
Delaware Register of Regulations

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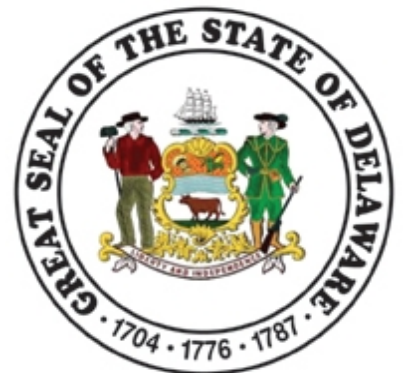


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Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before March 15, 2023.

*Cover Photo
Rehoboth Beach,
Delaware*

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

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other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

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 15	4:30 p.m.
July 1	June 15	4:30 p.m.
August 1	July 15	4:30 p.m.
September 1	August 15	4:30 p.m.
October 1	September 15	4:30 p.m.

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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.).

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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 EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(4) and (b)(5) and 153 (14 **Del.C.** §§122(b)(4) & (b)(5) & 153)
14 **DE Admin. Code** 525

PUBLIC NOTICE

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

525 Requirements for Career and Technical Education Programs of Study

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§122(b)(4) and (b)(5) and 14 **Del.C.** §153, the Secretary of the Delaware Department of Education proposes amendments to 14 **DE Admin. Code** 525 Requirements for Career and Technical Education Programs of Study. The proposed amendments include striking the terms "WIOA" and "Youth Registered Apprenticeship Program" from Section 2.0 because the terms do not appear in the body of the regulation; striking the definition of "Program Advisory Committee" from Section 2.0 and adding it to subsection 4.2.2.5; revise the criteria for programs of study by adding language related to social and emotional competencies in subsection 3.2; and revising the requirements for LEAs in subsections 4.2.1.2, 4.2.2.7, and 5.2.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before May 1, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is designed to help improve 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 is designed to 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 proposed amendments to add language related to social and emotional competencies to the requirements in subsection 3.2 and revise requirements for LEAs in subsections 4.2.1.2, 4.2.2.7, and 5.2 are designed to help to 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 is designed 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 necessary authority and flexibility of 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 regarding the promotion of students.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a 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 anticipated 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:**

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 798RFA 04-01-23.pdf>

**525 Requirements for Career and Technical Education Programs of Study
(Break in Continuity of Sections)**

2.0 Definitions

For purposes of this regulation, the following definitions apply ~~unless the context in which they are used clearly indicates otherwise:~~

(Break in Continuity Within Section)

~~"Program Advisory Committee" means a diverse body of stakeholders including, but not limited to, representatives of: LEA CTE programs, postsecondary CTE programs, business and industry, parents and caregivers, students, and special populations as defined in Perkins V.~~

"Registered Apprenticeship program" means an employer-driven education and training model that combines compensated employment, on-the-job training, and related technical instruction, which culminates in a nationally recognized industry credential or journey person certificate.

"Perkins V" means the Strengthening Career and Technical Education for the 21st Century Act of 2019 ("Perkins V" or Public Law 115-224) which develops more fully the academic knowledge and technical and employability skills of secondary and postsecondary education students who are enrolled in CTE programs of study.

"Student Success Plan" means a written plan developed by youth to establish and evaluate progress towards postsecondary education and career goals based on the individual's career interests. The Student Success Plan typically spans 8th grade through one year beyond high school.

~~**"WIOA"** means the Workforce Innovation and Opportunity Act of 2014 ("WIOA" or Public Law 113-128) which strengthens the United States workforce development system through innovation and the alignment and improvement of employment, training, and education programs to promote individual and national economic growth.~~

"Work-Based Learning" means a progressive approach to link education and employment through student, school, and employer partnerships which occur through career awareness, career exploration, and career immersion experiences.

~~**"Youth Registered Apprenticeship program"** means a Registered Apprenticeship program occurring in high school.~~

3.0 Career and Technical Education Programs of Study

- 3.1 CTE programs of study must be established in accordance with requirements outlined in the Combined Delaware State Plan and be approved via CTE guidance established by the Department.
- 3.2 CTE programs of study must meet the criteria in subsections 3.2.1 through 3.2.13 of this regulation, and shall:
 - 3.2.1 Align with current or real-time labor market information or projected labor market demands as evidenced by data, which is reflective of the state, regional, and local economies;
 - 3.2.2 Be developed by the Department or an LEA in conjunction with relevant stakeholder groups, including postsecondary institutions, employers, and other industry, community, family, caregiver, and student partners;
 - 3.2.3 Integrate academic, technical, and employability skills to include social and emotional competence in order to inform curriculum training, curriculum, and assessment as well as culturally responsive instructional strategies;
 - 3.2.4 Support opportunities for discovery and development of student ~~identity~~ self-awareness, identity, and assets;
 - 3.2.5 Provide opportunities to earn early postsecondary credit through articulated credit, pre-apprenticeship and Registered Apprenticeship programs, or dual enrollment and credit experiences;
 - 3.2.6 Create intentional paths to accelerate the completion of a postsecondary credential or degree and align to credit for prior learning policy at the postsecondary level;
 - 3.2.7 Provide opportunities to earn an industry recognized credential, where relevant and appropriate;
 - 3.2.8 Provide opportunities to engage in work-based learning with industry ~~professionals through professionals, using social competencies and skills to engage students regarding~~ career awareness, career exploration, and career immersion activities that occur during the school day or through an alternative schedule;
 - 3.2.9 Provide differentiated instruction and support services through a multi-tiered system of supports to meet the needs of every student and provide equitable access, supports, and outcomes;
 - 3.2.10 Connect and extend in-school learning opportunities with out-of-school learning through social and emotional learning experiences to create opportunities for youth to engage in the community and with employers beyond the CTE program of study;
 - 3.2.11 Provide CTSOs as co-curricular opportunities to support career development experiences as well as to demonstrate and refine technical knowledge and skills, and ~~exhibit leadership~~ strengthen social and emotional competencies;
 - 3.2.12 Provide opportunities for in-person, virtual, or hybrid instruction to accommodate the needs of every learner; and
 - 3.2.13 Be reviewed and revised, at minimum, every five years, to reflect shifts in the labor market, new industry standards or practices, and demonstrated student needs.

4.0 Requirements for Local Education Agencies

- 4.1 LEAs offering CTE programs of study must meet the requirements outlined in the Combined Delaware State Plan and follow the CTE guidance established by the Department.
- 4.2 LEAs offering CTE programs of study must meet the criteria in subsections 4.2.1 through 4.2.4 of this regulation, and shall:
- 4.2.1 Leverage quantitative and qualitative data to allocate human and fiscal resources and to provide equitable access, supports and outcomes for youth, and shall:
- 4.2.1.1 Support every student's access, participation, achievement, and completion of a high quality CTE program of study in accordance with Section 3.0 of this regulation;
- 4.2.1.2 Implement a system of student advisement and coaching that supports the development of student ~~identity~~ social and emotional competencies, identity, and enrollment in an aligned CTE program of study to help youth to achieve their postsecondary and career goals that are defined in the Student Success Plan and to meet the requirements of 14 **DE Admin. Code** 507;
- 4.2.1.3 Implement procedures to determine when a student requires evidence-based interventions within a multi-tiered system of supports to meet the requirements of 14 **DE Admin. Code** 508;
- 4.2.1.4 Collect and submit federal and state student and accountability data, as required under the Combined Delaware State Plan and ESSA, and as requested by the Department; and
- 4.2.1.5 Establish communication and engagement routines with postsecondary institutions, employers, community, caregivers, and student partners in order to promote and improve CTE program of study quality, and to improve equitable outcomes for students.
- 4.2.2 Establish CTE programs of study that meet the requirements in Section 3.0 of this regulation, and shall:
- 4.2.2.1 Analyze local policies and procedures, ESSA and Perkins student enrollment, achievement, and placement data by special population and subgroup to identify inequities and to implement research-based strategies that close opportunity gaps;
- 4.2.2.2 Create and manage articulated credit agreements, pre-apprenticeship and Registered Apprenticeship models, dual enrollment and credit opportunities, or other opportunities that lead to the completion of an industry recognized credential or degree program or credit for prior learning at the postsecondary level;
- 4.2.2.3 Create and manage opportunities for students to earn an industry recognized credential;
- 4.2.2.4 Expand and manage opportunities for students to engage with industry and community professionals through work-based learning and related career awareness, career exploration, and career immersion activities;
- 4.2.2.5 Establish program advisory committees to ensure CTE programs of study are aligned with real-time labor market information or projected labor market demands as evidenced by data that is reflective of the state, regional, and local ~~economies;~~ economies. For the purpose of this regulation, "program advisory committee" means a diverse body of stakeholders including representatives of: LEA CTE programs, postsecondary CTE programs, business and industry, parents and caregivers, students, and special populations as defined in Perkins V;
- 4.2.2.6 Ensure CTE programs of study facilities, equipment, and supplies are fully accessible and in compliance with federal, state, and local health and safety requirements and are comparable to those used by business and industry; and
- 4.2.2.7 Ensure CTSOs are co-curricular and enroll youth to provide additional social and emotional competency, skill and leadership development, and leadership development opportunities.
- 4.2.3 Ensure that CTE educators hold an appropriate Delaware license and certification in alignment with the CTE program of study and in accordance with the Delaware regulation for educator

licensure and certification to meet the requirements of 14 **DE Admin. Code** 1500, and to participate in high quality and on-going professional learning that creates equitable learning environments, including those opportunities offered through the Department; and

- 4.2.4 Designate federal and state CTE funds to implement, support, and maintain CTE programs of study.

5.0 Work-Based Learning

- 5.1 Work-based learning opportunities must be established in accordance with requirements outlined in the Combined Delaware State Plan and follow the CTE guidance established by the Department.
- 5.2 CTE programs of study must meet the criteria in subsections 5.2.1 through 5.2.13 of this regulation, and LEAs shall:
- 5.2.1 Analyze local policies and procedures, ESSA and Perkins student enrollment, achievement, and placement data by special population and subgroup to identify work-based learning inequities and implement research-based strategies that close opportunity gaps;
 - 5.2.2 Offer career awareness and exploration activities that expand the student's knowledge of career opportunities and support the exploration of careers that are leverage their social and emotional competence and allow for the exploration of non-traditional careers based on student identity abilities and interests;
 - 5.2.3 Offer career immersion experiences that result in the award of high school credit and include both in-school experiences and other types of hands-on learning through that supports their social and emotional competency development and direct employer engagement;
 - 5.2.4 Ensure students enrolled in work-based learning career immersion experiences are rising seniors or current seniors that have completed a CTE program of study or are currently enrolled in the CTE program of study completer course;
 - 5.2.5 Ensure work-based learning career immersion experiences align with the student's CTE program of study and postsecondary education and career goals as defined in the Student Success Plan to meet the requirements for 14 **DE Admin. Code** 507;
 - 5.2.6 Support work-based learning career immersion experiences for students whose education is guided by an Individualized Education Program (IEP) or a Section 504 or ADA accommodation plan and aligned with the student's career goals as approved in the IEP or by the multidisciplinary team and is implemented in consultation with the CTE program of study educator;
 - 5.2.7 Ensure work-based learning students are prepared for the career immersion placements, as defined in the Delaware work-based learning standards and the prerequisite expectations of employer partners;
 - 5.2.8 Ensure the safety and intended learning outcomes of the student are coordinated and managed by the LEA in conjunction with the partnering employer and communicated with the family or caregiver;
 - 5.2.9 Provide a certified CTE educator or trained work-based learning coordinator with the equivalent of one full working day each academic quarter to make quarterly virtual or in-person visits to the career immersion student employee's worksite for every fifteen (15) students enrolled in a work-based learning career immersion experience;
 - 5.2.10 Ensure that student career immersion experiences conform with federal, state, and local laws and regulations, and ensure that youth are compensated fairly, and are not paid a wage at a rate less than the rate at which a student employee of a varying gender, race or ethnicity or special population in the same establishment is paid for equal work, or for which requires equal skill, effort and responsibility, or which is performed under similar working conditions. LEAs shall award students 1 hour of instructional time for every 1 hour of career immersion experience;
 - 5.2.11 Maintain copies of all required documentation required by federal, state, and local labor laws and regulations for work-based learning career immersion experiences;
 - 5.2.12 Award high school credit and credit for prior learning for work-based learning career immersion experiences; and

- 5.2.13 Collect and submit student work-based learning data as required under the Combined Delaware State Plan and ESSA, and as requested by the Department.

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 798 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)

14 DE Admin. Code 1519

PUBLIC NOTICE

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

1519 Multiple Measures for Demonstrating Content Knowledge

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1519 Multiple Measures for Demonstrating Content Knowledge. The regulation sets forth alternative means of demonstrating content knowledge for applicants of certain content area Standard Certificates who do not achieve the minimum score specified in the regulation for the Standard Certificate sought. The proposed amendments include adding 14 DE Admin. Code 1596 Charter School Leader to subsection 1.3; adding subsection 3.4, which concerns applicants who do not complete an educator preparation program and are applying for the Elementary Teacher Standard Certificate; correcting the numbering in subsection 4.4; and clarifying subsections 5.1.3.1, 5.1.3.2, and 5.1.3.3.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before May 2, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The alternative means of demonstrating content knowledge set forth in Sections 4.0 and 5.0 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 alternative means of demonstrating content knowledge set forth in Sections 4.0 and 5.0 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 alternative means of demonstrating content knowledge for applicants of certain content area Standard Certificates who do not achieve the minimum score specified in the regulation for the Standard Certificate sought 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 alternative means of demonstrating content knowledge for applicants of certain content area Standard Certificates who do not achieve the minimum score specified in the regulation for the Standard Certificate sought 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 the 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 the Standard Certificate sought but whose effectiveness is documented by the district or school. The amended regulation does not change a school district or charter school's ability to submit such a request.

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 6.0 apply to individual applicants.

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 or 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:**

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 803RFA 04-01-23.pdf>

1519 Multiple Measures for Demonstrating Content Knowledge

1.0 Content

(Break in Continuity Within Section)

- 1.3 This regulation does not apply to the Standards Certificates specified in subsections 1.3.1 through ~~4.3.24~~ 1.3.23.

(Break in Continuity Within Section)

1.3.23 14 DE Admin. Code 1596 Charter School Leader.

(Break in Continuity of Sections)

3.0 Determining an Applicant's GPA

(Break in Continuity Within Section)

- 3.4 If the applicant did not complete an educator preparation program at a Regionally Accredited college or university and is applying for an Elementary Teacher Standard Certificate (14 DE Admin. Code 1521), the applicant's GPA shall be based on 15 credits in the content area of the sub-test for which multiple measures consideration is sought and an additional 3 credits from each of the other 3 content areas for a total of 24 credits.

