction history upon application for a School Reading Specialist Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of a School Reading Specialist Standard Certificate as specified in 14 Del.C. §1219.
- 5.3 For applicants who are applying for the School Reading Specialist Standard Certificate under subsection 3.1.1, the following documentation is required:
 - 5.3.1 Official transcript from the applicant's Regionally Accredited college or university.
 - 5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
 - 5.3.1.2 Sealed paper transcripts may be submitted.
 - 5.3.1.3 The Department will not accept copies of transcripts; and
 - 5.3.2 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
 - 5.3.3 The Department-approved form verifying the applicant's completion of the experience requirement as provided in subsection 4.1.3; and
 - 5.3.4 Additional documentation as required by the Department.
- 5.4 For applicants who are applying for the School Reading Specialist Standard Certificate under subsection 3.1.2, the following documentation is required:
 - 5.4.1 An official copy of the Valid and Current License or Certificate as a Reading Specialist; and
 - 5.4.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

- 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a School Reading Specialist Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a School Reading Specialist Standard Certificate but whose effectiveness is documented by the local school district or charter school.

PROPOSED REGULATIONS

- 6.1.1 For school districts, requests shall be approved by the superintendent of the school district.
- 6.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

7.0 Validity of a Standard Certificate

- 7.1 A School Reading Specialist Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 7.2 A School Reading Specialist Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

- 8.1 An Educator's School Reading Specialist Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 8.2 An Educator's School Reading Specialist Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 **Del.C.** §1222.
- 8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

9.0 Past Certificate Recognized

The Department shall recognize a School Reading Specialist Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to practice as a Reading Specialist.

10.0 Contact Information and Change of Name or Address

- 10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 10.2 An Educator who legally changes the Educator's name and wishes to change the name on the School Reading Specialist Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
Statutory Authority: 4 Delaware Code, Section 304 (4 **Del.C.** §304)

PUBLIC NOTICE

Rule 705 - Expansion of Outdoor Seating: Procedures, Standards and Fees

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 **Del.C.** §304, the Delaware Alcoholic Beverage Control Commissioner proposes to introduce regulations concerning curbside service provided by package stores, expansion of outdoor seating for serving food and drinks by licensees, and containers used for alcohol to-go from restaurants, taprooms and

taverns.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Wendy Hudson
Deputy Commissioner
Office of the Delaware Alcoholic Beverage Control Commissioner
820 N. French St., 3rd Floor
Wilmington, DE 19801

Comments may also be directed via electronic mail to OABCCrulescomments@delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Delaware Alcoholic Beverage Control Commissioner no later than 4:00 p.m. EST, May 2, 2022.

The action concerning determination of whether to adopt the proposed regulation will be based upon consideration of the written comments and any other written materials filed by the public.

Background

The Delaware Alcoholic Beverage Control Commissioner is authorized by the General Assembly of the State of Delaware, to establish, by rules and regulations, an effective control of the business of manufacture, sale, dispensation, distribution and importation of alcoholic liquors within and into the State of Delaware, including the time, place and manner in which alcoholic liquors shall be sold and dispensed, not inconsistent with Title 4 of the Delaware Code or with any other law of the State. The Commissioner is further authorized to adopt and promulgate rules and regulations not inconsistent with Title 4 or of any other law of the State, and such rules and regulations shall have the force and effect of law; provided, however that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof; and provided further, however, that such rules and regulations, as established by the Commissioner, shall focus primarily on public safety and the best interests of the consumer and shall not unduly restrict competition within the alcoholic beverage industry.

Further, the Commissioner shall determine and publish standards for: 1) the manner in which stores that sell alcoholic beverages for off-premise consumption are permitted to provide curbside service for customers; 2) the expansion of outdoor seating for purposes of serving food and drink; and 3) takeout alcoholic beverages by restaurants, taprooms and taverns and others with a valid on premise license in Delaware in order to be allowed to exercise the privilege of the sale of alcoholic liquors therein. This includes an update to Rule 1202 to prohibit a minor from participating in curbside delivery transactions.

Last, Section 904(h) of Title 4 of the Delaware Code allows an 18 year old to serve alcoholic beverages. Rule 1201 is updated so that an employee who is between 16-18 years of age must apply for a work permit, for compliance with Section 904.

Summary of Proposal

In January 2022, the Delaware General Assembly passed House Bills 289 and 290. These bills permit curbside service for package stores, takeout alcohol sales by restaurants, taprooms and taverns and others with a valid on-premise license following specific guidelines, and an expansion of outdoor seating for serving food and drinks. The Governor signed both bills in February 2022, and they became effective immediately.

The proposed Rules implement these changes by providing standards for the industry to follow. Specifically, proposed Rule 705 outlines the procedure for licensees to seek permission from the Alcoholic Beverage Control Commissioner to expand outdoor seating for serving food and drinks. In addition, changes to existing Rules 910 and 1202 clarify the manner in which a restaurant, taproom or tavern, or other licensees with valid on-premises licenses, may provide takeout orders of alcoholic beverages, and provides guidelines for curbside service by package stores to provide assistance to its customers. Last, Rule 1201 is updated to reflect a change in the minimum age as 18 years old, formerly 19 years old, for compliance with updates to Section 904, Title 4.

Statutory Authority 4 Del.C. §304.

4 **Del.C.** §304 enables the Delaware Alcoholic Beverage Control Commissioner to adopt and promulgate rules

and regulations not inconsistent with Title 4 of the Delaware Code and all such rules and regulations shall have the force and effect of law; provided, that no such rule or regulation shall extend, modify or conflict with any law of the State of Delaware or the reasonable implications thereof.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 940RFA 04-01-22.pdf>

Rule 705 - Expansion of Outdoor Seating: Procedures, Standards and Fees

1.0 Purpose and Scope

- 1.1 Licenses issued under the provisions of Title 4, Delaware Code (the Delaware Liquor Control Act) are approved based upon the physical plan as presented in the initial application. Under the provisions of 4 DE Admin. Code 703, all alterations to the licensed premises must be presented and approved by the Commissioner prior to execution of construction, renovation, or modification.
- 1.2 This rule provides procedures, standards, and inspection requirements.

2.0 Definitions

"Expansion of Outdoor Seating" includes the surrounding grounds, sidewalk and parking lot immediately adjacent to the building or buildings identified by a single address number or lease space number, to which a license to sell alcoholic liquors for consumption has been issued by the Commissioner. It does not mean the building or buildings to which a license to sell alcoholic liquors for consumption "on" or "off" has been issued by the Commissioner, nor does it include ancillary structures, contiguous water, still or moving, or piers, floating docks or buildings, patios covered or uncovered, or any other structure, modular or mobile home attached or connected to the licensed establishment by electrical, water, sewer or heating/air conditioning systems.

"Wet Bar" means as defined in 4 DE Admin. Code 704, Section 2.0.

3.0 Expansion of Outdoor Seating Permit

Approval of an expansion of outdoor seating for serving food and alcoholic beverages may be issued, and valid during the term of the basic license, providing the following procedures are followed and the expansion of outdoor seating is approved by the political subdivision before the request for an expansion of outdoor seating is submitted for review and approval by the Commissioner. Expansion of outdoor seating approval is separate from and does not include an extension of premises patio permit ("patio permit") governed by 4 DE Admin. Code 704.

4.0 Procedures

- 4.1 For an expansion of outdoor seating, the licensee shall submit to the Commissioner a letter of request, with the following attachments:
 - 4.1.1 A letter of approval from the appropriate political subdivision approving the request for expansion of outdoor seating explaining how the expansion will comply with 4 Del.C. §524(f)(2), including compliance with traffic patterns and the State's right of way, compliance with the Americans with Disabilities Act and adherence to noise ordinances. The letter shall also include the expiration date of the approval for expansion of outdoor seating, if applicable.
 - 4.1.2 A detailed floor or construction plan showing dimensions, point of contact with the licensed premises, elevation (if any) and identification of access and egress, seating and table arrangements, and appropriate fencing or enclosures for the expansion of outdoor seating that will permit the proper control over the distribution of alcoholic beverages.
 - 4.1.3 Intended construction start and finish dates, if applicable.
 - 4.1.4 Filing Fee (non-refundable).
- 4.2 If construction or modification is required, when completed, the Commissioner shall be notified for final inspection of the site.

4.5 Upon final inspection, approval, and upon payment of the non-refundable inspection fee, the Commissioner shall authorize use as an expansion of outdoor seating.

5.0 Fees

5.1 Filing Fee: \$25.00

5.2 Inspection fee: \$25.00

6.0 No Additions Permitted to An Expansion of Outdoor Seating

6.1 No live entertainment is permitted on an expansion of outdoor seating.

6.2 No external speakers, sound system or amplifiers are permitted on an expansion of outdoor seating.

6.3 No audible paging system is permitted on an expansion of outdoor seating.

6.4 No wet bar is permitted on an expansion of outdoor seating.

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
Statutory Authority: 4 Delaware Code, Section 304 (4 Del.C. §304)
4 DE Admin. Code 910

PUBLIC NOTICE

Rule 910 (Formerly Rule Number 33) A Rule Defining And Regulating The Quantities Of Sales And Methods Of Deliveries Of Certain Off-premises Sales By Licensees

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 Del.C. §304, the Delaware Alcoholic Beverage Control Commissioner proposes to introduce regulations concerning curbside service provided by package stores, expansion of outdoor seating for serving food and drinks by licensees, and containers used for alcohol to-go from restaurants, taprooms and taverns.