4.0 Applicants with GPAs of 3.50 and Above

(Break in Continuity Within Section)

- 4.2 Subsection 4.1 applies to an applicant for an Elementary Education Teacher Standard Certificate (14 **DE Admin. Code** 1521) in 1 of the 4 content areas only. For an applicant who does not achieve the minimum score on the examination in 1 of the 4 content areas as provided in 14 **DE Admin. Code** 1521, the applicant shall have achieved a score as provided in the subsection applicable to the content area as provided in subsections 4.2.1 through 4.2.4. The applicant must achieve the minimum score on the examinations in the other 3 areas as provided in 14 **DE Admin. Code** 1521 in order for the Department to issue the Standard Certificate.
- 4.2.1 Reading and Language Arts Content Area Area:
- 4.2.1.1 For an applicant who does not achieve a minimum score of 157 on Praxis Subject Assessment - Elementary Education: Reading Language Arts Subtest (ETS Test Code #5002), the applicant shall have achieved a score between 143 and 156, inclusive; or
- 4.2.1.2 For an applicant who does not achieve a minimum score of 156 on the Praxis Elementary Education: Content Knowledge for Teaching Reading and Language Arts CKT Subtest (ETS Test Code #7812), the applicant shall have achieved a score between 142 and 155, inclusive.
- 4.2.2 Mathematics Content Area Area:
- 4.2.2.1 For an applicant who does not achieve a minimum score of 157 on Praxis Subject Assessment - Elementary Education: Mathematics Subtest (ETS Test Code #5003), the applicant shall have achieved a score between 139 and 156, inclusive; or
- 4.2.2.2 For an applicant who does not achieve a minimum score of 143 on the Praxis Elementary Education: Content Knowledge for Teaching Mathematics CKT Subtest (ETS Test Code #7813), the applicant shall have achieved a score between 128 and 142, inclusive.
- 4.2.3 Social Studies Content Area Area:
- 4.2.3.1 For an applicant who does not achieve a minimum score of 155 on Praxis Subject Assessment - Elementary Education: Social Studies Subtest (ETS Test Code #5004), the applicant shall have achieved a score between 139 and 154, inclusive; or
- 4.2.3.2 For an applicant who does not achieve a minimum score of 153 on the Praxis Elementary Education: Content Knowledge for Teaching Social Studies CKT Subtest (ETS Test Code #7815), the applicant shall have achieved a score between 138 and 152, inclusive.
- 4.2.4 Science Content Area Area:
- 4.2.4.1 For an applicant who does not achieve a minimum score of 159 on Praxis Subject Assessment - Elementary Education: Science Subtest (ETS Test Code #5005), the applicant shall have achieved a score between 143 and 158, inclusive; or
- 4.2.4.2 For an applicant who does not achieve a minimum score of 144 on the Praxis Elementary Education: Content Knowledge for Teaching Mathematics CKT Subtest (ETS Test Code #7814), the applicant shall have achieved a score between 128 and 143, inclusive.
- (Break in Continuity Within Section)***
- 4.4 An applicant of the World Language Teacher Standard Certificate (14 **DE Admin. Code** 1565) must achieve the minimum score on the applicable examination as provided in subsections 4.4.1 through 4.4.5.
- 4.4.1 Chinese (Mandarin) - For an applicant who does not achieve a minimum score of 164 on the Praxis Subject Assessment - Chinese (Mandarin): World Language (ETS Test Code #5665), the applicant shall have achieved a score between 156 and 163, inclusive.
- 4.4.2 French - For an applicant who does not achieve a minimum score of 162 on the Praxis Subject Assessment - French: World Language (ETS Test Code #5174), the applicant shall have achieved a score between 152 and 161, inclusive.
- 4.4.3 German - For an applicant who does not achieve a minimum score of 163 on the Praxis Subject Assessment - German: World Language (ETS Test Code #5183), the applicant shall have achieved a score between 153 and 162, inclusive.

~~4.4.5~~ 4.4.4 Latin - For an applicant who does not achieve a minimum score of 152 on the Praxis Subject Assessment - Latin: World Language (ETS Test Code #5601), the applicant shall have achieved a score between 142 and 151, inclusive.

~~4.4.6~~ 4.4.5 Spanish - For an applicant who does not achieve a minimum score of 168 on the Praxis Subject Assessment - Spanish: World Language (ETS Test Code #5195), the applicant shall have achieved a score between 157 and 167, inclusive.

5.0 Applicants with GPAs between 3.0 and 3.49

5.1 An applicant who does not obtain the minimum score on the applicable examination of content knowledge specified in the regulation for the Standard Certificate sought may qualify for the issuance of the Standard Certificate if the applicant meets all of the other requirements specified in the applicable regulation and the requirements in subsections 5.1.1 through 5.1.3 of this regulation.

5.1.1 The applicant achieved a grade point average of between 3.0 and 3.49 on a 4.0 scale.

5.1.2 The applicant achieved a score on the applicable examination of content knowledge as set forth in subsections 4.1.2.1 through 4.1.2.21 of this regulation.

5.1.3 The applicant:

5.1.3.1 Earned a minimum score on Pearson Education Inc.'s edTPA in the content area for the Standard Certificate sought as provided in subsection 5.2; or

5.1.3.2 Earned a minimum score of a 38 on ETS' PPAT Assessment in the content area for the Standard Certificate sought; or

5.1.3.3 Completed an approved microcredential in the content area for the Standard Certificate sought or, for if an Elementary Teacher Standard Certificate is sought, in the content area of the sub-test, as provided in subsection 5.3; or

5.1.3.4 Earned a grade of A or S after completing a yearlong teacher residency.

5.2 For the purpose of subsection 5.1.3.1, the minimum score on the edTPA shall be as follows:

5.2.1 33 for 13-Rubric Handbooks; or

5.2.2 38 for 15-Rubric Handbooks; or

5.2.3 46 for 18-Rubric Handbooks.

5.3 For the purpose of subsection 5.1.3.3 of this regulation, the following microcredentials are approved:

5.3.1 National Education Association's Core Proposition #2: Knowing Your Content and How to Teach It to Students; and

5.3.2 National Education Association's Core Proposition #3: Managing and Monitoring Student Learning; and

5.3.3 National Education Association's Setting Objectives and Providing Feedback.

6.0 Application Requirements

6.1 In addition to the application requirements set forth in the regulation for which the Standard Certificate is sought, the following documentation is required with the application.

6.1.1 For an applicant who is applying under Section 4.0, the applicant is required to submit an attestation form completed by the applicant's college or university, alternative routes to licensure and certification program, or professional development provider verifying that the applicant has completed the requirements of Section 4.0.

6.1.2 For an applicant who is applying under Section 5.0, the applicant is required to submit the documentation specified in subsections 6.1.2.1 and 6.1.2.2.

6.1.2.1 The applicant is required to submit an attestation form completed by the applicant's college or university, alternative routes to licensure and certification program, or professional development provider verifying that the applicant has completed the requirements of Section 4.0.

6.1.2.2 The applicant is required to submit one of following:

- 6.1.2.2.1 Official score on edTPA; or
- 6.1.2.2.2 Official score on PPAT PPAT; or
- 6.1.2.2.3 Proof of completion of a microcredential in the content area for the Standard Certificate sought; or
- 6.1.2.2.4 Proof of completing a year-long residency with a grade of A or S.

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 803 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)

PUBLIC NOTICE

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

1596 Charter School Leader

A. TYPE OF REGULATORY ACTION REQUESTED

Adoption of a New Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed 14 **DE Admin. Code** 1596 Charter School Leader. The proposed regulation concerns the requirements for a Charter School Leader Standard Certificate in accordance with 14 Del.C. §1220. Section 1.0 provides who would be required to hold the Charter School Leader Standard Certificate; Section 2.0 provides definitions for the proposed regulation; Section 3.0 concerns the issuance of a Charter School Leader Standard Certificate; Section 4.0 provides the prescribed education, knowledge, and skill requirements for the issuance of a Charter School Leader Standard Certificate; Section 5.0 provides the application requirements; Section 6.0 concerns Secretary of Education review; Section 7.0 concerns the validity of a Charter School Leader Standard Certificate; Section 8.0 concerns disciplinary actions; and Section 9.0 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 submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before May 2, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

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

2. Will the new regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in proposed 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 new regulation help to ensure all students' health and safety are adequately protected? The proposed new regulation addresses a standard certificate for educators and is not designed to help ensure

students' health and safety is protected.

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

5. Will the new regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The proposed new regulation does not change authority or 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 Charter Leader Standard Certificate but whose effectiveness is documented by the district or school. Section 6.0 is consistent with the statute.

6. Will the new regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The proposed new 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 9.0 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 new 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 proposed new 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 new regulation? There is not a less burdensome method for addressing the purpose of this proposed new regulation.

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

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 807RFA 04-01-23.pdf>

1596 Charter School Leader

1.0 Content

- 1.1 This regulation shall apply to the issuance of a Charter School Leader Standard Certificate pursuant to 14 **Del.C.** §1220(a). The Charter School Leader Standard Certificate is required for leaders of Charter Schools in Delaware who were hired prior to June 30, 2023. The Charter School Leader Standard Certificate authorizes an individual to practice as a leader in a Charter School.
- 1.2 The Charter School Leader Standard Certificate shall not be used to practice as a leader in a traditional or vocational-technical public school in Delaware.
- 1.3 The Charter School Leader Standard Certificate shall not be used for any Charter School Leader hired after June 30, 2023. In order to practice as a leader in a Charter School, the individual must hold 1 of the following Standard Certificates:
- 1.3.1 School Principal and Assistant School Principal Standard Certificate (14 **DE Admin. Code** 1591);
or
- 1.3.2 Certified Central Office Personnel (14 **DE Admin. Code** 1592); or
- 1.3.3 Superintendent or Assistant Superintendent Standard Certificate (14 **DE Admin. Code** 1593); or
- 1.3.4 Special Education Director (14 **DE Admin. Code** 1594).

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

"Charter School" means a public school that operates under a charter granted by a public school district or the Department pursuant to 14 **Del.C.** Ch. 5.

"Charter School Leader" means an administrator at a charter school.

"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.

"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 Charter School Leader Standard Certificate to an applicant who:

3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced 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 an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a charter school leader issued by another state or jurisdiction.

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Charter School Leader 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 Prescribed Education, Knowledge, and Skill Requirements

4.1 The applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.

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- 4.1.1 The applicant earned a bachelor's degree from a Regionally Accredited college or university in any content area.
- 4.1.2 The applicant completed a charter leader portfolio by June 30, 2024 and earned a rating of accomplished based on the Delaware Performance Appraisal System II for administrators.

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 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in 14 **Del.C.** §1219 and it could delay the processing or result in the denial of the application for a Charter School Leader Standard Certificate.
- 5.3 For an applicant who is applying under subsection 3.1.1 of this regulation, the following documentation is required with the application for a Charter School Leader 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 Documentation verifying completion a charter leader portfolio and a rating of accomplished based on the Delaware Performance Appraisal System II for administrators, if applicable; and
 - 5.3.3 Additional documentation as required by the Department.
- 5.4 For an applicant who is applying under subsection 3.1.2 of this regulation, the following documentation is required with the application for a Charter School Leader Standard Certificate:
 - 5.4.1 An official copy of the Valid and Current License or Certificate; and
 - 5.4.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

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 Charter School Leader Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Charter School Leader Standard Certificate but whose effectiveness is documented by the local school district or charter school. 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 Charter School Leader 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 Charter School Leader Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

- 8.1 An Educator's Charter School Leader 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 Charter School Leader 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 Contact Information and Change of Name or Address

- 9.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 9.2 An Educator who legally changes the Educator's name and wishes to change the name on the Charter School Leader Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 9.3 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 HEALTH AND SOCIAL SERVICES

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 122(3)x (16 Del.C. §122(3)x)
16 DE Admin. Code 3345

PUBLIC NOTICE

3345 Personal Assistance Services Agencies

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the **Delaware Code**, Chapter 1, Section 122(3)x, Delaware Health and Social Services (DHSS)/ Division of Health Care Quality (DHCQ) is proposing regulations governing Personal Assistance Services Agencies.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Nancy.Lizzi@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2023. Please identify in the subject line: Regulations Governing Personal Assistance Services Agencies.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services /Division of Health Care Quality is proposing regulations governing Personal Assistance Services Agencies.

Statutory Authority

16 Del.C. §122(3)x

Background

As more services are being provided in the home and community setting, it is necessary to ensure adequate oversight of the home care agency's workers providing in-home services. The COVID-19 pandemic has greatly impacted the workforce providing these in-home services. A number of flexibilities were implemented during the course of the pandemic and were found to have addressed staffing issues and allowed agencies to expand to provide services to more individuals in their homes while still ensuring safe and effective care.

Summary of Proposal

Summary of Proposed Changes

The Division of Health Care Quality plans to publish the "proposed" amendments to the regulations governing personal assistance services agencies and hold them out for public comment per Delaware law. The amendments:

- Update the regulatory requirements to ensure the director has appropriate experience to oversee the agencies services.
- Extend the allowable timeframe for a pre-employment physical due to resource issues.
- Include options for agencies to utilize telehealth mechanisms.

Public Notice

In accordance with the state public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, Delaware Health and Social Services/Division of Health Care Quality gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on May 1, 2023.

Fiscal Impact

Not applicable

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 811RFA 04-01-23.pdf>

3345 Personal Assistance Services Agencies

1.0 Definitions

- 1.1 The following words and terms, when used in this regulation, should have the following meaning unless the context clearly indicates otherwise:

(Break in Continuity Within Section)

"Director" means a job-descriptive term used to identify the individual appointed by the governing body to act on its behalf in the overall management of the personal assistance services agency. Job titles may include administrator, superintendent, director, executive director, president, vice-president, or executive vice-president. The director shall have at least an associates degree plus two (2) years healthcare or home care supervisory experience. A Director in place ~~at the time of the final publication of these regulations~~ as of June 1, 2020 will be exempt from this requirement.

"Full-Time" means the established hours of the personal assistance services agency.

"Governing Body or Other Legal Authority" means the individual, partnership, agency, group, or corporation designated to assume full legal responsibility for the policy determination, management, operation and financial liability of the personal assistance services agency.

"Grievance" means a written or verbal report of a concern that is made to the agency by a consumer. A grievance cannot be immediately resolved by staff present at the time of the report.

"Healthcare Experience" means the direct participation of an individual in the maintenance or improvement of health via the prevention, diagnosis, treatment, recovery, or cure of disease, illness, injury, and other physical and mental impairments in patients.

"Healthcare Facility" means any facility licensed under 16 Del.C. Ch. 10 or 11.

"Home Care Experience" means the provision of services that do not require the judgment and skills of a licensed nurse or other healthcare professional. The services are limited to individual assistance with, or supervision of activities of, daily living and instrumental activities of daily living.

"Homemaker" means a person who performs household chores for an individual primarily in the individual's place of residence. Household chores may include but are not necessarily limited to housekeeping, meal preparation and shopping.

(Break in Continuity Within Section)

“**Service Area**” means the county in the state of Delaware in which the agency office is located and the county or counties in the state of Delaware which are immediately adjacent.

“**Service Plan**” means a written plan that specifies scope, frequency and duration of services.

“**Telehealth Mechanism**” means the use of information exchange from 1 site to another via an electronic interactive telecommunication system. Telehealth is provided with specialized equipment at each site including real-time streaming via the use of video streaming and audio equipment. The telecommunications must permit real-time encryption of the interactive audio and video exchanges with the personal assistance services agency. The consumer must consent to the use of telehealth.

(Break in Continuity of Sections)

4.0 Administration

4.1 Agency Director

4.1.1 Every agency shall have a full-time agency director.

4.1.2 The director shall ~~appoint an individual~~ appoint, in writing, a similarly qualified person to act in the director's absence. A designee in place at the time of the final publication of these regulations will be exempt from this requirement.

4.1.3 The director shall have full authority and responsibility to plan, staff, direct and implement the programs and manage the affairs of the agency.

4.1.4 The director must ensure that the personal assistance services agency adheres to its policies and procedures.

(Break in Continuity Within Section)

4.4 Personnel and Direct Care Worker Records

4.4.1 Records of all personnel, including each direct care worker shall be kept current and available upon request by authorized representatives of the Department.

4.4.2 For all personnel, including direct care workers, the agency shall maintain individual records which shall contain at least:

4.4.2.1 Written verification of compliance with pre-employment/referral requirements;

4.4.2.2 Documentation of competence;

4.4.2.3 Educational preparation and work history;

4.4.2.4 Written performance evaluations annually; and

4.4.2.5 A letter of appointment specifying conditions of employment/referral.

4.4.2.6 Health History

4.4.2.6.1 Minimum requirements for pre-employment/referral and annual tuberculosis (TB) testing are those currently recommended by the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.

4.4.2.6.2 No person, including volunteers, found to have active tuberculosis in an infectious stage shall be permitted to give care or service to consumers.

4.4.2.6.3 Any person having a positive skin test but a negative X-ray must complete a statement annually attesting that they have experienced no symptoms which may indicate active TB infection.

4.4.2.6.4 A report of all test results and all attestation statements shall be on file at the agency.

4.4.2.6.5 All new personnel, including direct care workers shall be required to have a physical examination prior to providing care:

4.4.2.6.5.1 The physical examination must have been completed within ~~three (3)~~ 12 months prior to employment/referral; and

4.4.2.6.5.2 A copy of the physical examination shall be maintained in the individual's file.

4.4.2.6.6 Any individual who cannot adequately perform the duties required or who may jeopardize the health or safety of the consumers shall be relieved of their duties and

PROPOSED REGULATIONS

removed from the agency until such time as the condition is resolved. This includes infections of a temporary nature.

(Break in Continuity Within Section)

5.0 Consumer Care Management

(Break in Continuity Within Section)

5.2 Home Visits

- 5.2.1 An initial home visit and consumer evaluation shall be performed by the agency director, or designee.
- 5.2.2 The initial home visit must be performed in the consumer's residence prior to the provision of services. The purpose of the home visit is to determine whether the agency has the ability to provide the necessary services in a safe manner.
- 5.2.3 At a minimum, the following must be evaluated and included in an itemized written description of the consumer prior to providing personal assistance services:
 - 5.2.3.1 Physical condition, including ability to perform activities of daily living and sensory limitations;
 - 5.2.3.2 Social situation, including living arrangements and the availability of family and community support; and
 - 5.2.3.3 Mental status, including any cognitive impairment and known psychiatric, emotional and behavioral problems.
- 5.2.4 Follow-up home visits shall occur at regular intervals based upon the consumer's condition and needs, but no less often than every ninety (90) calendar days.
 - 5.2.4.1 Every other follow up visit must be completed in person.
 - 5.2.4.2 Follow up visits not completed in person must be completed by a telehealth mechanism.
- 5.2.5 A follow-up home visit, performed by the agency director or designee, shall be conducted when the needs of the consumer change which indicate a revision to the service plan is needed.
- 5.2.6 The results of the initial home visit and follow-up home visits shall become a permanent part of the consumer's record.

(Break in Continuity Within Section)

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 811 04-01-23.htm>

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 122(3)o (16 Del.C. §122(3)o)
16 DE Admin. Code 3350

PUBLIC NOTICE

3350 Skilled Home Health Agencies (Licensure)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the **Delaware Code**, Chapter 1, Section 122(3)o, Delaware Health and Social Services (DHSS)/ Division of Health Care Quality (DHCQ) is proposing regulations governing Skilled Home Health Agencies.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Nancy.Lizzi@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2023. Please identify in the subject

line: Regulations Governing Skilled Home Health Agencies.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services /Division of Health Care Quality is proposing regulations governing Skilled Home Health Agencies.

Statutory Authority

16 Del.C. §122(3)o

Background

As more services are being provided in the home and community setting, it is necessary to ensure adequate oversight of the home care agency's workers providing in-home services. The COVID-19 pandemic has greatly impacted the workforce providing these in-home services. A number of flexibilities were implemented during the course of the pandemic and were found to have addressed staffing issues and allowed agencies to expand to provide services to more individuals in their homes while still ensuring safe and effective care.

Summary of Proposal

Summary of Proposed Changes

The Division of Health Care Quality plans to publish the "proposed" amendments to the regulations governing skilled home health agencies and hold them out for public comment per Delaware law. The amendments:

- Extend the allowable timeframe for a pre-employment physical due to resource issues.
- Include options for agencies to utilize telehealth mechanisms.

Public Notice

In accordance with the state public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, Delaware Health and Social Services/Division of Health Care Quality gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on May 1, 2023.

Fiscal Impact

Not applicable

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 814RFA 04-01-23.pdf>

3350 Skilled Home Health Agencies (Licensure)

1.0 Definitions

- 1.1 The following words and terms, when used in this regulation, should have the following meaning unless the context clearly indicates otherwise:

(Break in Continuity Within Section)

"Telehealth Mechanism" means the use of information exchange from 1 site to another via an electronic interactive telecommunication system. Telehealth is provided with specialized equipment at each site including real-time streaming via the use of video streaming and audio equipment. The telecommunications must permit real-time encryption of the interactive audio and video exchanges with the home health agency. The consumer must consent to the use of telehealth.

(Break in Continuity of Sections)

5.0 Administration/Personnel

(Break in Continuity Within Section)

5.6 Health History

5.6.1 All new employees/contractors shall be required to have a physical examination prior to providing care:

5.6.1.1 The physical examination must have been completed within ~~3~~ 12 months prior to employment/referral and

5.6.1.2 A copy of the physical examination shall be maintained in individual files.

(Break in Continuity Within Section)

6.0 Patient Care Management

(Break in Continuity Within Section)

6.2 Assessment

(Break in Continuity Within Section)

6.2.4 Patient reassessments and monitoring must occur at regular intervals based upon the patient's condition and needs, but no less often than every sixty (60) calendar days. A registered nurse, or a qualified professional of the appropriate discipline, must participate in the reassessment and monitoring of the patient.

6.2.4.1 Every other patient reassessment must be completed in person.

6.2.4.2 Patient reassessments not completed in person must be completed by a telehealth mechanism.

(Break in Continuity Within Section)

6.6 Patient Services

(Break in Continuity Within Section)

6.6.4 Home Health Aide

6.6.4.1 Services are provided under the supervision and direction of the clinical director or the appropriate qualified professional.

6.6.4.2 On-site professional supervisory visits are required for all patients receiving home health aide services.

6.6.4.2.1 When patients are receiving home health aide services as well as another skilled service, a registered nurse (or another professional therapist if the patient is not receiving nursing services) must make an on-site supervisory visit to the patient's residence no less frequently than every two (2) weeks.

6.6.4.2.2 When home health aide services are being provided in the absence of a skilled service, a registered nurse must make an on-site supervisory visit to the patient's residence (while the home health aide is providing care) no less frequently than every sixty (60) calendar days.

6.6.4.2.3 Every other supervisory visit must be completed in person.

6.6.4.2.4 Supervisory visits not completed in person must be completed by a telehealth mechanism.

6.6.4.3 Services must be provided in accordance with a written home health aide care plan.

(Break in Continuity Within Section)

6.7 Records and Reports

(Break in Continuity Within Section)

6.7.5 All notes must be incorporated into the patient's record no less often than every ~~two (2) weeks~~ 30 days.

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 814 04-01-23.htm>

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 122(3)o (16 Del.C. §122(3)o)
16 DE Admin. Code 3351

PUBLIC NOTICE

3351 Home Health Agencies--Aide Only (Licensure)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the **Delaware Code**, Chapter 1, Section 122(3)o, Delaware Health and Social Services (DHSS)/ Division of Health Care Quality (DHCQ) is proposing regulations governing home health agencies-aide only.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Nancy.Lizzi@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2023. Please identify in the subject line: Regulations Governing Home Health Agencies-Aide Only.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services /Division of Health Care Quality is proposing regulations governing Home Health Agencies-Aide Only.

Statutory Authority

16 Del.C. §122(3)o

Background

As more services are being provided in the home and community setting, it is necessary to ensure adequate oversight of the home care agency's workers providing in-home services. The COVID-19 pandemic has greatly impacted the workforce providing these in-home services. A number of flexibilities were implemented during the course of the pandemic and were found to have addressed staffing issues and allowed agencies to expand to provide services to more individuals in their homes while still ensuring safe and effective care.

Summary of Proposal

Summary of Proposed Changes

The Division of Health Care Quality plans to publish the "proposed" amendments to the regulations governing home health agencies-aide only and hold them out for public comment per Delaware law. The amendments:

- Extend the allowable timeframe for a pre-employment physical due to resource issues.
- Include options for agencies to utilize telehealth mechanisms.

Public Notice

In accordance with the state public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, Delaware Health and Social Services/Division of Health Care Quality gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on May 1, 2023.

Fiscal Impact

Not applicable

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 817RFA 04-01-23.pdf>

3351 Home Health Agencies--Aide Only (Licensure)

1.0 Definitions

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

(Break in Continuity Within Section)

"Telehealth Mechanism" means the use of information exchange from one site to another via an electronic interactive telecommunication system. Telehealth is provided with specialized equipment at each site including real-time streaming via the use of video streaming and audio equipment. The telecommunications must permit real-time encryption of the interactive audio and video exchanges with the home health agency. The consumer must consent to the use of telehealth.

(Break in Continuity of Sections)

5.0 Administration/Personnel

(Break in Continuity Within Section)

5.6 Health History

5.6.1 All new employees/contractors shall be required to have a physical examination prior to providing care:

5.6.1.1 The physical examination must have been completed within ~~3~~ 12 months prior to employment/referral and

5.6.1.2 A copy of the physical examination shall be maintained in individual files.

6.0 Patient Care Management

(Break in Continuity Within Section)

6.2 Assessment

(Break in Continuity Within Section)

6.2.4 Patient reassessments and monitoring occur at regular intervals based upon the patient's condition and needs, but no less often than every sixty (60) calendar days.

6.2.4.1 Every other patient reassessment must be completed in person.

6.2.4.2 Patient reassessments not completed in person must be completed by a telehealth mechanism.

(Break in Continuity Within Section)

6.4 Scope of Services

6.4.1 Competent patients who do not reside in a medical facility or a facility regulated pursuant to 16 Del.C. Ch. 11 may delegate personal care services to home health aides provided:

6.4.1.1 The nature of the service/task is not excluded by law or other state or federal regulation;

6.4.1.2 The services/tasks are those competent patients could normally perform themselves but for functional limitation; and

6.4.1.3 The delegation decision is entirely voluntary.

6.4.2 Services provided to patients who are not able to delegate services/tasks due to impaired cognitive function shall be those delegated by the registered nurse as permitted by law.

6.4.3 Services are provided under the supervision and direction of the registered nurse.

- 6.4.3.1 On-site professional supervisory visits are required for all patients receiving home health aide services.
- 6.4.3.1.1 The registered nurse must make an on-site supervisory visit to the patient's residence (while the home health aide is providing care) no less frequently than every sixty (60) calendar days.
- 6.4.3.1.1.1 Every other supervisory visit must be completed in person.
- 6.4.3.1.1.2 Supervisory visits not completed in person must be completed by a telehealth mechanism.
- 6.4.3.1.2 A report of the supervisory visit should be kept with the patient's record.
(Break in Continuity Within Section)
- 6.5 Records and Reports
(Break in Continuity Within Section)
- 6.5.4 Original notes must be incorporated into the patient's record located at the agency no less often than every ~~2-weeks~~ 30 days.

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 817 04-01-23.htm>

DEPARTMENT OF JUSTICE FRAUD AND CONSUMER PROTECTION DIVISION

Statutory Authority: 29 Delaware Code, Section 2521 (29 **Del.C.** §2521)

PUBLIC NOTICE

106 Home Improvement Services

Public Notice

In compliance with the State's Administrative Procedures Act (APA -Title 29, Chapter 101 of the Delaware Code) and 29 **Del.C.** §2521, the Consumer Protection Unit of the Delaware Department of Justice ("the Consumer Protection Unit") hereby publishes notice of a proposed regulation to the Consumer Fraud Act (6 **Del.C.** §2511 et seq.) pursuant to 29 **Del.C.** §2521.

Summary of Proposed Regulation

The proposed regulation was created to assist in the implementation and clarification of the Consumer Fraud Act by identifying certain home improvement acts and practices that constitute unlawful practices as described in 6 **Del.C.** §2513(a). The proposed regulation is primarily modeled after W. Va. Code R. § 142-5-3, with additional guidance from 40 Mass. Code Regs. § 3.09; N.J. Admin. Code §§ 13:45A-16.1 to 13:45A-16.2; Wis. Admin. Code ATCP §§ 110-01 to 110-09. Additionally, business practices observed by the Consumer Protection Unit guided the creation of this regulation.

Possible Terms of the Action Agency

None.

Other Regulations That May be Affected by the Proposal

The Consumer Protection Unit does not believe that other regulations will be impacted.

Notice of Public Hearing

A public hearing will be held on May 24, 2023, beginning at 12:00 PM in the 3rd Floor Conference Room in the Carvel State Office Building, 820 N. French Street, Wilmington, DE 19801, where members of the public can offer comments.

Notice of Public Comment

Persons wishing to comment on the proposed regulation may submit their comments in writing no later than June 9, 2023, by email to Brian.Canfield@Delaware.gov.

To be considered at the May 24, 2023 hearing, however, written materials must be submitted on or before May 1, 2023.