In accordance with 29 Del.C. §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Wendy Hudson
Deputy Commissioner
Office of the Delaware Alcoholic Beverage Control Commissioner
820 N. French St., 3rd Floor
Wilmington, DE 19801

Comments may also be directed via electronic mail to OABCCrulescomments@delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Delaware Alcoholic Beverage Control Commissioner no later than 4:00 p.m. EST, May 2, 2022.

The action concerning determination of whether to adopt the proposed regulation will be based upon consideration of the written comments and any other written materials filed by the public.

Background

The Delaware Alcoholic Beverage Control Commissioner is authorized by the General Assembly of the State of Delaware, to establish, by rules and regulations, an effective control of the business of manufacture, sale, dispensation, distribution and importation of alcoholic liquors within and into the State of Delaware, including the time, place and manner in which alcoholic liquors shall be sold and dispensed, not inconsistent with Title 4 of the Delaware Code or with any other law of the State. The Commissioner is further authorized to adopt and promulgate rules and regulations not inconsistent with Title 4 or of any other law of the State, and such rules and regulations

shall have the force and effect of law; provided, however that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof; and provided further, however, that such rules and regulations, as established by the Commissioner, shall focus primarily on public safety and the best interests of the consumer and shall not unduly restrict competition within the alcoholic beverage industry.

Further, the Commissioner shall determine and publish standards for: 1) the manner in which stores that sell alcoholic beverages for off-premise consumption are permitted to provide curbside service for customers; 2) the expansion of outdoor seating for purposes of serving food and drink; and 3) takeout alcoholic beverages by restaurants, taprooms and taverns and others with a valid on premise license in Delaware in order to be allowed to exercise the privilege of the sale of alcoholic liquors therein. This includes an update to Rule 1202 to prohibit a minor from participating in curbside delivery transactions.

Last, Section 904(h) of Title 4 of the Delaware Code allows an 18 year old to serve alcoholic beverages. Rule 1201 is updated so that an employee who is between 16-18 years of age must apply for a work permit, for compliance with Section 904.

Summary of Proposal

In January 2022, the Delaware General Assembly passed House Bills 289 and 290. These bills permit curbside service for package stores, takeout alcohol sales by restaurants, taprooms and taverns and others with a valid on-premise license following specific guidelines, and an expansion of outdoor seating for serving food and drinks. The Governor signed both bills in February 2022, and they became effective immediately.

The proposed Rules implement these changes by providing standards for the industry to follow. Specifically, proposed Rule 705 outlines the procedure for licensees to seek permission from the Alcoholic Beverage Control Commissioner to expand outdoor seating for serving food and drinks. In addition, changes to existing Rules 910 and 1202 clarify the manner in which a restaurant, taproom or tavern, or other licensees with valid on-premises licenses, may provide takeout orders of alcoholic beverages, and provides guidelines for curbside service by package stores to provide assistance to its customers. Last, Rule 1201 is updated to reflect a change in the minimum age as 18 years old, formerly 19 years old, for compliance with updates to Section 904, Title 4.

Statutory Authority 4 Del.C. §304.

4 Del.C. §304 enables the Delaware Alcoholic Beverage Control Commissioner to adopt and promulgate rules and regulations not inconsistent with Title 4 of the Delaware Code and all such rules and regulations shall have the force and effect of law; provided, that no such rule or regulation shall extend, modify or conflict with any law of the State of Delaware or the reasonable implications thereof.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 943RFA 04-01-22.pdf>

Rule 910 (Formerly Rule Number 33) A Rule Defining And Regulating The Quantities Of Sales And Methods Of Deliveries Of Certain Off-premises Sales By Licensees

1.0 Sales and Deliveries

- 1.1 The holder of a license for the sale of retail of alcoholic liquor, not for consumption on the premises where sold, other than a licensed Importer, may sell alcoholic liquors of the variety and quantity and to the persons permitted by the Liquor Control Act, as presently in force and as hereafter amended, and the merchandise so sold shall be delivered to the purchaser or his agent on the premises and removed by such purchaser or agent from the premises with the seals of the bottles unbroken. For the purpose of this sub-section only, the "premises" of a holder of a license for sale at retail shall be deemed to extend to the street or curb line of the public street, road or highway nearest to the front entrance of his establishment, or if there be no established street or curb line, then to the nearest edge of the street, road or highway nearest to the front entrance of his establishment, to a distance, however, of not more than 100 feet from such front entrance. Notwithstanding anything in this Rule to the contrary, for purposes of curbside service, the "premises" of a holder of a license for sale at retail may extend to

include a parking spot along the curb of a public street or along the curb of the parking lot if the retail license premises is located in a shopping center or strip mall that is closest to the licensee's front entrance if that licensee does not have access to parking spaces for use by purchasers in accordance with subsection 1.6 of this Rule.

- 1.2 An Importer may sell the variety of alcoholic liquor authorized by his license, to a person who is the holder of a license to purchase the same for resale, in such quantities as may be ordered by the purchaser, and shall transport the merchandise so sold from the Importer's establishment to the establishment of the purchaser.
- 1.3 An Importer licensed for the sale of beer is permitted under 4 **Del.C.** §101 to sell beer in half-barrel or quarter-barrel containers to the holder of a personal license. Such Importer shall transport the beer so sold from his warehouse to the residence of the purchaser.
- 1.4 4 **Del.C.** §101 permits an Importer to sell alcoholic liquor to an active owner of a wholesale liquor business for the latter's personal use. Importers may sell to the active owners of their respective companies only the variety of alcoholic liquor authorized by the Importer's license. Importers must sell only to those active owners who are holders of a license to purchase for personal stock even though the purchase may not exceed the quantities permitted to be purchased without a license. An Importer shall not deliver the merchandise as sold, except beer in half-barrel or quarter-barrel containers.
- 1.5 Delivery of alcoholic liquor shall not be made by an Importer to any place licensed for the sale of alcoholic liquor outside of the hours during which such place is authorized to do business. Sale and delivery by an Importer to a person who is the holder of a license to purchase for personal stock shall not be made after 10:00 P. M. of any day and before nine o'clock A. M. of the day following.
- 1.6 Curbside service of alcoholic beverages is permitted under the following conditions:
 - 1.6.1 Delivery of the order shall be permitted to a purchaser's vehicle in parking spaces designated by the licensee for curbside service. Under no circumstances may service be provided off premises, as that term is defined in subsection 1.1 of this Rule, except when the licensee has no parking lot spaces for purchasers, curbside service may include a parking space on a public street or roadway or along the curb of the parking lot if the retail license premises is located in a shopping center or strip mall that is closest to the licensee's front entrance.
 - 1.6.2 Curbside delivery shall be completed only by an employee who has completed the State's server training certification at the time the sale occurs.
 - 1.6.3 The employee carrying the curbside delivery order outside the store is at least 21 years of age.
 - 1.6.4 Before placing alcoholic beverages in a vehicle for curbside service, the purchaser shall exit the vehicle to complete the sale transaction (either through the exchange of payment information or to sign a sales receipt) and the employee shall verify: 1) the purchaser's identification, legal age and sobriety; and 2) that the purchaser's identification and credit card match the information provided as part of an order placed by telephone or online. If the employee is unable to verify the information above, the employee shall return the alcoholic beverage order to the store and cancel the purchase.
 - 1.6.5 The order is placed in the vehicle's trunk, and if there is no trunk, in the vehicle's rear compartment or back seat that is not readily accessible to the driver of the vehicle.

2.0 Sales of alcoholic beverages in transactions for take-out, curbside, or drive through service by on premise licensees.