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 819RFA 04-01-23.pdf>

106 Home Improvement Services**1.0 Authority**

- 1.1 Authority. The Director of the Division of Consumer Protection enforces the Consumer Fraud Act pursuant to the authority granted to that Director through 29 **Del.C.** §2520, and has the authority to promulgate rules and regulations to implement or clarify the statutes that the Division of Consumer Protection is charged to enforce or otherwise to carry out the purposes of those statutes pursuant to 29 **Del.C.** §§2520(6) and 2521. The Division of Consumer Protection has designated the Director of the Consumer Protection Unit to promulgate this regulation.
- 1.2 Scope. This regulation of the Consumer Fraud Act covers certain unlawful practices covering home improvement transactions but shall not cover new construction of single-family dwellings or rebuilding all or substantially all of an existing or preexisting single-family dwelling.
- 1.3 Construction. This regulation shall be liberally construed to effectuate the purposes of the Consumer Fraud Act, 6 **Del.C.** §2511, et seq.
- 1.4 Severability. If, for any reason, any section, subsection, sentence, clause, phrase, or provision of this regulation or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, subsections, sentences, clauses, phrases, or provisions of its application to any other person or circumstance, and to this end each and every section, subsection, sentence, clause, phrase, or provision of this regulation is hereby declared severable.

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning:

"Buyer" means the buyer of home improvement merchandise from a home improvement contractor.

"Clearly and conspicuously" has the meaning set forth in 6 **Del.C.** §2731.

"Consumer Protection Unit" means the Consumer Protection Unit of the Department of Justice

"Home improvement" means any alteration, repair, addition, modification or improvement to any dwelling or the property on which it is situated, including but not limited to the construction, painting or coating, installation, replacement or repair of driveways, sidewalks, swimming pools, unattached structures, porches, kitchens, bathrooms, chimneys, fireplaces, stoves, air conditioning or heating systems, hot water heaters, water treatment systems, electrical wiring or systems, plumbing fixtures or systems, doors or windows, roofs, gutters, downspouts and siding.

"Home improvement contract" means a written agreement, including all amendments, modifications, and addenda thereto, between a home improvement contractor and a buyer and includes all agreements under which the home improvement contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Home improvement contractor" means all persons, firms, partnerships, joint ventures, limited liability companies, and companies, their officers, representatives, agents, and employees, engaged in the trade or commerce of home improvement.

"Merchandise" has the meaning set forth in 6 **Del.C.** §2511.

"Person" has the meaning set forth in 6 **Del.C.** §2511.

3.0 Home Improvement Transactions

- 3.1 In connection with any home improvement transaction, it is an unlawful practice, as set forth in 6 **Del.C.** §2513(a) for any person to:
- 3.1.1 Fail to provide the buyer with a home improvement contract that describes, in a meaningful way, the merchandise purchased, the contract price together with all financing information or credit terms required by applicable law, any other terms required by this regulation, and any other material terms agreed by the parties, by the time performance is due from either party;
 - 3.1.2 Fail to provide to the buyer in writing an approximate completion date for all home improvements in a home improvement contract unless the home improvement contract clearly and conspicuously discloses that no completion date is provided;
 - 3.1.3 Fail to fill in all the relevant final terms in a home improvement contract before it is signed by the buyer;
 - 3.1.4 Structure a home improvement contract in such a way as to require the buyer to sign or signify assent to a proposal before it is binding on the home improvement contractor;
 - 3.1.5 Fail to include the home improvement contractor's name, address, telephone number, website (if any), and e-mail address in a home improvement contract;
 - 3.1.6 Fail to include in a home improvement contract proper notification of the buyer's right to cancel the home improvement contract if required pursuant to 6 **Del.C.** §4404(2);
 - 3.1.7 Fail to include in a home improvement contract all affirmations of fact, promises, or descriptions which constitute express warranties under 6 **Del.C.** §2-313 or would so constitute express warranties if the sale of goods only were involved;
 - 3.1.8 Fail to disclose in a home improvement contract all delivery and installment charges;
 - 3.1.9 Fail to clearly and conspicuously disclose in a home improvement contract that a warranty only covers a product and does not cover the installation or delivery of the product, when such is the case;
 - 3.1.10 Fail to disclaim on a separate page of a home improvement contract that the home improvement contractor is not responsible for their oral representations, promises, or assurances, when it is the intent of the home improvement contractor that their oral representations, promises, or assurances not be binding;
 - 3.1.11 Fail to provide the buyer with a summary of these regulations, as prepared by the Consumer Protection Unit, as published on the Consumer Protection Unit website, prior to the buyer signing a home improvement contract;
 - 3.1.12 Include a liquidated damages provision in a home improvement contract that would provide the home improvement contractor with the same amount of liquidated damages regardless of the amount of work completed;
 - 3.1.13 Misrepresent the binding nature of a home improvement contract, such as by representing that a home improvement contract is an estimate;
 - 3.1.14 Fail to complete the home improvement by the completion date as stated in a home improvement contract unless such home improvement is delayed by events beyond the home improvement contractor's control or the buyer has agreed in writing to a later date;
 - 3.1.15 Where the contract price is to be calculated on a "cost plus" basis, fail to clearly and conspicuously state this fact along with the method of calculating additions to cost and a good faith estimate of the final contract price;
 - 3.1.16 Disclaim, exclude, modify or otherwise attempt to limit any warranty, including the warranties of merchantability and fitness for a particular purpose, or to exclude, modify or attempt to limit any remedy provided by law, including the measure of damages available, for a breach of warranty, express or implied, except in a clear and conspicuous manner accompanied by the buyer's initials;

PROPOSED REGULATIONS

- 3.1.17 Represent that the buyer or prospective buyer has been specially selected to receive a bargain, discount, or other advantage that will reduce the cost of the merchandise, when the offer is available to all customers similarly situated or is otherwise not the case;
 - 3.1.18 Represent to a prospective buyer that their dwelling or building is to serve as a lure for prospective buyers, "model home," "advertising job," or other similar inducement, and that a reduced price is offered for that reason, if such is not the case;
 - 3.1.19 Represent to a prospective buyer that the buyer is being given an introductory, confidential, closeout, going-out-of-business, factory, or wholesale price discount, if such is not the case;
 - 3.1.20 Represent to a prospective buyer that a price discount is being made due to materials left over from another job, if such is not the case;
 - 3.1.21 Represent to a prospective buyer that the offer is a test of the local market or a market survey if such is not the case;
 - 3.1.22 Represent to a prospective buyer that the prices offered are discounted, if such is not the case;
 - 3.1.23 Where models or other exemplars are used to show the merchandise to be provided or services to be offered, represent that such models or exemplars are current when they are not current or are discontinued;
 - 3.1.24 Represent that the merchandise being offered are current or state of the art, when, in fact, they are not current or state of the art, or are discontinued;
 - 3.1.25 Misrepresent the quality, capacity, character, nature, manufacturer, or composition of any merchandise;
 - 3.1.26 Misrepresent or falsely state that the buyer's present equipment, materials, goods, fixtures, or property are dangerous, defective, or in need of repair or replacement;
 - 3.1.27 Present to a buyer for signature, or otherwise attempt to induce a buyer to sign, any certificate of completion before the relevant home improvement is actually completed;
 - 3.1.28 Induce or persuade a buyer or prospective buyer to sign any writing when the home improvement contractor knows or has reason to know that the buyer or prospective buyer is unable to read or write, cannot read the language in which the instrument is written, or, after reading the instrument, does not understand the terms of the instrument;
 - 3.1.29 Mislead the prospective buyer or buyer into believing that the down payment or some other figure constitutes the full amount they will be obligated to pay, or to omit or exclude any other obligations, fees, charges or costs to the buyer;
 - 3.1.30 Gain entry or access to a prospective buyer's home or property under the false guise of performing a governmental, public utility or other official inspection, or to falsely represent that the home improvement contractor is acting on behalf of or as an employee of any governmental entity or public utility;
 - 3.1.31 Represent that the home improvement contractor is an employee, officer or representative of a manufacturer, importer, or any other person, firm, organization, or that such person, firm, or organization will assume some obligation in fulfilling the terms of the contract, when such is not the case.
-

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**DIVISION OF AIR QUALITY**

Statutory Authority: 7 Delaware Code, Sections 6010 and 6703 (7 **Del.C.** §§6010 & 6703)
7 **DE Admin. Code** 1140

REGISTER NOTICE
SAN # 2022-01
DOCKET # 2022-R-A-0011

1140 Delaware Low Emission Vehicle Program

1. TITLE OF THE REGULATIONS:

Amendments to 7 **DE Admin. Code** 1140, Delaware Low Emission Vehicle Program

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The purpose of this action is to amend 7 **DE Admin. Code** 1140, to update the adoption by reference of California's Advance Clean Car II low emission vehicle and greenhouse gas standards and add the requirements for zero emitting vehicles for model year 2027 and beyond. The ACC II regulations will reduce criteria and greenhouse gas emissions from new light- and medium-duty vehicles beyond the 2025 model year as well as add the new requirements for zero emission vehicles. These standards were initially adopted in 2010 and went into effect for model year 2014, and since the original adoption California has made changes necessary for automobile manufactures to comply. Section 177 of the Clean Air Act requires that Delaware standards must be "identical to the California standards."

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Chapter 60 Environmental Control § 6010 and
7 **Del. C.** Chapter 67 Motor Vehicle Emissions §6703

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

The agency does not believe that other regulations will be impacted.

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2022-R-A-0011) will be held on Wednesday, April 26, 2023, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a passcode, please use: 693764. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the meeting ID: 963 6971 8957. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC public hearings must pre-register no later than noon of the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting April 1, 2023 at Delaware Register's website - https://regulations.delaware.gov/services/current_issue.shtml or in-person, by appointment only, by contacting Kyle Krall by phone at 302-739-9402 or by email at kyle.krall@delaware.gov.

The Department will accept public comment through Thursday, May 26, 2023. Comments will be accepted in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Newman, Hearing Officer
DNREC - Office of the Secretary
89 Kings Highway, Dover, DE 19901

7. PREPARED BY: Kyle Krall

***Please Note:**

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 823RFA 04-01-23.pdf>

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 823 04-01-23.htm>

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Nursing

Statutory Authority: 24 Delaware Code, Section 1906(a)(1) (24 Del.C. §1906(a)(1))
24 DE Admin. Code 1900

PUBLIC NOTICE

1900 Board of Nursing

The Delaware Board of Nursing, pursuant to 24 Del.C. §1904(c), proposes to revise its regulations to remove obsolete or inconsistent regulations, clarify the process for review of nursing schools under conditional approval, add regulations pertaining to allowing nursing schools to add innovative approaches to their curriculum, clarify when a supervised practice plan can be used in lieu of a refresher course, clarify that all applicants must have graduated from Board approved nursing schools, incorporate a list of tasks RN, LPNs, and unlicensed assistive personnel may perform, clarify the process for an APRN to obtain a temporary permit, clarify how continuing education units are measured, clarify the process for appointing members of advisory committees, and add crimes relating to sexual assault, trafficking, and illegal gun possession to the list of crimes related to the practice of nursing.

The Board will hold a public hearing on the proposed regulation changes on May 10, 2023 at 9:00 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 25, 2023 pursuant to 29 Del.C. §10118(a).

***Please Note:**

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 824RFA 04-01-23.pdf>

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 824 04-01-23.htm>

DIVISION OF PROFESSIONAL REGULATION**Board of Examiners in Optometry**

Statutory Authority: 24 Delaware Code, Section 2104(a)(1) (24 **Del.C.** §2401(a)(1))
24 **DE Admin. Code** 2100

PUBLIC NOTICE**2100 Board of Examiners in Optometry**

The Delaware Board of Examiners in Optometry, pursuant to 24 **Del.C.** §2104(a)(1), proposes to revise its regulations. The proposed regulations seek to remove obsolete regulations pertaining to diagnostic licensure and paper applications, clarify the requirements for licensure through reciprocity, and amend the regulations regarding telehealth services to comply with Title 24, Chapter 60.

The Board will hold a public hearing on the proposed rule change on July 20, 2023 at 4:30 p.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Alison Warren, Administrator of the Delaware Board of Examiners in Optometry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until August 4, 2023.

***Please Note:**

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 825RFA 04-01-23.pdf>

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 825 04-01-23.htm>

DIVISION OF PROFESSIONAL REGULATION**Board of Home Inspectors**

Statutory Authority: 24 Delaware Code, Section 4106(a)(1) (24 **Del.C.** §4106(a)(1))
24 **DE Admin. Code** 4100

PUBLIC NOTICE**4100 Board of Home Inspectors**

The Delaware Board of Home Inspectors, pursuant to 24 **Del.C.** §4106(a)(1), proposes to amend its rules and regulations. The proposed regulation changes aim to address a growing practice in the profession of licensed home inspectors performing partial home inspections and not producing written reports. In addition, they expand the list of certifying bodies acceptable to the Board for experience applicants.

The original amendments were published on page 383 of the November 1, 2022 issue of the *Delaware Register of Regulations* (26 **DE Reg.** 383 (11/01/22)). The Board planned to hold a hearing on January 10, 2023 at 9:00 a.m., but the hearing was cancelled. As a result, the Board will now hold a public hearing on the proposed regulation change on May 9, 2023 at 9:00 a.m., either telephonically or in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Michelle Loper at the Delaware Board of Home Inspectors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 24, 2023 pursuant to 29 **Del.C.** §10118(a).

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 825aRFA 04-01-23.pdf>

PROPOSED REGULATIONS

4100 Board of Home Inspectors (Break in Continuity of Sections)

4.0 Licensure Requirements

Each applicant, other than endorsement applicants, for a home inspector license must provide the Board with the following, or have this information provided from the appropriate source, where indicated:

(Break in Continuity Within Section)

- 4.5 For non-trainee/experience applicants at least 1 of the following:
- 4.5.1 Evidence in a form satisfactory to the Board of not less than 5 years' experience performing home inspections such as a notarized affidavit from an employer or employers, business license or tax documents showing self-employment and a log of home inspections.
- 4.5.2 A log documenting no fewer than 75 home inspections, and evidence that the applicant is a certified member of the American Society of Home Inspectors ("ASHI"), National Association of Home Inspectors ("NAHI"), or International Association of Certified Home Inspectors ("INTERNACHI"). The Board may request copies of sample home inspection reports to verify experience.
- 4.6 Evidence in a form satisfactory to the Board that the applicant, or the applicant's employer, carries errors and omissions insurance in an amount equal to or greater than \$50,000 and liability insurance in an amount equal to or greater than \$250,000. Evidence shall include a notarized certificate of insurance submitted to the Board by the insurance carrier.
- 4.7 An applicant who previously held a Delaware license as a home inspector or home inspector trainee re-applying shall submit evidence of having completed at least 40 hours of continuing education in accordance with Section 16.0 for the 2-year period leading up to the date of application.

(Break in Continuity of Sections)

17.0 Code of ethics.

(Break in Continuity Within Section)

- 17.3 Home inspectors shall avoid activities that may harm the public, discredit themselves, or reduce public confidence in the profession.
- 17.3.1 Advertising, marketing, and promotion of home inspectors' services or qualifications shall not be fraudulent, false, deceptive, or misleading.
- 17.3.2 Home inspectors shall not provide oral reports.
- ~~17.3.2~~ 17.3.3 Home inspectors shall report substantive and willful violations of the Board's Code of Ethics to the Division of Professional Regulation.

18.0 Standards of practice.

- 18.1 Purpose and scope.
- 18.1.1 The purpose of the Standards of Practice is to establish minimum and uniform standards for home inspectors.
- 18.1.2 Inspection: Home inspectors shall inspect readily accessible, visually observable, installed systems and components listed in this section.
- 18.1.3 Written report: The home inspector's report ~~shall be legible and shall~~ must be in writing and legible. Oral reports are prohibited. All reports must include:
- 18.1.3.1 Identification of those systems and components inspected that, in the professional judgment of the licensee, are not functioning properly, significantly deficient, unsafe, or are near the end of their service lives.
- 18.1.3.2 Recommendations to correct, or monitor for future correction, the deficiencies reported in subsection 18.1.3.1, or items needing further evaluation, except that, as set forth in

- subsection 18.1.4.2, licensees are not required to determine methods, materials, or costs of corrections.
- 18.1.3.3 Reasoning or explanation as to the nature of the deficiencies reported in subsection 18.1.3.1 that is not self-evident.
- 18.1.3.4 Systems and components designated for inspection as set forth in this section that were present at the time of the home inspection but were not inspected, and the reasons that they were not inspected.

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 825a 04-01-23.htm>

DIVISION OF PROFESSIONAL REGULATION

Board of Massage 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. The proposed amendment to subsection 12.9.1 specifies that all massage establishments, not just licensed establishments, are subject to inspection by an agent of the Division of Professional Regulation. This change will make the regulation consistent with 24 **Del.C.** §5321(a) which authorizes inspection of "any" massage establishment. The revised subsection 12.9.1 will ensure that investigators can take necessary steps to address various public safety issues, including the presence of illicit massage establishments. A public hearing will be held on May 18, 2023 at 1:30 a.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.ridgway@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be June 2, 2023. The Board will deliberate on all of the public comments at its 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:**

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 827RFA 04-01-23.pdf>

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

12.0 Massage Establishments

(Break in Continuity Within Section)

12.9 Inspections.

- 12.9.1 ~~Licensed~~ All massage establishments are subject to inspection by an agent of the Division, presenting appropriate identification, during business hours, with or without notice.
- 12.9.2 During the inspection, the agent of the Division shall not interrupt an in-progress treatment session.

- 12.9.3 The purpose of massage establishment inspections is to verify compliance with the standards of Section 12.0 and Chapter 53 of Title 24 of the Delaware Code and to verify that the establishment and all individuals providing massage services have valid licenses issued by the Board and that such licenses are conspicuously displayed on the premises.
- 12.9.4 An agent of the Division may inspect and copy records of the massage establishment; may inspect within reasonable limits and in a reasonable manner the premises, subject to subsection 12.9.2, and all pertinent equipment; and may inspect other things therein, including records, files, papers and facilities.
- 12.9.5 If a massage establishment is located within a licensee's residence, an out call location or is located within an office space shared with other businesses, an agent of the Division must have independent and sufficient legal justification before inspecting areas not to be used as a place of business for massage and bodywork.
- 12.9.6 The massage establishment shall allow, appear for and cooperate with an inspection.

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 827 04-01-23.htm>

DELAWARE MOTION PICTURE AND TELEVISION DEVELOPMENT COMMISSION

Statutory Authority: 29 Delaware Code, Section 8750A (29 Del.C. §8750A)

PUBLIC NOTICE

1501 Administration and Operation of the Delaware Motion Picture and Television Development Commission

Summary

Pursuant to the authority granted by Title 29 chapter 87A of the Delaware Code, the Delaware Motion Picture and Television Development Commission proposes to adopt a regulation establishing certain procedures to be used in the administration and operation of the Delaware Motion Picture and Television Development Commission which shall include, without limitation, its receipt of applications for grants, rebates, and other financial assistance within the purview of the Commission; its review and evaluation of such Applications; and the exercise of its discretion to approve the award of grants, rebates, and other financial assistance for projects supported by the Fund.

The Delaware Motion Picture and Television Development Commission is issuing these proposed regulations in accordance with Title 29 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 regulation is being published in the April 1, 2023, edition of the *Delaware Register of Regulations*. A copy is also on file with the Delaware Motion Picture and Television Development Commission c/o Joseph Zilcosky, Carvel State Office Building, C302, 820 N. French Street, 10th Floor, Wilmington, DE 19801-3509 and is available for inspection during regular office hours. Copies are also published online at the *Delaware Register of Regulations* website: https://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations indicating whether these proposed regulations should be adopted, rejected or modified. Interested parties may hand deliver to the Delaware Motion Picture and Television Development Commission, any written suggestions, data, briefs or other materials at the above address. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before May 3, 2023. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after May 3, 2023, following review of the public comment, the Delaware Motion Picture and Television Development 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 Delaware Motion Picture and Television Development Commission, the amendments shall take effect ten days after being published as final in the *Delaware Register of Regulations*.

***Please Note:**

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 828RFA 04-01-23.pdf>

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 828 04-01-23.htm>

DEPARTMENT OF TRANSPORTATION DIVISION OF TRANSPORTATION SOLUTIONS

Statutory Authority: 21 Delaware Code, Section 4504 (21 Del.C. §4504)
2 DE Admin. Code 2405

PUBLIC NOTICE**2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual**

Pursuant to the authority provided by 21 Del.C. §4504, the Delaware Department of Transportation (DelDOT) adopted the Oversize/Overweight Vehicle Hauling Permit Policy and Procedures Manual

The Department, through its Division of Transportation Solutions seeks to adopt these revisions to address procedural changes and a new permit code to support economic development. These collective changes are administrative in nature and serve in part to clarify the intent of the Department as enacted through these regulations.

Public Comment Period

DelDOT will take written comments on these proposed revisions to Regulation 2405 of Title 2, Delaware Administrative Code, from April 1, 2023 through May 1, 2023. The public may submit their comments to:

James Osborne, P.E.
Traffic Safety Programs Manager
(James.Osborne@delaware.gov) or in writing to his attention,
Delaware Department of Transportation
Division of Transportation Solutions, Traffic Safety Section
169 Brick Store Landing Road
Smyrna, DE 19977

***Please Note:**

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 829RFA 04-01-23.pdf>

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

<https://regulations.delaware.gov/register/april2023/proposed/26 DE Reg 829 04-01-23.htm>

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.

DEPARTMENT OF AGRICULTURE HARNESS RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10005 (3 Del.C. §10005)
3 DE Admin. Code 501

ORDER

501 Harness Racing Rules and Regulations

I. NATURE OF PROCEEDINGS

Pursuant to its authority under 3 Del.C. §10005 the State of Delaware, Department of Agriculture proposed to amend its regulations to amend its rules to clarify veterinary staff who can administer Bleeder medication in light of an ongoing and nationwide shortage of veterinarians.

Notice of a public comment period of 30 days on the Harness Racing Commission's proposed amended regulations was published in the *Delaware Register of Regulations* for November 1, 2022 in accordance with 29 Del.C. §10118(a). This is the Harness Racing Commission's Decision and Order adopting the proposed amended regulations.

II. FINDINGS AND CONCLUSIONS

1. The public was given the required notice of the Harness Racing Commission's intention to adopt the proposed amended regulation and was given ample opportunity to provide the Harness Racing Commission with comments opposing the Harness Racing Commission's plan.

2. There were no public comments provided to the Harness Racing Commission during the written public comment period.

3. Pursuant to 3 Del. C. §10005 and 3 DE Admin. Code 501, the Harness Racing Commission has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. The proposed changes amend Rules 3.1, 3.10, 3.11, 4.3.3.1.8, 5.1.1.1.2, 8.2.2, 8.3, and 1.0 ("Definitions") to permit Veterinary Technicians to administer Bleeder medication under certain guidelines. Additional grammar and style changes were also made.

5. Thus, the Harness Racing Commission concludes that its consideration of the proposed amended regulation was entirely within its prerogatives and statutory authority and, having received no comments opposed to adoption, is now free to adopt the proposed amended regulation.

III. DECISION AND ORDER CONCERNING THE REGULATIONS

AND NOW on this 21st day of February, 2023, it is hereby ordered that:

1. The proposed amendments to the Harness Racing Commission's regulations are adopted;
2. The text of the final regulations shall be in the form attached hereto as attached, which remain unchanged as initially published in the November 1, 2022 *Delaware Register of Regulations*.
3. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations* in accordance with 29 *Del. C.* §10118(e); and
4. The Harness Racing Commission reserves to itself the authority to issue such other and further orders concerning its Regulations as it deems appropriate.

Delaware Harness Racing Commission
Mark A. Davis, Executive Director

***Please note that no changes were made to the regulation as originally proposed and published in the November 2022 issue of the *Register* at page 355 (26 DE Reg. 355). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 831 04-01-23.htm>

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 153(c), 181(15), 183, and 3402(c) (14 **Del.C.** §§153(c), 181(15), 183, & 3402(c))
14 **DE Admin. Code** 245

ORDER

245 Michael C. Ferguson Achievement Awards

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§153(c), 181(15), 183, and 3402(c), the Delaware Department of Education ("Department"), through the Delaware Higher Education Office, proposes to repeal 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards. House Bill 480 of the 151st General Assembly repealed the Michael C. Ferguson Achievement Awards because they were no longer funded. The bill was signed into law on August 25, 2022.

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2022. The Department did not receive any written submittals concerning the proposed repeal of the regulation.

II. FINDINGS OF FACTS

The Department finds that House Bill 480 of the 151st General Assembly repealed the Michael C. Ferguson Achievement Awards, effective August 25, 2022. Therefore, the repeal of 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards is necessary.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved repealing 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards. Therefore, pursuant to 14 **Del.C.** §§153(c), 181(15), 183, and 3402(c), 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards, attached hereto as Exhibit A, is hereby repealed.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards repealed hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education:

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 426 (26 DE Reg. 426). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 832 04-01-23.htm>

FINAL REGULATIONS

OFFICE OF THE SECRETARY

Statutory Authority: 8 Delaware Code, Section 125 and 14 Delaware Code, Sections 121(a)(16), 122(b)(8), & 194 (8 **Del.C.** §125 and 14 **Del.C.** §§121(a)(16), 122(b)(8), & 194) 14 **DE Admin. Code** 292

ORDER

292 Post Secondary Institutions and Degree Granting Institutions of Higher Education

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 8 **Del.C.** §125 and 14 **Del.C.** §§121(a)(16), 122(b)(8), and 194, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office, developed amendments to 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education. The regulation concerns the requirements for the issuance, renewal, and revocation of a Certificate of Approval to operate a Postsecondary Institution in Delaware in addition to the requirements for obtaining the Department's approval to confer degrees. The proposed amendments include revising the title of the regulation, clarifying Section 1.0, adding and striking defined terms in Section 2.0; specifying the requirements for a Certificate of Approval in Section 3.0; specifying the procedure for denying an application for the Department's approval to confer degrees in subsection 5.6; adding the application requirements to obtain a Certificate of Approval in Section 6.0; adding Section 7.0, which concerns denying applications for a Certificate of Approval; adding Section 8.0, which concerns revoking a Certificate of Approval; clarifying Section 9.2, which concerns termination of the Department's approval to confer degrees; and adding Section 12.0, which concerns consumer fair practices and complaints. The proposed amendments are consistent with HB 481 of the 151st General Assembly, which was signed into law on August 4, 2022.

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2022. The Department did not receive any written submittals concerning the proposed regulation.

II. FINDINGS OF FACTS

The Department finds that the proposed amendments to the regulation align with the statutory changes that went into effect when HB 481 of the 151st General Assembly was signed into law on August 4, 2022. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education. Therefore, pursuant to 8 **Del.C.** §125 and 14 **Del.C.** §§121(a)(16), 122(b)(8), and 194, 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 292 Post Secondary Institutions and Degree Granting Institutions of Higher Education amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 292 Postsecondary Institutions 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education:

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 429 (26 DE Reg. 429). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 834 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(3), 122(b)(8), 181, and 183 (14 Del.C. §122(b)(3), 122(b)(8), 181, & 183)
14 DE Admin. Code 506

REGULATORY IMPLEMENTING ORDER

506 Policies for Dual Enrollment and Awarding Dual Credit

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§122(b)(3), 122(b)(8), 181, and 183, the Delaware Department of Education ("Department"), including the Delaware Higher Education Office, subject to State Board of Education approval, intends to amend 14 DE Admin. Code 506 Policies for Dual Enrollment and Awarding Dual Credit. The regulation requires public schools to develop policies concerning dual enrollment in a high school and postsecondary institution and awarding dual credit. This regulation was reviewed pursuant to 29 Del.C. §10407, which requires regulations to be reviewed on a recurring basis every four years. The proposed amendments include changes that align with existing practice, updating definitions and terminology, and removing references to Tech Prep courses which no longer exist. Other proposed changes are grammatical in nature and are made to ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on December 1, 2022. The Department of Education did not receive any written comments concerning the proposed amendments.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 506 Policies for Dual Enrollment and Awarding Dual Credit in order to require public schools to develop policies concerning dual enrollment in a high school and postsecondary institution and awarding dual credit, to include changes that align with existing practice, updating definitions and terminology, and to remove references to Tech Prep courses which no longer exist. Other proposed changes are grammatical in nature and are made to ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 506 Policies for Dual Enrollment and Awarding Dual Credit. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 506 Policies for Dual Enrollment and Awarding Dual Credit attached hereto as *Exhibit "A"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 506 Policies for Dual Enrollment and Awarding Dual Credit hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 506 Policies for Dual Enrollment and Awarding Dual Credit amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin. Code** 506 Policies for Dual Enrollment and Awarding Dual Credit in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on January 19, 2023. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 16th day of February 2023.

Department of Education

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

Approved this 16th day of February 2023

State Board of Education:

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

*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 December 2022 issue of the *Register* at page 430 (26 DE Reg. 430). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 835 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 121(a)(1) and 3110 (14 Del.C. §§121(a)(1) & 3110)

14 DE Admin. Code 508

REGULATORY IMPLEMENTING ORDER

508 Multi-Tiered System of Support (MTSS)

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §121(a)(1) and §3110, the Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 508 Multi-Tiered System of Support. This regulation is being amended to comply with House Bill 301 with House Amendment 1 of the 151st General Assembly which requires the establishment and implementation of mental health education programs for kindergarten through grade 12. This regulation will be effective July 1, 2023 and should be implemented for the 2023-2024 school year.