- 2.1 As used in this Rule:
 - 2.1.1 "Mixed cocktail" means a beverage created by combining ingredients alcoholic in nature, whether brewed, fermented, or distilled, with ingredients non-alcoholic in nature, which is made in the restaurant, brewpub, tavern or taproom or other entity with a valid on-premise license.
 - 2.1.2 "Container securely closed" means a container with a tamper-evident secured lid or cap that is designed to prevent consumption without removal of the lid or cap. The container shall include a label affixed to it, in a conspicuous place, legibly indicating: 1) the name of the licensee; and 2) the

PROPOSED REGULATIONS

- words "CONTAINS ALCOHOL." Container securely closed does not include a container with a lid with sipping holes or openings for straws or a container made of paper or polystyrene foam.
- 2.1.3 "Tamper evident" means a seal or tape that, if breached or missing, will indicate the lid or cap has been removed.
- 2.1.4 "Drive through service" means providing a take-out order to a customer who is not required to enter the premises to complete the sale, but it does not include providing a take-out order through a drive-through window pursuant to Section 4.0 of 4 DE Admin. Code 703.
- 2.2 A restaurant, brewpub, tavern, or taproom, or other entity with a valid on-premise license issued pursuant to chapter 5, subchapter II of Title 4 of the Delaware Code may sell alcoholic beverages for take-out, curbside or drive through service if the following requirements are met:
- 2.2.1 The containers are securely closed.
- 2.2.2 The order is limited to one 750 ML bottle of wine, 6 servings of beer, and/or mixed cocktails sold in a container securely closed. The licensee shall not provide straws with the order.
- 2.2.3 The order is sold and served by an employee certified as a responsible alcoholic beverage server pursuant to 4 Del.C. §1205.
- 2.2.4 If sold by a restaurant, be sold with the customer's purchase of food that costs at least \$10.
- 2.2.5 Upon delivery, the employee shall verify the age and level of intoxication of the person to whom the wine, beer and/or mixed cocktails is being delivered, and if the employee is not able to safely verify a person's age or level of intoxication upon delivery, the employee shall cancel the sale of alcoholic beverages.
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OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

Statutory Authority: 4 Delaware Code, Section 304 (4 Del.C. §304)

4 DE Admin. Code 1201

PUBLIC NOTICE

Rule 1201 (Formerly Rule 7) A Rule Requiring Persons Between the Ages of 16 and 18 to Secure a Work Permit to be Employed by an On-Premises Licensee

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 Del.C. §304, the Delaware Alcoholic Beverage Control Commissioner proposes to introduce regulations concerning curbside service provided by package stores, expansion of outdoor seating for serving food and drinks by licensees, and containers used for alcohol to-go from restaurants, taprooms and taverns.

In accordance with 29 Del.C. §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Wendy Hudson
Deputy Commissioner
Office of the Delaware Alcoholic Beverage Control Commissioner
820 N. French St., 3rd Floor
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The action concerning determination of whether to adopt the proposed regulation will be based upon consideration of the written comments and any other written materials filed by the public.

Background

The Delaware Alcoholic Beverage Control Commissioner is authorized by the General Assembly of the State of Delaware, to establish, by rules and regulations, an effective control of the business of manufacture, sale, dispensation, distribution and importation of alcoholic liquors within and into the State of Delaware, including the time, place and manner in which alcoholic liquors shall be sold and dispensed, not inconsistent with Title 4 of the Delaware Code or with any other law of the State. The Commissioner is further authorized to adopt and promulgate rules and regulations not inconsistent with Title 4 or of any other law of the State, and such rules and regulations shall have the force and effect of law; provided, however that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof; and provided further, however, that such rules and regulations, as established by the Commissioner, shall focus primarily on public safety and the best interests of the consumer and shall not unduly restrict competition within the alcoholic beverage industry.

Further, the Commissioner shall determine and publish standards for: 1) the manner in which stores that sell alcoholic beverages for off-premise consumption are permitted to provide curbside service for customers; 2) the expansion of outdoor seating for purposes of serving food and drink; and 3) takeout alcoholic beverages by restaurants, taprooms and taverns and others with a valid on premise license in Delaware in order to be allowed to exercise the privilege of the sale of alcoholic liquors therein. This includes an update to Rule 1202 to prohibit a minor from participating in curbside delivery transactions.

Last, Section 904(h) of Title 4 of the Delaware Code allows an 18 year old to serve alcoholic beverages. Rule 1201 is updated so that an employee who is between 16-18 years of age must apply for a work permit, for compliance with Section 904.

Summary of Proposal

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Statutory Authority 4 Del.C. §304.

4 Del.C. §304 enables the Delaware Alcoholic Beverage Control Commissioner to adopt and promulgate rules and regulations not inconsistent with Title 4 of the Delaware Code and all such rules and regulations shall have the force and effect of law; provided, that no such rule or regulation shall extend, modify or conflict with any law of the State of Delaware or the reasonable implications thereof.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 946RFA 04-01-22.pdf>

Rule 1201 (Formerly Rule 7) A Rule Requiring Persons Between the Ages of 16 and 18 to Secure a Work Permit to be Employed by an On-Premises Licensee

1.0 Employing Persons Between the Ages of 16 and 18

- 1.1 No licensee shall employ, or allow to be employed on its licensed premises a person under the age of twenty-one, except that a hotel, restaurant, club or boat with authorized dining facilities, race track licensee, dinner theater, caterer, or bowling alley, may employ a person under the age of nineteen who

PROPOSED REGULATIONS

has been issued a valid work permit under this rule or is employed in a capacity unrelated to the selling, serving, dispensing or handling of alcoholic liquor without a permit from the Commissioner, and that the on-premises as listed above may employ a person ~~nineteen~~ eighteen years of age or older to serve alcoholic liquors to its patrons without a permit from the Commissioner. A person employed, or allowed to work in a kitchen, dining room, or any room where alcoholic liquor is sold, served, dispensed, or consumed, is employed in a capacity related to the handling of alcoholic liquor. The permit shall be available on the premises of the licensee for inspection at all times during the employment of the minor.

- 1.2 Any person between the ages of sixteen and eighteen, unless excepted by the above provisions of this Rule, who desires to be employed or allowed to be employed on a licensed premises, by a licensee, in any capacity on a regular, part time, or engagement basis, with or without compensation must first apply and, obtain a work permit from this Commissioner. Persons sixteen and seventeen years of age must first meet the requirements of the Department of Labor and Industrial Relations, and present eligibility slips and approval of the Department of Labor (these permits are obtained from the school attended, district wherein the person resides or the Department of Labor). The Commissioner may consider, among other factors, the following:
 - 1.2.1 The applicant's character and maturity.
 - 1.2.2 The applicant's prior police record. No permit shall be issued to a person who has been convicted of any felony, sex offense, drug offense, or law concerning alcoholic beverages, since attaining the age of sixteen, and shall be revoked upon such conviction.
- 1.3 Such permit may be revoked for cause at any time; if unrevoked, it shall remain valid until the person becomes ~~nineteen~~ eighteen.
- 1.4 These permits issued to persons between the ages of sixteen and eighteen are for employment in on-licensed premises as listed in subsection 1.1, but will not permit such persons to be involved in the sale or service of alcoholic beverages. They may not solicit or take orders, serve or prepare alcoholic beverages. Said licenses will expire upon attaining the age of ~~nineteen~~ eighteen. On-Premises establishments as listed in subsection 1.1 may employ persons ~~nineteen~~ eighteen years of age or older without any permit from the Commissioner for purposes of soliciting and taking orders for, and serving alcoholic beverages, but said person shall not be permitted to engage in the preparation of alcoholic liquor.
- 1.5 Those persons sixteen and seventeen, if desirous of employment at more than one place of employ, must present Department of Labor school permit for each Alcoholic Beverage Control Commissioner permit issued. Such employees must have as many Department of Labor and Commissioner permits as places of employment. The signature of licensee hiring is necessary on each application, which also must be signed by parent, guardian, or, at the discretion of the Commissioner, other reputable person. Permits become void upon termination of employment at place for which permit was issued.
- 1.6 For those persons eighteen, unless excepted by the above provisions of this rule, after the first permit, the Commissioner will only require the signature of licensee where person is to be employed.
- 1.7 It is the licensee's responsibility to verify that the permit is a valid one. Failure to do so could result in suspension of the license or fine.
- 1.8 All permits will be issued only upon receipt by the Commissioner of an application in the form required by the Commissioner, including an affidavit in the following form executed by the person seeking the permit:

STATE OF)
 : SS
 COUNTY OF)

I have been duly sworn, do depose and say that:

PROPOSED REGULATIONS

949

1. I acknowledge that I have read the requirements of the Delaware Alcoholic Beverage Control Commissioner, stated below, and that I will not violate such requirements.

2. I am _____ years of age, having been born on _____ at _____
Birthdate Birthplace

3. I have been convicted of the following offenses:

If yes, explain

4. I will advise the Commissioner within two days if I am convicted of any other offense.

Sworn to and subscribed before me this _____ day of _____, 20____ Signature of Applicant

- 1.9 The Commissioner's work permit is to be obtained by employee and given to employer at time of commencing work, who shall keep it as long as employee remains working at this establishment after which the permit is to be surrendered to the Delaware Alcoholic Beverage Control Commissioner by the employer. In the event employee secures work at another establishment, a new permit shall be applied for and secured from the Delaware Alcoholic Beverage Control Commissioner.
- 1.10 Employees under the age of ~~nineteen~~ eighteen years shall not receive orders for, serve alcoholic liquors, or be involved in the sale of alcoholic liquors in any way. This prohibition shall not apply to persons ~~nineteen~~ eighteen years of age or older who are employed in an on-premises as listed in subsection 1.1.
- 1.11 Employees, not of the legal drinking age, shall not work in any capacity behind a counter at which alcoholic liquors are located, may not mix alcoholic beverage drinks or draw beer from its dispenser.