Notice of the proposed regulation was published in the *Delaware Register of Regulation* on January 1, 2023. The Department of Education received two comments relative to the proposed amendments which suggested the Department consider the following:

- (1) Provide more details and guidance about other referrals or interventions that may be necessary if a child is struggling to meet identified benchmarks in social and emotional learning and mental health.

Response: The Department believes the regulation supports other referrals and interventions for a child who may be struggling to meet identified benchmarks in social and emotional learning and mental health. The MTSS process does not prohibit, and rather encourages, the use of in school supports in tandem with any outside services. The purpose of the local education agency's (LEA) problem-solving team is to hold meetings as often as needed, but at least every 6-8 weeks, to measure progress, gather details, and make adjustments to provide further guidance for the student. Therefore, no further change is needed to the regulation.

- (2) MTSS regulations are not being implemented as intended, with respect to the purpose and scope of MTSS, and that MTSS is not intended to preclude access to needed services when warranted. Therefore, it is recommended that regulation require the Department to issue additional guidance, education and oversight, including monitoring for compliance of MTSS.

Response: The Department is working with curriculum directors, special education directors, and other school leaders to better understand the scope of MTSS, determine LEA needs, and provide additional professional learning. The Department is asking LEAs to bring teams to statewide meetings to allow for a better understanding of the educator's implementation strategies, strengths, and challenges. A tiered approach of support for implementation will be addressed by the Department based on identified needs and therefore changes to the regulation are not needed.

- (3) Additionally, the Department removed the hyphen from the term "social-emotional" and correctly referred to it as "social and emotional."

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 508 Multi-Tiered System of Support to comply with House Bill 301 with House Amendment 1 of the 151st General Assembly which requires the establishment and implementation of mental health education programs for kindergarten through grade 12. This regulation will be effective July 1, 2023 and should be implemented for the 2023-2024 school year.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 508 Multi-Tiered System of Support. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 508 Multi-Tiered System of Support attached hereto as *Exhibit "A"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 508 Multi-Tiered System of Support hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 508 Multi-Tiered System of Support amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin. Code** 508 Multi-Tiered System of Support in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on February 16, 2023. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 16th day of February 2023.

Department of Education

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

Approved this 16th day of February 2023

State Board of Education:

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

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

508 Multi-Tiered System of Support (MTSS)

1.0 Purpose

Each local education agency shall implement procedures to determine when a student requires scientific, evidence-based interventions within a Multi-Tiered System of Support (MTSS) for: 1) Written Expression, 2) Reading, 3) Oral Expression, 4) Listening Comprehension, 5) Mathematics, 6) Behavior, and 7) ~~[Social-Emotional~~ **Social and Emotional]** Skills.

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:

"Department" means the Delaware Department of Education.

"Evidence-based" means strategies, activities, or approaches which have been shown through scientific research and evaluation to be effective at preventing or delaying a negative outcome.

"Evidence-informed" means practices that are consciously informed by evidence derived from formal research produced by researchers, practitioner inquiry (investigation), or routinely collected school or

local system-level data through collaborative planning, testing, implementing and evaluating of approaches for improving practices.

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

"Mental Health" means an individual's emotional, psychological, and social wellbeing and is based on how one thinks, feels and acts, including how one handles stress, relates to others, and makes healthy choices. Specifically, positive mental health in childhood includes reaching developmental and emotional milestones and learning healthy social and emotional skills to enhance wellbeing and employ strategies for coping adaptively with challenges.

"Multi-Tiered System of Support" or "MTSS" means a framework that is designed to meet the needs of the whole child through an integrated multi-level prevention system that optimizes team-based leadership and data-driven decision making to meet the academic and non-academic needs of all students. High quality core academic instruction and non-academic practices are provided as universal supports to all children. Evidence-based intervention and supports are matched to student needs and informed by ongoing progress monitoring and additional formative assessments.

"Parent" means a biological or adoptive parent of a child; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives and for whom a Caregiver's School Authorization executed in compliance with 14 **Del.C.** §202 is on file; an individual who is otherwise legally responsible for the child's welfare; or a surrogate parent who has been appointed in accordance with 14 **DE Admin. Code** 926.19.0.

"Social and Emotional Learning" or "SEL" means the process through which students acquire the knowledge, attitudes, and skills needed to understand and manage emotions, set and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions.

3.0 Instructional Resources

- 3.1 LEAs shall evaluate and select instructional resources for Tier 1, and interventions for Tier 2 and Tier 3, for academic, behavioral and social-emotional skills which are of high quality, evidence-based and aligned with the State's appropriate content standards. areas and the non-academic areas of behavioral, ~~[social-emotional]~~ social and emotional] skills, and mental health which are of high quality, evidence-based or may be evidence-informed for the non-academic areas and aligned with the State's appropriate content standards or the Department's adopted competencies for mental health and SEL.
- 3.2 Social and Emotional Learning (Effective beginning with the 2023-2024 school year). LEAs shall provide age-appropriate and developmentally-appropriate instructional programming in social [and] emotional learning for each grade K to 12 that demonstrate alignment to the Department's adopted SEL competencies.
- 3.3 Mental Health (Effective beginning with the 2023-2024 school year). LEAs shall provide age-appropriate and developmentally-appropriate instructional programming in mental health for each grade K to 12 that demonstrate alignment to the Department's adopted mental health competencies.

4.0 Assessment

Screening, diagnostic assessment and progress monitoring processes shall be used as part of MTSS procedures. Any tools used shall be norm-referenced, criterion-referenced, or curriculum-based as appropriate.

5.0 Problem Solving Team

- 5.1 LEAs ~~will~~ shall have a school-based problem-solving team at each of their schools consisting of three to five core members and shall include at least one of the student's classroom teachers. Additional members may be added as needed.
- 5.2 The team shall review student data to identify individual student needs and make evidence-based decisions.
- 5.3 Using the student data, the problem-solving team will design an intervention plan as outlined in Section 7.0, which shall include specific baseline data, learning targets, type and frequency of intervention, data collection, and ~~anything else~~ any other information the problem-solving team considers necessary.
- 5.4 The team shall collect progress monitoring data at regular intervals. Data collection must include documentation of fidelity of implementation, consisting of differentiated, evidence-based instruction, pacing and appropriateness of instructional groupings.
- 5.5 The team shall hold meetings after the six to eight-week intervention cycle to monitor progress toward identified targets, the fidelity of implementation and determine the next steps. Teams may meet earlier, as needed.
- 5.6 LEAs shall have a process for providing parents with the MTSS intervention plan and data collected as part of the MTSS framework as described in Section 7.0.

6.0 MTSS Framework and Procedures

- 6.1 The MTSS framework and procedures shall include the tiers, types and duration of services and interventions described in subsections 6.1.1 and 6.1.3.3.
 - 6.1.1 Tier 1 - Core classroom instruction which is aligned to Delaware adopted state standards and practices, shall be designed and delivered with fidelity to all students. Tier 1 core classroom instruction should be high quality, evidence-based ~~and~~ or evidence-informed if non-academic, differentiated within flexible groupings and responsive to all students' needs. A multiple-gating procedure shall be implemented as follows:
 - 6.1.1.1 The first stage is a universal screening, which shall be conducted within the first four weeks of the school year or within four weeks of the student's entry into school. Universal screening will take place at least two more times during the school year at spaced intervals. For students who are identified through universal screening as needing additional supports, a second stage of screening is conducted within the next two weeks to specify the areas of need.
 - 6.1.1.2 The second stage involves additional data analysis to confirm that there are specific areas of need for Tier 2 supports.
 - 6.1.1.3 If ~~twenty percent (20%)~~ 20% of students in a classroom are not meeting benchmark on any instructional screening, a school-based team, which may be an existing team, including a building level administrator, shall meet to consider the need for additional classroom, instructional and ~~systems-level~~ systems-level supports and strategies.
 - 6.1.1.4 Based on the results of the multiple-gating procedure, a problem-solving team shall design intervention plans for students who require Tier 2 support as described in subsection 6.1.2.
 - 6.1.2 Tier 2 - Interventions shall be designed to be delivered in the student's primary, scheduled education setting, by the student's teacher or teachers, but may be delivered in other or additional settings or by other trained staff as appropriate to the specific intervention.
 - 6.1.2.1 After no more than six to eight school weeks of Tier 2 intervention, ~~six to eight school weeks of Tier 2 intervention~~ the problem-solving team shall conduct a review of the plan as described in Section 5.0 to determine whether additional assessments, as described in Section 4.0, are required, and whether changes to Tier 2 academic or non-academic methods are required; or the student should be provided Tier 3 intervention.

- 6.1.2.1.1 If a student has made significant progress and is now on a trajectory to meet end-of-year benchmarks, a student may continue in Tier 2 intervention or be excused from Tier 2 intervention.
- 6.1.2.1.2 After no more than six to eight school weeks of Tier 2 intervention, the problem-solving team shall conduct a review of the plan as described in Section 5.0 to determine whether additional assessments are required, changes to Tier 2 academic or non-academic methods are required.
- 6.1.2.1.3 If a student has made no progress toward benchmarks, or has made progress but is not on a trajectory to meet end-of-year benchmarks, a student may continue in Tier 2 intervention with increased intensity (e.g. smaller group, increased time of academic or non-academic intervention) or receive Tier 3 interventions.
- 6.1.3 Tier 3 - Interventions shall be designed to be delivered in the student's primary (scheduled) education setting, by the student's teacher or teachers, but may be delivered in other or additional settings or by other trained staff as appropriate to the specific intervention.
 - 6.1.3.1 After no more than six to eight school weeks of Tier 3 intervention, ~~[six to eight school weeks of Tier 3 intervention]~~ the problem-solving team shall conduct a review of the plan as described in Section 5.0 to determine whether additional assessments are required, changes to Tier 3 academic or non-academic methods are required; or the student should be referred for an initial evaluation for special education.
 - 6.1.3.2 If a student has made significant progress towards established targets, a student may continue in Tier 3 intervention with a new target or be provided Tier 2 intervention.
 - 6.1.3.3 If a student has made no progress towards established targets, or has made progress, but is not on a trajectory to meet established targets, a student may continue in Tier 3 intervention with increased intensity (e.g. smaller group, increased time of academic or non-academic intervention) or be referred for an initial evaluation for special education services as outlined in Regulation 925.

7.0 Program Effectiveness

~~LEA~~ LEAs shall provide a description of the methods used to implement and evaluate the effectiveness of the program upon the request of the Department.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapters 17 and 31 (14 **Del.C.** Chs. 17 & 31)
14 **DE Admin. Code** 922

REGULATORY IMPLEMENTING ORDER

922 Children with Disabilities Subpart A, Purposes and Definitions

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del. C.** Chapters 17 and 31, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions. This regulation is being amended to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 21 during the 2021-22 school year. Additional grammar and style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

The Department held public hearings on the proposed regulation changes as follows:

- Tuesday, January 10, 2023 at 12:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m4738018d2e6ece45181f7d85528b5f4b>
Phone: 1-415-655-0001
Meeting number (access code): 2624 831 6650
Meeting password: TmM4U4MX9g2
- Wednesday, January 11, 2023 at 6:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m6349271681999e43984d6b1a683bb0ef>
Phone: 1-415-655-0001
Meeting number (access code): 2622 354 0257
Meeting password: PBpU26xswa3

Notice of the proposed regulation and public hearings was published in the *Delaware Register of Regulation*, and in the *News Journal* and *Delaware State News* on December 1, 2022 in the form attached to as Exhibit "A." The Department of Education received one comment endorsing the proposed changes.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 21 during the 2021-22 school year. Additional grammar and style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 922 Children with Disabilities Subpart A, Purposes and Definitions in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on February 16, 2023. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 16th day of February 2023.

Department of Education

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

Approved this 16th day of February 2023

State Board of Education:

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 437 (26 DE Reg. 437). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 841 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapters 17 and 31 (14 **Del.C.** Chs. 17 & 31)
14 **DE Admin. Code** 923

REGULATORY IMPLEMENTING ORDER

923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del. C.** Chapters 17 and 31, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies. This regulation is being amended to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 21 during the 2021-22 school year. Additional grammar and style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

The Department held public hearings on the proposed regulation changes as follows:

- Tuesday, January 10, 2023 at 12:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m4738018d2e6ece45181f7d85528b5f4b>
Phone: 1-415-655-0001
Meeting number (access code): 2624 831 6650
Meeting password: TmM4U4MX9g2
- Wednesday, January 11, 2023 at 6:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m6349271681999e43984d6b1a683bb0ef>
Phone: 1-415-655-0001
Meeting number (access code): 2622 354 0257
Meeting password: PBpU26xswa3

Notice of the proposed regulation and public hearings was published in the *Delaware Register of Regulation*, and in the *News Journal* and *Delaware State News* on December 1, 2022 in the form attached to as Exhibit "A." The Department of Education received one comment endorsing the proposed changes.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 21 during the 2021-22 school year. Additional grammar and style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 923 Children with Disabilities Subpart B General Duties and Eligibility of Agencies in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on February 16, 2023. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 16th day of February 2023.

Department of Education

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

Approved this 16th day of February 2023

State Board of Education:

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 439 (26 DE Reg. 439). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 843 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapters 17 and 31 (14 **Del.C.** Chs. 17 & 31)
14 **DE Admin. Code** 924

REGULATORY IMPLEMENTING ORDER

924 Children with Disabilities Subpart C Local Educational Agency Eligibility

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del. C.** Chapters 17 and 31, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 924 Children with Disabilities Subpart C Local Educational Agency Eligibility. This regulation is being amended to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 22 during the 2021-22 school year. Additional grammar and style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

The Department held public hearings on the proposed regulation changes as follows:

- Tuesday, January 10, 2023 at 12:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m4738018d2e6ece45181f7d85528b5f4b>
Phone: 1-415-655-0001
Meeting number (access code): 2624 831 6650
Meeting password: TmM4U4MX9g2
- Wednesday, January 11, 2023 at 6:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m6349271681999e43984d6b1a683bb0ef>
Phone: 1-415-655-0001
Meeting number (access code): 2622 354 0257
Meeting password: PBpU26xswa3

Notice of the proposed regulation and public hearings was published in the *Delaware Register of Regulation*, and in the *News Journal* and *Delaware State News* on December 1, 2022 in the form attached to as Exhibit "A." The Department of Education received one comment endorsing the proposed changes.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 924 Children with Disabilities Subpart C Local Educational Agency Eligibility to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 22 during the 2021-22 school year. Additional grammar and

style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 924 Children with Disabilities Subpart C Local Educational Agency Eligibility. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 924 Children with Disabilities Subpart C Local Educational Agency Eligibility attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 924 Children with Disabilities Subpart C Local Educational Agency Eligibility hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 924 Children with Disabilities Subpart C Local Educational Agency Eligibility amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 924 Children with Disabilities Subpart C Local Educational Agency Eligibility in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on February 16, 2023. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 16th day of February 2023.