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
Statutory Authority: 4 Delaware Code, Section 304 (4 **Del.C.** §304)
4 **DE Admin. Code** 1202

PUBLIC NOTICE

Rule 1202 (Formerly Rule 7.1) Employment of Persons Who Have Reached the Age of 18 Years in Package Stores

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 **Del.C.** §304, the Delaware Alcoholic Beverage Control Commissioner proposes to introduce regulations concerning curbside service provided by package stores, expansion of outdoor seating for serving food and drinks by licensees, and containers used for alcohol to-go from restaurants, taprooms and taverns.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Wendy Hudson
Deputy Commissioner
Office of the Delaware Alcoholic Beverage Control Commissioner
820 N. French St., 3rd Floor
Wilmington, DE 19801

Comments may also be directed via electronic mail to OABCCrulescomments@delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Delaware

Alcoholic Beverage Control Commissioner no later than 4:00 p.m. EST, May 2, 2022.

The action concerning determination of whether to adopt the proposed regulation will be based upon consideration of the written comments and any other written materials filed by the public.

Background

The Delaware Alcoholic Beverage Control Commissioner is authorized by the General Assembly of the State of Delaware, to establish, by rules and regulations, an effective control of the business of manufacture, sale, dispensation, distribution and importation of alcoholic liquors within and into the State of Delaware, including the time, place and manner in which alcoholic liquors shall be sold and dispensed, not inconsistent with Title 4 of the Delaware Code or with any other law of the State. The Commissioner is further authorized to adopt and promulgate rules and regulations not inconsistent with Title 4 or of any other law of the State, and such rules and regulations shall have the force and effect of law; provided, however that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof; and provided further, however, that such rules and regulations, as established by the Commissioner, shall focus primarily on public safety and the best interests of the consumer and shall not unduly restrict competition within the alcoholic beverage industry.

Further, the Commissioner shall determine and publish standards for: 1) the manner in which stores that sell alcoholic beverages for off-premise consumption are permitted to provide curbside service for customers; 2) the expansion of outdoor seating for purposes of serving food and drink; and 3) takeout alcoholic beverages by restaurants, taprooms and taverns and others with a valid on premise license in Delaware in order to be allowed to exercise the privilege of the sale of alcoholic liquors therein. This includes an update to Rule 1202 to prohibit a minor from participating in curbside delivery transactions.

Last, Section 904(h) of Title 4 of the Delaware Code allows an 18 year old to serve alcoholic beverages. Rule 1201 is updated so that an employee who is between 16-18 years of age must apply for a work permit, for compliance with Section 904.

Summary of Proposal

In January 2022, the Delaware General Assembly passed House Bills 289 and 290. These bills permit curbside service for package stores, takeout alcohol sales by restaurants, taprooms and taverns and others with a valid on-premise license following specific guidelines, and an expansion of outdoor seating for serving food and drinks. The Governor signed both bills in February 2022, and they became effective immediately.

The proposed Rules implement these changes by providing standards for the industry to follow. Specifically, proposed Rule 705 outlines the procedure for licensees to seek permission from the Alcoholic Beverage Control Commissioner to expand outdoor seating for serving food and drinks. In addition, changes to existing Rules 910 and 1202 clarify the manner in which a restaurant, taproom or tavern, or other licensees with valid on-premises licenses, may provide takeout orders of alcoholic beverages, and provides guidelines for curbside service by package stores to provide assistance to its customers. Last, Rule 1201 is updated to reflect a change in the minimum age as 18 years old, formerly 19 years old, for compliance with updates to Section 904, Title 4.

Statutory Authority 4 Del.C. §304.

4 Del.C. §304 enables the Delaware Alcoholic Beverage Control Commissioner to adopt and promulgate rules and regulations not inconsistent with Title 4 of the Delaware Code and all such rules and regulations shall have the force and effect of law; provided, that no such rule or regulation shall extend, modify or conflict with any law of the State of Delaware or the reasonable implications thereof.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 949RFA 04-01-22.pdf>

Rule 1202 (Formerly Rule 7.1) Employment of Persons Who Have Reached the Age of 18 Years in Package Stores

1.0 Definitions

"**Retailer**" means the person permitted to sell alcoholic liquors in a store in the State, not for consumption on the premises. 4 **Del.C.** §101. A natural person who is a sole proprietor, general partner, or owner of 25 percent or more of the issued and outstanding stock of a package store shall be considered as a "person" within the meaning of §101, for purposes of this Rule.

"**Sell or serve alcoholic liquors**" means acting in any manner toward a consumer which encourages, induces, or fosters the sale of any goods, whether or not they contain alcoholic liquor. The term includes, but is not limited to, advising consumers on the selection of goods, delivery of goods to consumers before payment, and ringing up sales. The term does not include stocking shelves, affixing price labels, and other acts not requiring direct contact with consumers, nor does it include assisting consumers in carrying parcels from the store when an in-store purchase has been completed. A minor shall not at any time be permitted unaccompanied access to the premises. In addition, a minor shall not participate in a curbside delivery transaction pursuant to 4 **Del.C.** §516 and 4 **DE Admin. Code** 910 either by completing a sales transaction or carrying a purchase from inside the store to a purchaser outside the store.

"**Store**" means an establishment licensed by the Commissioner only for the sale of alcoholic liquors for consumption off of the premises where sold.

2.0 Permits Required; Standards

- 2.1 No retailer shall employ a person between the ages of 18 and 21 in their store unless the person between the ages of 18 and 21 shall first have been approved by the Commissioner and received a permit to work in the store.
- 2.2 The permit required by subsection 2.1 shall be issued upon application showing that:
 - 2.2.1 The applicant is 18 years of age or older;
 - 2.2.2 The applicant is a mature and responsible person; and
 - 2.2.3 The applicant has not been the subject of any judicial or administrative proceedings by any federal, state or local governmental agency involving:
 - 2.2.3.1 Violations of laws or regulations respecting controlled substances;
 - 2.2.3.2 Violations of laws or regulations respecting alcoholic liquors; or
 - 2.2.3.3 Violations of criminal statutes carrying a penalty of incarceration of more than 1 year, whether or not a sentence of imprisonment was actually imposed.
- 2.3 Permits shall continue in full force and effect until the holder attains the age of 21 years, unless sooner revoked.

3.0 Application for Permit; Contents; Procedure

- 3.1 Any person who has reached the age of 18 years may apply to the Commissioner for a permit to work in a store.
- 3.2 The application shall state:
 - 3.2.1 The name, address and date of birth of the applicant;
 - 3.2.2 The name and address of the store where the applicant will be employed;
 - 3.2.3 The name and address of the high school most recently attended by the applicant;
 - 3.2.4 Any and all arrest and criminal or juvenile charges against the applicant, and their disposition, and all school disciplinary actions involving the applicant;
 - 3.2.5 The names, addresses and telephone numbers of 3 character references, who shall not be related to the applicant.

PROPOSED REGULATIONS

3.3 The application shall be signed by the applicant, at least one parent, and an approved owner of the store.

4.0 Approval of Application

The Deputy Commissioner may approve or disapprove applications. An applicant may appeal disapproval to the Commissioner.

5.0 Violations

A violation of this rule shall, in addition to any other penalty provided by the Liquor Control Act or these Rules, be punished by revocation of the applicant's permit, and such permit holder shall not be permitted to be employed thereafter under the provisions of this Rule or Rule 1201.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
2500 BOARD OF PHARMACY

Statutory Authority: 24 Delaware Code, Section 2506(a)(1) (24 Del.C. §2506(a)(1))
24 DE Admin. Code 2500

PUBLIC NOTICE

2500 Board of Pharmacy

Pursuant to 24 Del.C. §2506(a)(1), the Delaware Board of Pharmacy ("Board") has proposed revisions to its rules and regulations.

On December 1, 2021, proposed revisions to the rules and regulations were published in the *Delaware Register of Regulations*, Vol. 25, Issue 6. The proposed amendments authorize certified pharmacy technicians to administer adult immunizations but only where the training and administration requirements set forth in subsection 19.2.3 have been met.

A public hearing was held on January 19, 2022 before the Board and the public comment period was held open for another 15 days. The Board deliberated on the submitted evidence at its meeting on February 16, 2022. Based on those deliberations, the Board made substantive revisions to the proposed rules and regulations. Therefore, the Board strikes the rules and regulations as proposed in the December 1, 2021 *Register of Regulations* and proposes revised rules and regulations attached hereto as Exhibit A.

A public hearing will be held on May 18, 2022 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Pharmacy, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at sarah.siok@delaware.gov.

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be June 2, 2022. The Board will deliberate on all of the public comment at its next regularly scheduled meeting.

Nature of the Proceedings

There was no testimony presented at the January 19, 2022 hearing. The following exhibits were made part of the record:

Exhibit 1: *News Journal* Affidavit of Publication.

Exhibit 2: *Delaware State News* Affidavit of Publication.

Exhibit 3: January 8, 2022 letter from Alicia Palumbo, CVS Health.

Exhibit 4: February 2, 2022 email from Julie Miro Wenger, Delaware Association of Chain Drugstores.