Department of Education

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

Approved this 16th day of February 2023

State Board of Education

/s/ Shawn Brittingham, President

Vincent Lofink, Vice President (Absent)

/s/ Candice Fifer

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

/s/ Rev. Provey Powell, Jr.

/s/ Wali W. Rushdan, II

/s/ Deborah Stevens

*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 December 2022 issue of the *Register* at page 441 (26 DE Reg. 441). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 845 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapters 17 and 31 (14 **Del.C.** Chs. 17 & 31)
14 **DE Admin. Code** 926

REGULATORY IMPLEMENTING ORDER

926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del. C.** Chapters 17 and 31, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children. This regulation is being amended to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 22 during the 2021-22 school year. Additional grammar and style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

The Department held public hearings on the proposed regulation changes as follows:

- Tuesday, January 10, 2023 at 12:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m4738018d2e6ece45181f7d85528b5f4b>
Phone: 1-415-655-0001
Meeting number (access code): 2624 831 6650
Meeting password: TmM4U4MX9g2
- Wednesday, January 11, 2023 at 6:00 p.m. in the Delaware Department of Education Cabinet Room, located at 401 Federal Street, Second Floor, Dover, DE 19901; or you may attend this meeting virtually via this link: <https://de-doe.webex.com/de-doe/j.php?MTID=m6349271681999e43984d6b1a683bb0ef>
Phone: 1-415-655-0001
Meeting number (access code): 2622 354 0257
Meeting password: PBpU26xswa3

Notice of the proposed regulation and public hearings was published in the *Delaware Register of Regulation*, and in the *News Journal* and *Delaware State News* on December 1, 2022 in the form attached to as Exhibit "A." The Department of Education received one comment endorsing the proposed changes.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children to comply with House Bill 454 of the 151st General Assembly, which requires a free and public education be provided to students until they receive a regular high school diploma or until August 31st of the school year in which they turn 22 years old, whichever occurs first. This regulation is to be in effect for the 2022-23 school year for those students who turned 22 during the 2021-22 school year. Additional grammar and style changes were also made to this regulation to ensure compliance with the *Delaware Administrative Code Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children. Therefore, pursuant to 14

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Del.C. §122, 14 DE Admin. Code 926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C. §122(e)**, 14 **DE Admin. Code 926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children** hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of **14 DE Admin. Code 926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children** amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as **14 DE Admin. Code 926 Children with Disabilities Subpart E Procedural Safeguards for Parents and Children** in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C. §122** on February 16, 2023. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 16th day of February 2023.

Department of Education

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

Approved this 16th day of February 2023

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

*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 December 2022 issue of the *Register* at page 442 (26 DE Reg. 442). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 847 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 181(15), 183, 3402(c), and 3419 (14 **Del.C.** §§181(15), 183, 3402(c), & 3419)
14 **DE Admin. Code** 1201

ORDER

1201 Christa McAuliffe Award Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C. §§** 181(15), 183, 3402(c), and 3419, the Delaware Department of Education

("Department"), through the Delaware Higher Education Office, proposes to repeal 14 **DE Admin. Code** 1201 Christa McAuliffe Award Program. In accordance with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022, Christa McAuliffe scholarship loans are no longer awarded. Repayment and forgiveness of Christa McAuliffe scholarship loans that were awarded prior to July 1, 2022 are addressed in statute (14 **Del.C.** §3419(c)).

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2022. The Department did not receive any written submittals concerning the proposed repeal of the regulation.

II. FINDINGS OF FACTS

The Department finds that House Bill 480 of the 151st General Assembly amended Title 14, Chapter 34 of the Delaware Code, effective August 25, 2022. As a result, Christa McAuliffe scholarship loans are no longer awarded and repayment and forgiveness of scholarship loans awarded prior to July 1, 2022 are addressed in 14 **Del.C.** §3419(c). Therefore, the repeal of 14 **DE Admin. Code** 1201 Christa McAuliffe Award Program is necessary.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 **DE Admin. Code** 1201 Christa McAuliffe Award Program subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved repealing 14 **DE Admin. Code** 1201 Christa McAuliffe Award Program. Therefore, pursuant to 14 **Del.C.** §§ 181(15), 183, 3402(c), and 3419, 14 **DE Admin. Code** 1201 Christa McAuliffe Award Program, attached hereto as Exhibit A, is hereby repealed.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1201 Christa McAuliffe Award Program repealed hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 **DE Admin. Code** 1201 Christa McAuliffe Award Program 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 444 (26 DE Reg. 444). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 848 04-01-23.htm>

FINAL REGULATIONS

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 181(15), 183, and 3402(c) (14 Del.C. §§181(15), 183, & 3402(c))
14 DE Admin. Code 1202

ORDER

1202 Delaware Teacher Corps Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§ 181(15), 183, and 3402(c), the Delaware Department of Education ("Department"), through the Delaware Higher Education Office, proposes to repeal 14 DE Admin. Code 1202 Delaware Teacher Corps Program. The regulation is being repealed as a result of House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022.

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2022. The Department did not receive any written submittals concerning the proposed repeal of the regulation.

II. FINDINGS OF FACTS

The Department finds that the regulation is being repealed as a result of House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022. Therefore, the repeal of 14 DE Admin. Code 1202 Delaware Teacher Corps Program is necessary.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 DE Admin. Code 1202 Delaware Teacher Corps Program subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved repealing 14 DE Admin. Code 1202 Delaware Teacher Corps Program. Therefore, pursuant to 14 Del.C. §§ 14 Del.C. §§ 181(15), 183, and 3402(c), 14 DE Admin. Code 1202 Delaware Teacher Corps Program, attached hereto as Exhibit A, is hereby repealed.

IV. TEXT AND CITATION

The text of 14 DE Admin. Code 1202 Delaware Teacher Corps Program repealed hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 DE Admin. Code 1202 Delaware Teacher Corps Program 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

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

/s/ Deborah Stevens

***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 December 2022 issue of the *Register* at page 446 (26 DE Reg. 446). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 850 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3411 (14 Del.C. §§122(b)(8), 181(15), 183, 3402(c), & 3411)
14 DE Admin. Code 1203

ORDER

1203 Scholarship Incentive Program (ScIP)

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), and 3411, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes to amend 14 DE Admin. Code 1203 Scholarship Incentive Program (ScIP). The Scholarship Incentive Program is a student financial assistance for higher education program that is administered by DHEO. The regulation provides the application process, eligibility criteria, and award process for the Scholarship Incentive Program. The proposed amendments include revising Section 2.0, revising the eligibility requirements for the program in subsections 4.1.2.3, 4.1.3, and 5.4, and making other clarifying changes throughout the regulation. The proposed amendments are consistent with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022. In addition, the Department proposes to renumber the regulation from 1203 to 1210.

Notice of the proposed regulation was published in the *Register of Regulations* on January 1, 2023. The Department received written submittals from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"), and Benjamin Shrader, Chairperson of the State Council for Persons with Disabilities ("SCPD"), concerning the proposed regulation. Ms. Fisher commented that GACEC supports the proposed regulation "as it adds clarity for individuals seeking financial assistance in education." Mr. Shrader commented that SCPD supports the proposed regulation "as it adds clarity to those seeking financial assistance in education."

II. FINDINGS OF FACTS

The Department considered GACEC's and SCPD's written submittals and finds that further changes as a result of the written submittals are not necessary. The Department further finds that House Bill 480 of the 151st General Assembly amended Title 14, Chapter 34 of the Delaware Code, effective August 25, 2022, and that the proposed amendments to the regulation are necessary.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1203 Scholarship Incentive Program (ScIP) subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 DE Admin. Code 1203 Scholarship Incentive Program (ScIP). Therefore, pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), and 3411, 14 DE Admin. Code 1203 Scholarship Incentive Program (ScIP), attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

FINAL REGULATIONS

The text of 14 **DE Admin. Code** 1203 Scholarship Incentive Program (SciP) amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 **DE Admin. Code** 1210 Scholarship Incentive Program (SciP) 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 2023 issue of the *Register* at page 521 (26 DE Reg. 521). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 851 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3437
(14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), & 3437)
14 **DE Admin. Code** 1204

ORDER

1204 High Needs Educator Student Loan Payment Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3437, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes to amend 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program. The High Needs Educator Student Loan Payment Program is a student financial assistance for higher education program that is administered by DHEO. The regulation provides the application process, eligibility criteria, and award process for the High Needs Educator Student Loan Payment Program. The proposed amendments include revising the defined terms in Section 2.0, revising the eligibility requirements for the program in Section 3.0, and making other clarifying changes throughout the regulation. The proposed amendments are consistent with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022. In addition, the Department proposes to renumber the regulation from 1204 to 1215.

Notice of the proposed regulation was published in the *Register of Regulations* on January 1, 2023. The Department received written submittals from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"), and Benjamin Shrader, Chairperson of the State Council for Persons with

Disabilities ("SCPD"), concerning the proposed regulation. Ms. Fisher commented that GACEC supports the proposed regulation "as it provides clarity for individuals seeking financial assistance in education under this program." Mr. Shrader commented that SCPD supports the proposed regulation "as it adds clarity to those seeking financial assistance in education."

II. FINDINGS OF FACTS

The Department considered GACEC's and SCPD's written submittals and finds that further changes as a result of the written submittals are not necessary. However, the Department made two changes to Section 2.0 that were not the result of the written submittals, i.e., adding "Professional" before "Standards Board" in the definition of "Educator" and adding "be" to subsection (2)(a)(3) of the definition of "High Needs Area." The Department finds that the two changes are not substantive and, therefore, the Department is not required to repropose the regulation in accordance with 29 **Del.C.** §10118(c). The Department further finds that House Bill 480 of the 151st General Assembly amended Title 14, Chapter 34 of the Delaware Code, effective August 25, 2022, and that the proposed amendments to the regulation are necessary.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3437, 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 **DE Admin. Code** 1215 High Needs Educator Student Loan Payment Program 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

Vincent Lofink, Vice President (absent)

/s/ Candice Fifer

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

/s/ Rev. Provey Powell, Jr.

/s/ Wali W. Rushdan, II

/s/ Deborah Stevens

***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 2023 issue of the *Register* at page 524 (26 DE Reg. 524). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 852 04-01-23.htm>

FINAL REGULATIONS

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 181(15), 183, 3402(c), 3423, and 3462 (14 Del.C. §§181(15), 183, 3402(c), 3423, & 3462)
14 DE Admin. Code 1205

ORDER

1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§ 181(15), 183, 3402(c), 3423, and 3462, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office, proposes to repeal 14 DE Admin. Code 1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program. In accordance with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022, Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program loans are no longer awarded. Repayment and forgiveness of loans that were awarded prior to July 1, 2022 are addressed in statute (14 Del.C. §3423(c)). The Ada Leigh Soles Memorial Professional Librarian and Archivist Scholarship is administered by the Delaware Division of Libraries (14 Del.C. §3462(b)(1)).

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2022. The Department did not receive any written submittals concerning the proposed repeal of the regulation.

II. FINDINGS OF FACTS

The Department finds that House Bill 480 of the 151st General Assembly amended Title 14, Chapter 34 of the Delaware Code, effective August 25, 2022. As a result, Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program loans are no longer awarded and repayment and forgiveness of loans awarded prior to July 1, 2022 are addressed in 14 Del.C. §3423(c). In addition, the Department finds that the Ada Leigh Soles Memorial Professional Librarian and Archivist Scholarship is not administered by the Delaware Higher Education Office. Therefore, the repeal of 14 DE Admin. Code 1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program is necessary.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 DE Admin. Code 1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved repealing 14 DE Admin. Code 1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program. Therefore, pursuant to 14 Del.C. §§ 181(15), 183, 3402(c), 3423, and 3462, 14 DE Admin. Code 1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program, attached hereto as Exhibit A, is hereby repealed.

IV. TEXT AND CITATION

The text of 14 DE Admin. Code 1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program repealed hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 DE Admin. Code 1205 Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 449 (26 DE Reg. 449). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 854 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3435(a)
(14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), & 3435(a))
14 DE Admin. Code 1206

ORDER

1206 Speech Language Pathologist Incentive Loan Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), and 3435(a), the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes to amend 14 DE Admin. Code 1206 Speech Language Pathologist Incentive Loan Program. When House Bill 480 of the 151st General Assembly was signed into law on August 25, 2022, the Speech Language Pathologist Incentive Loan Program was repealed and the Speech-Language Pathologist Scholarship Program was enacted. The Speech-Language Pathologist Scholarship Program is a student financial assistance for higher education program that is administered by DHEO. The regulation provides the application process, eligibility criteria, and award process for the Speech-Language Pathologist Scholarship Program. The proposed amendments include revising the title of the regulation; revising the name of the program in Section 1.0; adding and striking definitions in Section 2.0; clarifying the application process in Section 3.0; revising the eligibility requirements in Section 4.0; and revising the awards process in Sections 5.0 and 6.0. The proposed amendments are consistent with House Bill 480 of the 151st General Assembly. In addition, the Department proposes to renumber the regulation from 1206 to 1212.

Notice of the proposed regulation was published in the *Register of Regulations* on January 1, 2023. The Department received written submittals from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"), and Benjamin Shrader, Chairperson of the State Council for Persons with Disabilities ("SCPD"), concerning the proposed regulation. Ms. Fisher commented that "[t]he restriction to full time students [in Section 4.0] could present obstacles to students with disabilities who may not be able to attend a full-time program" and that GACEC "would recommend that the scholarship program be made available to part-time students as well." She further commented that GACEC "notes that at this time, no Delaware SLP graduate preparation program permits part-time students." Mr. Shrader commented that SCPD opposes the proposed regulation but it "would support an amendment that allows part-time students to be considered for eligibility of the Speech Language Pathologist Program."