Ms. Palumbo voiced support for the proposed revisions to the Board's rules and regulations in her January 8, 2022 letter. In her February 2, 2022 email, Ms. Miro Wenger suggested several revisions. With respect to subsection 19.2.3.1.1, addressing training for a certified pharmacy technician to administer adult immunizations, Ms. Miro Wenger suggested that the training be provided by an ACPE accredited provider. She further suggested that CPR certification may be completed online with a skills check component. Ms. Miro Wenger requested that pharmacy technicians not be required to document administered immunizations. She suggested that the word "adult" be stricken leaving only the word "immunization" in place of "adult immunization." Finally, Ms. Miro Wenger posed a question to the Board, asking for clarification as to whether pharmacy technicians, as opposed to certified pharmacy technicians, would be permitted to administer adult vaccinations.

Findings and Conclusion

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's rules and regulations. Pursuant to 24 **Del.C.** § 2506(a)(1), the Board has statutory authority to promulgate rules and regulations. The proposed revisions seek to authorize certified pharmacy technicians to administer adult immunizations.

During deliberations, the Board considered the written comments submitted by Ms. Miro Wenger and determined to adopt some of her suggested changes. First, the Board agreed that CPR certification may be taken through an online course designed for health care providers with a hands-on, skills check component. Section 14.0 and subsection 19.2.3.1 have been revised accordingly. The Board also agreed that a pharmacy technician administering an adult immunization should not have to document the administration of the adult immunization in that the pharmacist performs this step. Pursuant to the revised subsection 19.2.3.4.2, a pharmacy technician will be required to verify documentation.

The Board declined to adopt the balance of Ms. Miro Wenger's suggested changes. With respect to the required educational requirements, as set forth in subsection 19.2.3.1.1, the language "ACPE accredited provider" is not needed. "Board approved" curriculum is sufficient in that ACPE education is automatically Board approved. There is no need for further review of the curriculum. The Board further declined to strike the word "adult" from the proposed revisions in that 24 **Del.C.** § 2502(21)(h) expressly limits administration of immunizations to "adult" immunizations. Finally, the Board determined that only certified pharmacy technicians will be authorized to administer adult immunizations.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 952RFA 04-01-22.pdf>

2500 Board of Pharmacy
(Break in Continuity of Sections)

14.0 Administration of Injectable Medications, Biologicals and Adult Immunizations

The purpose of this ~~regulation~~ Section is to implement provisions relating to the training, administration, and documentation of injectable medications, biologicals, and adult immunizations by pharmacists, registered interns and pharmacy students pursuant to 24 **Del.C.** Ch. 25 relating to Pharmacy. Certified pharmacy technicians may only administer adult immunizations pursuant to the training, administration and documentation requirements set forth in subsection 19.2.3.

14.1 Educational Requirements

14.1.1 In order to administer injectable medications, biologicals, and adult immunizations a licensed pharmacist, a registered intern or a pharmacy student shall complete a Board approved academic and hands-on practical curriculum and maintain a current Cardio-Pulmonary Resuscitation (CPR) certificate acceptable to the Board of Pharmacy. ~~CPR certification cannot be obtained through an~~

PROPOSED REGULATIONS

~~on-line course. CPR certification must be obtained through a CPR course for health care providers and the course must have a hands-on, skills check component.~~

- 14.1.1.1 An approved academic and practical curriculum includes, but is not limited to, disease epidemiology, vaccine characteristics, injection technique, emergency response to adverse events, and related topics.
- 14.1.1.2 Pharmacists successfully completing the above education and practical training shall notify the Board. The Board will record the successful training in Board database systems. The pharmacist's license shall include the notation that such licensee has completed the training for the administration of injectable medications, biologicals and adult immunizations.

(Break in Continuity of Sections)

19.0 Technicians: Qualifications, Training, and Duties

19.1 Qualifications and Training

(Break in Continuity Within Section)

- 19.1.2 Certified pharmacy technicians must successfully pass the PTCB Exam or other national technician certification exam approved by the Board of Pharmacy. Only certified pharmacy technicians or those individuals approved pursuant to subsection 19.1.2.1 may assist the pharmacist by reconstituting oral solutions and contacting the prescriber or their agent to obtain refill authorization or other patient or prescription information of a non-clinical nature, or assisting the pharmacist with compounding.

- 19.1.2.1 A pharmacy technician completing a training program approved by the Board in lieu of passing the PTCB exam or passing a national certification program may perform the functions of a certified technician except for the administration of adult immunizations as set forth in subsection 19.2.3. However, approval Approval to perform the functions of the certified technician is limited to the approved setting and is not transferable to any other facility.

19.2 Allowed Activities

- 19.2.1 Except in emergency situations for short periods where staff is unavailable only pharmacy technicians and certified pharmacy technicians may assist the pharmacist or deliver prescriptions in the pharmacy to a patient or the patient's agent.

- 19.2.2 Pharmacy technicians and certified pharmacy technicians may carry out any pharmacy-related duty assigned to them by their supervising pharmacist except for those activities specifically excluded by 24 **Del.C.** §§2507(b) and 2502(19).

- 19.2.3 A certified pharmacy technician, who is certified by the Pharmacy Technician Certification Board (PTCB), the National Healthcareer Association (NHA), or other national entity approved by the Board, may administer adult immunizations under the direct supervision of a licensed pharmacist who is approved for injectable administration as set forth in Section 14.0. For the purposes of this subsection, "direct supervision" means oversight and control by a licensed pharmacist who remains on the premises and is responsible for the work performed by the certified pharmacy technician.

19.2.3.1 Educational Requirements

- 19.2.3.1.1 In order to administer adult immunizations, a certified pharmacy technician must complete a Board approved academic and hands-on practical curriculum and maintain a current Cardio-Pulmonary Resuscitation (CPR) certificate acceptable to the Board of Pharmacy. CPR certification must be obtained through a CPR course for health care providers and the course must have a hands-on, skills check component.

- 19.2.3.1.2 An approved academic and practical curriculum includes, but is not limited to, disease epidemiology, vaccine characteristics, injection technique, emergency response to adverse events, and related topics.

- 19.2.3.2 A certified pharmacy technician may only administer adult immunizations consistent with public health and safety and in a competent manner consistent with the academic curriculum and training completed.
- 19.2.3.3 Continued competency shall be maintained and available for Board inspection.
 - 19.2.3.3.1 A minimum of two hours of continuing education every two years for certified pharmacy technicians must be dedicated to this area of practice.
- 19.2.3.4 Practice Requirements
 - 19.2.3.4.1 The certified pharmacy technician, before administering an adult immunization, may assist the patient with pre-immunization paperwork.
 - 19.2.3.4.2 The certified pharmacy technician must verify documentation for all adult immunizations administered and such documentation shall be available for inspection by the Board of Pharmacy. Documentation shall include:
 - 19.2.3.4.2.1 Patient's name, address, phone number, date of birth, and gender.
 - 19.2.3.4.2.2 Adult vaccine administered, expiration date, lot number, method of administration, dose administered.
 - 19.2.3.4.2.3 Date of original order and the date of administration.
 - 19.2.3.4.2.4 The name of the prescribing practitioner, where applicable, and the certified pharmacy technician administering the dose.
- 19.2.3.5 The certified pharmacy technician must provide documentation to each person receiving adult immunizations and must report to the Immunization Vaccination Registry.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

2500 Board of Pharmacy

DIVISION OF PROFESSIONAL REGULATION

5300 BOARD OF MESSAGE AND BODYWORK

Statutory Authority: 24 Delaware Code, Section 5306(a)(1) (24 **Del.C.** §5306(a)(1))
24 **DE Admin. Code** 5300

PUBLIC NOTICE

5300 Board of Massage and Bodywork

Pursuant to 24 **Del.C.** §5306(a)(1), the Delaware Board of Massage and Bodywork ("Board") has proposed revisions to its rules and regulations. Section 9.0 of the Board's rules and regulations sets forth the biennial requirements for continuing education, which is mandated to ensure licensee competence. Pursuant to subsection 9.4, licensees are required to complete 24 hours of continuing education every two years, and, pursuant to subsection 9.4.2, nine of those hours must be Core credits taken in a classroom, hands-on setting. For the current renewal period, the deadline for completion of these continuing education hours is August 31, 2022. Due to the recently lifted State of Emergency in Delaware related to COVID-19, many in classroom, hands-on classes were canceled. To ensure that licensees complete 24 hours of continuing education by the August 31, 2022 deadline, the Board proposes that the requirements of subsection 9.4.2 be amended for the renewal period ending August 31, 2022 only to permit licensees to complete all required continuing education, including Core credits, online.

A public hearing will be held on April 21, 2022 at 1:30 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Massage and Bodywork, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at danielle.ridgeway@delaware.gov.

PROPOSED REGULATIONS

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be May 6, 2022. The Board will deliberate on all of the public comment at its next regularly scheduled meeting.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2022/proposed/25 DE Reg 955RFA 04-01-22.pdf>

5300 Board of Massage and Bodywork
(Break in Continuity of Sections)

9.0 Continuing Education (CE)

(Break in Continuity Within Section)

9.4 Licensees shall complete 24 hours of CE, which shall include:

9.4.1 Three hours in ethics, which may be taken in classroom or online;

9.4.2 Nine hours of Core credits which must be taken in a classroom, hands-on setting, except that for the licensure renewal period ending August 31, 2022 only, the required nine hours of Core credits may be taken in a classroom, hands-on setting or online; and

9.4.3 Twelve hours which may be Elective or Core credits and which may be taken on-line.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

5300 Board of Massage and Bodywork

Symbol Key

Arial 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 bold-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.

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))
1 **DE Admin. Code** 710

FINAL ORDER ADOPTING REGULATION CHANGES

710 Ambulance Service Regulations

The Delaware State Fire Prevention Commission, pursuant to 16 *Del. C.* § 6604(1), proposed to revise regulation 710, subsection 7.2.1.3., by requiring that newly purchased ambulances, as well as newly purchased, fabricated, or remounted ambulance compartments conform to the criteria set forth in National Fire Prevention Association 1917 Standard for Automotive Ambulances (2019). The proposed revision sought to clarify that all components, not just the ambulance compartment, must conform to this criteria. The proposed revision also eliminated the deadline in the existing regulation since that date has passed.

The proposed revision to the above regulation was published in the Delaware Register of Regulations on December 1, 2021. A written comment period was held open for over thirty days, through January 3, 2022. The Commission received no comments to the proposed revision.

The Commission considered the proposed revision at its regularly scheduled public meeting on February 15, 2022. At the public meeting, the Commission opened the meeting for any public comment. There were no comments received at the meeting.

Summary of the findings of fact

Pursuant to discussions held during open public Commission meetings, the Commission voted to approve the revision as proposed.

Decision of the Commission

The Commission adopts the proposed revision to Section 7.2.1.3 as proposed in the December edition of the Register of Regulations. The final proposed revision reflected in Exhibit A hereto shall go into effect April 15, 2022.

IT IS SO ORDERED, this 15th day of February 2022, by the Commission:

Ron Marvel, Chairman
Lynn Truitt
Joseph J. Leonetti, Sr.
William Kelly

Alan Robinson, Jr., Vice Chairman
Richard Perillo
Bill Betts

*Please note that no changes were made to the regulation as originally proposed and published in the December 2021 issue of the *Register* at page 567 (25 DE Reg. 567). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

710 Ambulance Service Regulations

**DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), 1211, 1213 and 1218(k) (14 Del.C. §§1203, 1205(b), 1211, 1213 & 1218(k))
14 DE Admin. Code 1511

REGULATORY IMPLEMENTING ORDER

1511 Issuance and Renewal of Continuing License**I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 Del.C. §§1203, 1205(b), 1211, 1213, and 1218(k) the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1511 Issuance and Renewal of Continuing License. The regulation concerns the requirements for the issuance, renewal, and retention of a Continuing License in accordance with 14 Del.C. §§1211, 1213, and 1218(k). The proposed amendments include revising the title of the regulation; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Continuing License in Section 3.0; specifying the requirements for an applicant to obtain a Continuing License in Section 4.0; adding reciprocity requirements in Section 5.0; specifying the requirements for reissuance of an expired Continuing License in Section 6.0; specifying the application requirements for issuance or reissuance of a Continuing License in Section 7.0; revising Section 8.0, which concerns requests for the Secretary of Education to review applications for the issuance of a Continuing License; clarifying the requirements for renewal and application requirements to renew a Continuing License in Section 9.0; revising the professional development activities for renewal in Section 10.0; adding Section 11.0, which concerns the validity of a Continuing License; clarifying the requirements for extensions for exigent circumstances in Section 12.0; specifying the requirements for retaining a Continuing License in Section 13.0; adding Section 14.0, which concerns disciplinary actions; and adding Section 15.0, which concerns an applicant's or license holder's contact information and the requirements to change an applicant's or license holder's name or address.

Notice of the proposed regulation was published in the *Register of Regulations* on January 1, 2022. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

II. FINDINGS OF FACTS

On February 3, 2022, the Professional Standards Board voted to propose 14 DE Admin. Code 1511 Issuance

and Renewal of Continuing License, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1511 Issuance and Renewal of Continuing License.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1511 Issuance and Renewal of Continuing License subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), 1211, 1213, and 1218(k), 14 **DE Admin. Code** 1511 Issuance and Renewal of Continuing License, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1511 Issuance and Renewal of Continuing License adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1511 Continuing License in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

IT IS SO ORDERED the 17th day of February, 2022.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 17th day of February, 2022.

State Board of Education:

/s/ Whitney Sweeney, President

/s/ Audrey J. Noble, Ph.D.

/s/ Shawn Brittingham, Vice President

/s/ Provey Powell, Jr.

Candice Fifer (Absent)

Wali W. Rushdan, II (Absent)

/s/ Vincent Lofink

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

***Please note that no changes were made to the regulation as originally proposed and published in the January 2022 issue of the *Register* at page 677 (25 DE Reg. 677). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1511 Issuance and Renewal of Continuing License

FINAL REGULATIONS

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

Statutory Authority: 4 Delaware Code, Section 304 (4 Del.C. §304)

4 DE Admin. Code 1008

ORDER

Rule 1008 (Formerly Rule 19.1) Bottle Clubs - Licensing and Operation

SUMMARY OF THE EVIDENCE

1. Title 4, Section 304 of the Delaware Code authorizes the Alcoholic Beverage Control Commissioner to establish regulations in relation to all powers, duties and functions vested pursuant to the regulation of alcoholic beverages in Delaware.

2. Pursuant to 4 Del. C. § 304, the Alcoholic Beverage Control Commissioner intends to amend 4 DE Admin. C. Rule 1008 4.0. This regulation is being amended to update the seating at tables requirement for bottle clubs from thirty-five persons to not less than twelve persons.

3. Notice of the proposed regulation change was published in the November 1, 2021 edition of the *Delaware Register of Regulations*.

4. The Commissioner invited a period of thirty (30) days, until December 1, 2021, for written comment from the public.

5. No public comments were received for this regulation.

6. Having solicited and requested public comment on the proposed regulations in accordance with the Delaware Administrative Procedures Act, 29 Del.C. Ch. 101, et. seq., this is the Commissioner's Order adopting the proposed regulation, as published previously.

FINDINGS OF FACT

1. The Commissioner finds that it is necessary to adopt this proposed amended regulation to clarify the seating at tables requirement, in order for the regulations to be consistent with the Delaware Liquor Control Act. Prior changes to laws affecting restaurant seating were inconsistent with the seating requirement for bottle clubs which are licensed in establishments that operate as a restaurant, and this regulation change will align the seating requirements in both establishments.

DECISION AND ORDER TO AMEND THE REGULATION

For the foregoing reasons, the Commissioner concludes that it is appropriate to amend 4 DE Admin. Code 1008, and therefore the regulation shall be adopted in accordance with this Order. The regulation changes will be effective on April 11, 2022 following publication of this Order in the *Delaware Register of Regulations* on April 1, 2022.

IT IS SO ORDERED this 15th day of March, 2022 by the Office of the Delaware Alcoholic Beverage Control Commissioner.

The Honorable Jacqueline Paradee Mette, Esq.
Commissioner

Rule 1008 (Formerly Rule 19.1) Bottle Clubs - Licensing and Operation

1.0 Purpose and Scope

This Rule implements the 1982 and 1989 Amendments to the Liquor Control Act extending the jurisdiction of the Commissioner to so called "bottle clubs." 4 Del.C. §515, 515Aa, 902(7) and 554(aa), 60 Del. Laws, Ch. 232 (April 30, 1982), 67 Del. Laws, Ch. 122 (July 14, 1989). It applies to all businesses operated for profit where patrons carry onto the premises alcoholic liquors to be consumed thereon and removed by patrons upon their

departure.

2.0 Definitions

"Bottle Club" means an establishment operated for profit or pecuniary gain where persons enter upon the premises for the purposes of consuming alcoholic liquors which are brought onto the premises by customers of the establishment and are consumed therein and removed by such persons upon their departure.

"Consume" in any tense, means the act of drinking or eating alcoholic beverages and includes possession of an alcoholic beverage with the present ability to drink or eat it.

"Operated for profit or pecuniary gain" means a business owned by a sole proprietor, partnership, corporation or other business association where such owner is not exempt from federal or state taxes on income on the profits (or losses) from such business, or the profits (or losses) from such business are for the benefit of an individual partnership, corporation or other business association which is not exempt from federal or state taxes on income. An organization qualified to receive a gathering license under 4 Del.C. §514, shall be deemed to be not for profit or pecuniary gain unless the profits or losses from such enterprise are otherwise subject to federal or state tax on income.

"Restaurant" means any establishment which is regularly used and kept open principally for the purpose of serving complete meals to persons for consideration, and which has seating at tables for ~~thirty-five (35)~~ 12 or more persons, and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook. The service of only such food and victuals as sandwiches or salads shall not be deemed to be the service of "meals" [4 Del.C. §101(35)]. In addition, a "restaurant" shall have a valid and current restaurant retailer license required by 30 Del.C. §2906.

3.0 General Policy

No establishment shall be operated for profit or pecuniary gain as a "bottle club" unless licensed by the Commissioner. Licensed "bottle clubs" shall, within the limits of their license, be held to the same standards of performance and financial responsibility as other types of license holders.

4.0 Standards of Operation for "Bottle Club"

4.1 Hours of Operation

4.1.1 An establishment operated as a "bottle club" shall not permit the consumption of alcoholic beverages on its premises after 2:00 a.m. or before 9:00 a.m. on any day. The presence of alcoholic liquors on the premises of a "bottle club" between the hours of 2:00 a.m. and 9:00 a.m. shall be prima facie evidence of a violation.

4.2 Service of General Public.

4.2.1 A "bottle club" may require membership upon payment of a reasonable fee, but approval of such membership shall not be unreasonably denied. A club shall not charge an admission charge or fee, but may charge a cover or minimum during hours when live entertainment is actually being presented.

4.3 Service of Food

4.3.1 A reasonable selection of food shall be available from a written menu or menu board at all hours when alcoholic beverages are being consumed. The selection of foods shall include a choice of sandwiches, entrees, and non-alcoholic beverages.

4.4 Service of Persons Under 21

4.4.1 Minors may be admitted to the premises of a "bottle club." Minors may not consume alcoholic beverages at any time. It shall be a rebuttable presumption that minors found on the premises or departing therefrom who are found to have consumed alcoholic liquors or are in possession of alcoholic liquors, consumed or possessed such alcoholic liquors on the premises.

4.5 Service of Alcoholic Liquors.

- 4.5.1 A "bottle club" may serve food, non-alcoholic beverages, mixers and ice and may charge for such service. "Bottle clubs" may not mix or provide bartender service to patrons, nor may a "bottle club" chill or keep alcoholic liquors for customers. A "bottle club" shall not serve alcoholic liquors.
- 4.6 Presence of Intoxicated Persons on Premises
- 4.6.1 A "bottle club" shall not permit an intoxicated person to remain on its premises.
- 4.7 Design and Layout
- 4.7.1 In a "bottle club" there shall be seating at tables for not less than ~~thirty-five~~ 12 persons. Seats at a bar shall not exceed 25% of the dining seats of the establishment.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
1400 BOARD OF ELECTRICAL EXAMINERS

Statutory Authority: 24 Delaware Code, Section 1406(a)(1) (24 **Del.C.** §1406(a)(1))
24 DE Admin. Code 1400

ORDER

1400 Board of Electrical Examiners

On January 1, 2022 the Delaware Board of Electrical Examiners published proposed changes to its regulations in the *Delaware Register of Regulations*, Volume 25, Issue 7. The notice indicated that written comments would be accepted by the Board, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on February 2, 2022 at a regularly scheduled meeting of the Board of Electrical Examiners to receive verbal comments regarding the Board's proposed amendments to its regulations. The rules pertaining to late renewal for electrical inspection agencies are proposed to be amended.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the time of the deliberations, the Board considered the following documents:

- Board Exhibit 1-** Affidavit of publication of the public hearing notice in the *News Journal*; and
Board Exhibit 2- Affidavit of publication of the public hearing notice in the *Delaware State News*.

There was no verbal testimony presented at the public hearing on March 2, 2022. No written comments were received by the Board.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the written public comment periods, or at the public hearing.
3. Pursuant to 24 **Del. C.** §1406 (a)(1) the Board has the statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. Having received no public comments, the Board finds no reason not to amend the regulations as proposed.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, pursuant to 24 **Del. C.** § 1406 (a)(1) and for the reasons set forth above, the Board does hereby ORDER that the regulations be, and that they hereby are, adopted and promulgated as set forth in the *Delaware Register of Regulations* on January 1, 2022. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations*, pursuant to 29 **Del. C.** §10118(g).

The new regulations are attached hereto as Exhibit A.
SO ORDERED this 2nd day of March, 2022.

DELAWARE BOARD OF ELECTRICAL EXAMINERS

/s/ James Murphy
/s/ Nathan Schreppler
/s/ Donald King
/s/ Anthony Roca
/s/ Victor Kyler

/s/ Karl Segner
/s/ David Smagala
/s/ Patricia Ennis
/s/ Willie Savage

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

***Please note that no changes were made to the regulation as originally proposed and published in the January 2022 issue of the *Register* at page 691 (25 DE Reg. 691). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1400 Board of Electrical Examiners

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 209(a) (26 Del.C. §209(a))
26 DE Admin. Code 3001

ORDER**3001 Rules for Certification and Regulation of Electric Suppliers**

IN THE MATTER OF THE ADOPTION OF RULES		
AND REGULATIONS TO IMPLEMENT THE		
PROVISIONS OF 26 DEL. C. CH. 10 RELATING		
TO THE CREATION OF A COMPETITIVE		
MARKET FOR RETAIL ELECTRIC SUPPLY		PSC REGULATION DOCKET NO. 49
SERVICE (OPENED APRIL 27, 1999;		
REOPENED JANUARY 7, 2003; SEPTEMBER 22,		
2009; SEPTEMBER 7, 2010; JULY 17, 2012;		
AND JULY 17, 2021)		

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE****FINDINGS, OPINION, AND ORDER NO. 9965**

***Please Note: Due to the size and formatting of Order No. 9965, a PDF copy of the signed final order is available at:**

<http://regulations.delaware.gov/register/april2022/final/PSC Docket No. 49 Order No. 9965.pdf>

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

FINAL REGULATIONS

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF DELAWARE

ORDER NO. 9976

AND NOW, this 16th day of March 2022, the Delaware Public Service Commission ("Commission") having reviewed the Delaware Division of the Public Advocate's ("DPA") Motion for Rehearing and Reconsideration of Order No. 9965 ("Motion"), and having considered the responses to the Motion, and having heard oral argument on the Motion at our regularly-scheduled meetings on February 23, 2022 and March 16, 2022:

WHEREAS, in Order No. 9965 we reserved the jurisdiction and authority to enter such further Orders in this matter as we deemed necessary or proper; and

WHEREAS, we find that the record was unclear regarding the DPA's argument and that we did not fully address the argument that the DPA raised; and

WHEREAS, we now understand the DPA's argument to be that Senate Bill 2 does not provide a specific method of recovery for Community Energy Facility bill credits, and acknowledge that subsection 16.10.4 could suggest that we have approved a specific method of recovery despite the language in Order No. 9965 that says otherwise; and

WHEREAS, we find that because we now better understand the DPA's argument, we would have reached a different conclusion with respect to including subsection 16.10.4 in the final regulations; and

WHEREAS, we do not find that this change is a substantive change warranting commencement of a new publication and 30-day comment period as would be required by the Administrative Procedures Act for a substantive change;

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NOT LESS THAN THREE COMMISSIONERS:

1. The Motion is **GRANTED** for the reasons set forth above.
2. Order No. 9965 is amended as follows:

~~**Subsection 16.10.4 — Delmarva's recovery of the billing credits.** Subsection 16.10.4 authorizes Delmarva "to recover the credited supply and distribution costs provided to Subscribers and the Community Energy Facility in accordance with its tariff." While Delmarva's tariff does not at this time specify how such recovery will take place, the The participants agree that subsection 16.10.4 paves the way for Delmarva to should file for approval of a mechanism for recovery of the billing credits it will provide to CEF subscribers — not from CEFs but from its customers. In this way,~~

~~59. The DPA argued that because Senate Bill 2 provides that CEFs "shall be responsible for any additional costs incurred by the electric distribution company..." Delmarva must recover the billing credits from the CEFs as an "additional cost."⁹⁰ The Commission disagrees that the intent of the General Assembly was to include the billing credits as an "additional cost" to be collected from the CEFs. As many of the participants asserted, collecting the billing credits from the CEFs would, in effect, take away the full retail rate⁹¹ compensation the General Assembly provided to CEF subscribers under Senate Bill 2.⁹²~~

~~60. Moreover, it is unclear that the billing credits for distribution are an "additional cost" or whether they are more accurately viewed as a reallocation of existing distribution costs necessary to serve CEF subscribers that will be socialized across Delmarva's customer base (in a manner to be determined later).⁹³ The billing credits for generation are not an "additional cost" because much of the supply cost will be "recovered" by virtue of the savings to Delmarva from the avoided supply purchases from its wholesale suppliers (due to the generation from the CEFs),⁹⁴ with any remaining supply costs (due in part to the difference between the price of wholesale supply and Delmarva's standard offer service rates) reallocated from CEF subscribers to Delmarva's customer base (in a manner to be determined later).~~

~~61. By approving subsection 16.10.4, the The Commission is not approving any particular mechanism for recovery of the billing credits and, to be clear, is not determining whether such recovery of the distribution credits will take place via rate rider (as Delmarva prefers)⁹⁶ or via the distribution rate itself or whether such recovery of the remaining supply costs will be recovered~~

via the PCA (as Delmarva prefers)⁹⁷ or otherwise. The Commission is acknowledging, however, that Delmarva's recovery of the billing credits from its customers (rather than the CEFs) is appropriate, given the intent of Senate Bill 2 to facilitate the development of CEFs by applying the billing credits against both the supply and distribution rates of CEF subscribers.⁹⁵ Delmarva will socialize the cost of the billing credits across all or part of its customer base, and the Commission hereby establishes a Regulatory Asset regarding the Community Solar subscriber bill credits. Delmarva is entitled to earn a return on the amount of the Regulatory Asset equivalent to the Company's authorized rate of return approved by the Commission in future rate cases. In future rate cases, the Regulatory Asset shall be subject to review by any other party, and any party is permitted to contest the amount of the Regulatory Asset. will be permitted to as it does now for the billing credits it provides for net metered rooftop solar generation via its distribution rate, which is set by base rate cases.

All other paragraphs remain as set forth in Order No. 9965.

3. The Commission instructs Staff to remove subsection 16.10.4 from the final regulations to be sent to the Registrar of Regulations for publication in the April 2022 Register of Regulations. All other directions to Staff in Order No. 9965 remain the same.

BY ORDER OF THE COMMISSION:

/s/ Dallas Winslow, Chairman

/s/ Joann Conaway, Commissioner

Harold Gray, Commissioner

Manubhai "Mike" Karia, Commissioner

/s/ Kim F. Drexler, Commissioner

ATTEST: Donna Nickerson, Secretary

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

***Please Note: Due to the size of the final regulation, it is not being published here. A copy of the regulation is available at:**

3001 Rules for Certification and Regulation of Electric Suppliers

GENERAL NOTICES

NEW CASTLE COUNTY NEW CASTLE COUNTY COUNCIL

Statutory Authority: 9 Delaware Code, Section 3402(a) (9 **Del.C.** §3402(a))

NOTICE

NOTICE TO REGISTER OF REGULATIONS REGARDING ADOPTION OF IMPLEMENTING ORDINANCE RELATING TO SENATE BILL 10

Yvette Smallwood
Registrar of Regulations
411 Legislative Avenue
Dover, DE 19901

Dear Ms. Smallwood:

The Delaware General Assembly enacted Senate Bill 10 on June 24, 2021. Senate Bill 10, which provides for creation of stormwater districts, subsequently was signed by Governor Carney on September 10, 2021 (83 **Del. Laws**, c. 133).

Section 2 of Senate Bill 10 establishes the following:

Section 2. This Act is effective immediately and implemented as follows:

(1) The Clerk of New Castle County Council shall provide notice, published in the Register of Regulations, that the ordinance required under § 3402(a) of Title 9 has been adopted by county government and the date this ordinance was adopted.

(2) The implementation date is the date the ordinance required under § 3402(a) of Title 9 was adopted, as provided under paragraph (1).

In accordance with Section 2 of Senate Bill 10, the Clerk of New Castle County Council hereby provides the requisite notice that New Castle County Council enacted Substitute No. 1 to Ordinance No. 21-144, titled "*TO AMEND NEW CASTLE COUNTY CODE TO CREATE A NEW CHAPTER 13 RELATING TO STORMWATER MAINTENANCE DISTRICTS*" on January 11, 2022. Subsequently, Substitute No. 1 to Ordinance No. 21-144 was adopted by County government on January 13, 2022, when New Castle County Executive Matt Meyer signed the ordinance.

Thank you,
Nellie M. Hill
Clerk of Council
New Castle County Council

***Please Note: Substitute No. 1 to Ordinance No. 21-144 is attached here as a PDF document:**

[http://regulations.delaware.gov/register/april2022/general/Substitute No. 1 to Ordinance No. 21-144.pdf](http://regulations.delaware.gov/register/april2022/general/Substitute%20No.1%20to%20Ordinance%20No.21-144.pdf)

DEPARTMENT OF AGRICULTURE
THOROUGHBRED RACING COMMISSION
PUBLIC NOTICE**1001 Thoroughbred Racing Rules and Regulations**Summary

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend Rule 15.0 to update references to the current version of ARCI Controlled Therapeutic Medical Schedules and 18.1 to increase flexibility in scheduling of steward's hearings by increasing the time to schedule the hearing from three racing days to five calendar days. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the April 1, 2022 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before May 2, 2022. Written materials submitted will be available for inspection at the above address.

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education meets monthly. These meetings are open to the public. The Board rotates locations of regular meetings among the three counties.

Meeting information can be accessed via the public meeting calendar.

Meeting materials available on the State Board of Education's eBoard site (https://simbli.eboardsolutions.com/SB_Meetings/SB_MeetingListing.aspx?S=190001). (If you are having technical difficulties accessing the site, please try a different browser.)

The next meeting is scheduled for May 2, 2022.

Information regarding special meetings or Committee meetings of the State Board will be posted on the public meeting calendar.

Minutes from recent State Board of Education meetings can be found on the public meeting calendar.

Audio recordings are available after every Board meeting (<https://www.doe.k12.de.us/domain/225>).

Public meeting calendar: <https://publicmeetings.delaware.gov/#/search?anyall=any&agencyid=22&startdateinclusive=2019-01-01>

CALENDAR OF EVENTS/HEARING NOTICES

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY
OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER****PUBLIC NOTICE****Rule 705 - Expansion of Outdoor Seating: Procedures, Standards and Fees****Rule 910 (Formerly Rule Number 33) A Rule Defining And Regulating The Quantities Of Sales And Methods Of Deliveries Of Certain Off-premises Sales By Licensees****Rule 1201 (Formerly Rule 7) A Rule Requiring Persons Between the Ages of 16 and 18 to Secure a Work Permit to be Employed by an On-Premises Licensee****Rule 1202 (Formerly Rule 7.1) Employment of Persons Who Have Reached the Age of 18 Years in Package Stores**

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 **Del.C.** §304, the Delaware Alcoholic Beverage Control Commissioner proposes to introduce regulations concerning curbside service provided by package stores, expansion of outdoor seating for serving food and drinks by licensees, and containers used for alcohol to-go from restaurants, taprooms and taverns.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Wendy Hudson
Deputy Commissioner
Office of the Delaware Alcoholic Beverage Control Commissioner
820 N. French St., 3rd Floor
Wilmington, DE 19801

Comments may also be directed via electronic mail to OABCCrulescomments@delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Delaware Alcoholic Beverage Control Commissioner no later than 4:00 p.m. EST, May 2, 2022.

The action concerning determination of whether to adopt the proposed regulation will be based upon consideration of the written comments and any other written materials filed by the public.

**DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION****PUBLIC NOTICE****2500 Board of Pharmacy**

Pursuant to 24 **Del.C.** §2506(a)(1), the Delaware Board of Pharmacy ("Board") has proposed revisions to its rules and regulations.

On December 1, 2021, proposed revisions to the rules and regulations were published in the *Delaware Register of Regulations*, Vol. 25, Issue 6. The proposed amendments authorize certified pharmacy technicians to administer adult immunizations but only where the training and administration requirements set forth in subsection 19.2.3 have been met.

A public hearing was held on January 19, 2022 before the Board and the public comment period was held open for another 15 days. The Board deliberated on the submitted evidence at its meeting on February 16, 2022. Based on those deliberations, the Board made substantive revisions to the proposed rules and regulations. Therefore, the Board strikes the rules and regulations as proposed in the December 1, 2021 Register of Regulations and proposes revised rules and regulations attached hereto as Exhibit A.

A public hearing will be held on May 18, 2022 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and

regulations may obtain a copy from the Delaware Board of Pharmacy, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at sarah.siok@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be June 2, 2022. The Board will deliberate on all of the public comment at its next regularly scheduled meeting.

DIVISION OF PROFESSIONAL REGULATION

PUBLIC NOTICE

5300 Board of Massage and Bodywork

Pursuant to 24 **Del.C.** §5306(a)(1), the Delaware Board of Massage and Bodywork ("Board") has proposed revisions to its rules and regulations. Section 9.0 of the Board's rules and regulations sets forth the biennial requirements for continuing education, which is mandated to ensure licensee competence. Pursuant to subsection 9.4, licensees are required to complete 24 hours of continuing education every two years, and, pursuant to subsection 9.4.2, nine of those hours must be Core credits taken in a classroom, hands-on setting. For the current renewal period, the deadline for completion of these continuing education hours is August 31, 2022. Due to the recently lifted State of Emergency in Delaware related to COVID-19, many in classroom, hands-on classes were canceled. To ensure that licensees complete 24 hours of continuing education by the August 31, 2022 deadline, the Board proposes that the requirements of subsection 9.4.2 be amended for the renewal period ending August 31, 2022 only to permit licensees to complete all required continuing education, including Core credits, online.

A public hearing will be held on April 21, 2022 at 1:30 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Massage and Bodywork, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at danielle.ridgeway@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be May 6, 2022. The Board will deliberate on all of the public comment at its next regularly scheduled meeting.