II. FINDINGS OF FACTS

The Department considered GACEC's and SCPD's written submittals and finds that further changes as a result of the written submittals are not necessary. The Department finds that the Speech-Language Pathologist Scholarship Program was created by the General Assembly and that GACEC and SCPD each acknowledged that the requirement that the applicant be enrolled as a full-time student is a statutory requirement. Indeed, 14 **Del.C.** §3435(a)(2) provides that "[t]o be eligible for the Speech-Language Pathologist Scholarship, an applicant must be enrolled as a full-time student in a master's degree program in a Delaware postsecondary institution that is accredited, or is a candidate for accreditation, by the Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA) of the American Speech-Language-Hearing Association and that will lead to licensure as a speech-language pathologist in Delaware." Proposed subsection 4.1.2 is consistent with 14 **Del.C.** §3435(a)(2). In addition, the Department finds that the General Assembly, not the Department, has the authority to change a statute. The Department further finds that House Bill 480 of the 151st General Assembly amended Title 14, Chapter 34 of the Delaware Code, effective August 25, 2022, and that the proposed amendments to the regulation are necessary.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1206 Speech Language Pathologist Incentive Loan Program subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1206 Speech Language Pathologist Incentive Loan Program. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3435(a), 14 **DE Admin. Code** 1206 Speech Language Pathologist Incentive Loan Program, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1206 Speech Language Pathologist Incentive Loan Program amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 **DE Admin. Code** 1212 Speech-Language Pathologist Scholarship Program 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 2023 issue of the *Register* at page 528 (26 DE Reg. 528). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 855 04-01-23.htm>

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 181(15), 183, 3402(c), and 3421 (14 **Del.C.** §§181(15), 183, 3402(c), & 3421)
14 **DE Admin. Code** 1207

ORDER

1207 Delaware Nursing Incentive Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§ 181(15), 183, 3402(c), and 3421, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office, proposes to repeal 14 **DE Admin. Code** 1207 Delaware Nursing Incentive Program. In accordance with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022, Delaware nursing incentive program loans are no longer awarded. Repayment and forgiveness of loans that were awarded prior to July 1, 2022 are addressed in statute (14 **Del.C.** §3421(c)).

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2022. The Department did not receive any written submittals concerning the proposed repeal of the regulation.

II. FINDINGS OF FACTS

The Department finds that House Bill 480 of the 151st General Assembly amended Title 14, Chapter 34 of the Delaware Code, effective August 25, 2022. As a result, Delaware nursing incentive program loans are no longer awarded and repayment and forgiveness of loans awarded prior to July 1, 2022 are addressed in 14 **Del.C.** §3421(c). Therefore, the repeal of 14 **DE Admin. Code** 1207 Delaware Nursing Incentive Program is necessary.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 **DE Admin. Code** 1207 Delaware Nursing Incentive Program subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved repealing 14 **DE Admin. Code** 1207 Delaware Nursing Incentive Program. Therefore, pursuant to 14 **Del.C.** §§ 181(15), 183, 3402(c), and 3421, 14 **DE Admin. Code** 1207 Delaware Nursing Incentive Program, attached hereto as Exhibit A, is hereby repealed.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1207 Delaware Nursing Incentive Program repealed hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 **DE Admin. Code** 1207 Delaware Nursing Incentive Program 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

FINAL REGULATIONS

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 452 (26 DE Reg. 452). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 857 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))
14 DE Admin. Code 1505

ORDER

1505 Standard Certificate

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes to repeal 14 Del. Admin. Code 1505 Standard Certificate. The regulation provides the general requirements for the issuance of a Standard Certificate. Over the past few years, the Professional Standards Board has incorporated the specific requirements for each Standard Certificate into each of the Standard Certificate regulations. As a result, this regulation is no longer necessary.

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

II. FINDINGS OF FACTS

On January 5, 2023, the Professional Standards Board voted to propose 14 DE Admin. Code 1505 Standard Certificate, in the form attached hereto as Exhibit A, for repeal by the Department subject to the State Board of Education's approval.

The Department finds that the Professional Standards Board incorporated the specific requirements for each Standard Certificate into each of the Standard Certificate regulations. Accordingly, the Department finds that it is appropriate to repeal 14 DE Admin. Code 1505 Standard Certificate.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 DE Admin. Code 1505 Standard Certificate subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved repealing 14 DE Admin. Code 1505 Standard Certificate. Therefore, pursuant to 14 Del.C. §§1203 and 1205(b), 14 DE Admin. Code 1505 Standard Certificate, attached hereto as Exhibit A, is hereby repealed.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1505 Standard Certificate repealed hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1505 Standard Certificate 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 December 2022 issue of the *Register* at page 455 (26 DE Reg. 455). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 858 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), 1213, and 1214 (14 **Del.C.** §§1203, 1205(b), 1213 & 1214)
14 **DE Admin. Code** 1512

ORDER

1512 Issuance and Renewal of Advanced License

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§1203, 1205(b), 1213, and 1214, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1512 Issuance and Renewal of Advanced License. The regulation concerns the requirements for the issuance, renewal, and retention of an Advanced License in accordance with 14 **Del.C.** §§1213 and 1214. The proposed amendments include revising the title of the regulation; clarifying Section 1.0; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing an Advanced License in Section 3.0; specifying the requirements for obtaining an Advanced License in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the requirements for renewing an

Advanced License; adding Section 7.0, which concerns the validity of an Advanced License; adding Section 8.0, which concerns extensions for exigent circumstances; adding Section 9.0, which concerns leaves of absence; adding Section 10.0, which concerns the requirements for retaining an Advanced License; adding Section 11.0, which concerns disciplinary actions; and adding Section 12.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Notice of the proposed regulation was published in the *Register of Regulations* on December 1, 2022. The Professional Standards Board received a written submittal from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"). Ms. Fisher commented that GACEC "endorses the proposed changes as they add clarity and safeguards for educators seeking to obtain an Advanced License or educators who have already obtained an Advanced License."

II. FINDINGS OF FACTS

On January 5, 2023, the Professional Standards Board considered the written submittal. The Professional Standards Board did not make any changes as a result of the written submittals and voted to propose 14 **DE Admin. Code** 1512 Issuance and Renewal of Advanced 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** 1512 Issuance and Renewal of Advanced License.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1512 Issuance and Renewal of Advanced License subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1512 Issuance and Renewal of Advanced License. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), 1213, and 1214, 14 **DE Admin. Code** 1512 Issuance and Renewal of Advanced License, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1512 Issuance and Renewal of Advanced License adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1512 Advanced 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

*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 December 2022 issue of the *Register* at page 459 (26 DE Reg. 459). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 859 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))
14 DE Admin. Code 1522

ORDER

1522 Elementary School Counselor

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1522 Elementary School Counselor. The regulation concerns the requirements for an Elementary School Counselor Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include clarifying Section 1.0; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing an Elementary School Counselor Standard Certificate in Section 3.0; clarifying the education, knowledge, and skill requirements for obtaining an Elementary School Counselor Standard Certificate and adding the option of a new Praxis Subject Assessment in Section 4.0; clarifying the application requirements in Section 5.0; adding subsection 5.2, which concerns the disclosure of an applicant's criminal conviction history; moving the section concerning the Secretary of Education's review of standard certificate applications to Section 6.0; adding subsection 8.1, which concerns limiting, suspending, and revoking a Standard Certificate; clarifying 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.

Notice of the proposed regulation was published in the *Register of Regulations* on November 1, 2022. The Professional Standards Board received written submittals from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"), and Keisha Baynard, on behalf of DSCA, concerning the proposed regulation. Ms. Fisher commented that GACEC endorses the proposed regulation because it "endeavors to ensure that the quality of Delaware educators remains high, while giving Certificate applicants a fair means to acquire the Elementary School Counselor Certificate." Ms. Baynard commented that DSCA does not support a revision to emergency certification for their profession.

II. FINDINGS OF FACTS

On January 5, 2022, the Professional Standards Board considered the written submittals. The Professional Standards Board found that the proposed regulation does not concern emergency certification, which is addressed in a different regulation (i.e., 14 DE Admin. Code 1506). The Professional Standards Board did not make any changes as a result of the written submittals and voted to propose 14 DE Admin. Code 1522 Elementary School Counselor, 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 1522 Elementary School Counselor.

FINAL REGULATIONS

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1522 Elementary School Counselor subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1522 Elementary School Counselor. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1522 Elementary School Counselor, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1522 Elementary School Counselor adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1522 Elementary School Counselor 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

Vincent Lofink, Vice President (Absent)

/s/ Candice Fifer

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

/s/ Rev. Provey Powell, Jr.

/s/ Wali W. Rushdan, II

/s/ Deborah Stevens

***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 November 2022 issue of the *Register* at page 361 (26 DE Reg. 361). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 861 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1545

ORDER

1545 Secondary School Counselor

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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** 1545 Secondary School Counselor. The regulation concerns the requirements for a Secondary School Counselor Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include clarifying Section 1.0; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Secondary School Counselor Standard Certificate in Section 3.0; clarifying the education, knowledge, and skill requirements for obtaining a Secondary School Counselor Standard Certificate and adding the option of a new Praxis Subject Assessment in Section 4.0; clarifying the application requirements in Section 5.0; adding subsection 5.2, which concerns the disclosure of an applicant's criminal conviction history; moving the section concerning the Secretary of Education's review of standard certificate applications to Section 6.0; adding subsection 8.1, which concerns limiting, suspending, and revoking a Standard Certificate; clarifying 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.

Notice of the proposed regulation was published in the *Register of Regulations* on November 1, 2022. The Professional Standards Board received a written submittal from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"). Ms. Fisher commented that GACEC endorses the proposed regulation.

II. FINDINGS OF FACTS

On January 5, 2022, the Professional Standards Board considered the written submittal. The Professional Standards Board did not make any changes as a result of the written submittal and voted to propose 14 **DE Admin. Code** 1545 Secondary School Counselor, 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** 1545 Secondary School Counselor.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1545 Secondary School Counselor subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1545 Secondary School Counselor. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1545 Secondary School Counselor, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1545 Secondary School Counselor adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1545 Secondary School

FINAL REGULATIONS

Counselor 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 November 2022 issue of the *Register* at page 363 (26 DE Reg. 363). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 863 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

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

14 DE Admin. Code 1575

ORDER

1575 Teacher of Students with Visual Impairments

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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 1575 Teacher of Students with Visual Impairments. The regulation concerns the requirements for a Teacher of Students with Visual Impairments Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include clarifying Section 1.0; adding defined terms in Section 2.0; clarifying the requirements for issuing a Teacher of Students with Visual Impairments Standard Certificate in Section 3.0; adding subsection 3.1, which concerns educator licensure and certification investigations; specifying the education, knowledge, and skill requirements for obtaining a Teacher of Students with Visual Impairments 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 Teacher of Students with Visual Impairments Standard Certificate; adding Section 8.0, which concerns disciplinary actions; revising 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. In addition, proposed 14 **DE Admin. Code** 1575 is consistent with HB 382, which repealed 14 **Del.C.** §206(d) and was signed into law on October 7, 2022 and was effective October 10, 2022.

Notice of the proposed regulation was published in the *Register of Regulations* on November 1, 2022. The Professional Standards Board received written submittals from Benjamin Shrader, Chairperson of the State Council for Persons with Disabilities ("SCPD"), and Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"). Mr. Shrader commented that the SCPD Council "would like to emphasize an objection to granting the Secretary the ability to override the certification requirements, as this is an area which requires a large degree of specialized skill and training." Ms. Fisher commented that overall, GACEC supports the proposed regulation; however, GACEC reiterated its concern with Section 6.0 of the proposed regulation (Secretary of Education Review). Ms. Fisher further commented that GACEC is concerned by and objects to giving the Secretary of Education the ability to override certification requirements, "a teacher of students with visual impairments requires such a large degree of specialized skill and training," and "[a]llowing the Secretary to override those requirements could lead to less effective teachers and a deficit in the ability of the students these teachers are responsible for."

II. FINDINGS OF FACTS

On January 5, 2022, the Professional Standards Board considered the written submittals. The Professional Standards Board found that Section 6.0 Secretary of Education Review is based on a statute, 14 **Del.C.** § 1224, which provides that "[t]he Secretary of Education shall have the authority to review licensure and certification credentials on an individual basis and act upon same at the request of the local school district or charter school provided that the local school district or charter school is able to document the effectiveness of the applicant," and that the General Assembly is the body that is authorized to make changes to the statute. The Professional Standards Board further found that a school district or charter school must document the applicant's effectiveness and such a request would not be taken lightly. The Professional Standards Board also found that the Secretary of Education's judgment in reviewing an individual applicant's effectiveness can be trusted. The Professional Standards Board did not make any changes as a result of the written submittals and voted to propose 14 **DE Admin. Code** 1575 Teacher of Students with Visual Impairments, 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** 1575 Teacher of Students with Visual Impairments.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1575 Teacher of Students with Visual Impairments subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1575 Teacher of Students with Visual Impairments. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1575 Teacher of Students with Visual Impairments, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1575 Teacher of Students with Visual Impairments adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1575 Teacher of Students with Visual Impairments 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*.

FINAL REGULATIONS

IT IS SO ORDERED the 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 November 2022 issue of the *Register* at page 364 (26 DE Reg. 364). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 864 04-01-23.htm>

PROFESSIONAL STANDARDS BOARD

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

14 DE Admin. Code 1583

ORDER

1583 School Psychologist

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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 1583 School Psychologist. The regulation concerns the requirements for a School Psychologist Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising a defined term in Section 2.0; adding the option of a new Praxis Subject Assessment in Section 4.0; adding subsection 5.2, which concerns the disclosure of an applicant's criminal conviction history; moving the section concerning the Secretary of Education's review of standard certificate applications to Section 6.0; 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.

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

II. FINDINGS OF FACTS

On January 5, 2022, the Professional Standards Board voted to propose 14 DE Admin. Code 1583 School Psychologist, 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 1583 School

Psychologist.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1583 School Psychologist subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1583 School Psychologist. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1583 School Psychologist, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1583 School Psychologist adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1583 School Psychologist 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 16th day of February, 2023.

Department of Education

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

Approved this 16th day of February, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

Vincent Lofink, Vice President (Absent)

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

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

***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 November 2022 issue of the *Register* at page 370 (26 DE Reg. 370). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/april2023/final/26 DE Reg 866 04-01-23.htm>

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 311, and 21 Delaware Code, Section 2118, and 29 Delaware Code, Chapter 101 (18 **Del.C.** §311, and 21 **Del.C.** §2118 and 29 **Del.C.** Ch. 101)
18 **DE Admin. Code** 606

EXEMPT FINAL ORDER

606 Proof of Automobile Insurance

Regulation 606 implements 21 **Del.C.** §2118, which establishes requirements to govern the form of the

standardized insurance identification (ID) card for each insured vehicle pursuant to Delaware law; establishes the procedure by which automobile insurers shall notify the Division of Motor Vehicles when automobile insurance coverage is terminated or when insurers pay claims for uninsured motorists; and provides procedures for the submission of insurance company data to the Division of Motor Vehicles for administrative efficiency.

With this order, the Department is revising subsection 8.1 of Regulation 606 to correct a technical error made during a prior amendment to Regulation 606 that inadvertently expanded the notice required to be given to the Division of Motor Vehicle beyond the requirements of 21 **Del.C.** §2118(*l*). The Department is also taking the opportunity to make stylistic updates to the regulation.

This order is exempt from the requirement of public notice and comment because it includes "nonsubstantive changes in existing regulations to alter style or form or to correct technical errors," pursuant to 29 **Del.C.** §10113(b)(4).

This order shall be effective 10 days after publication in the *Register of Regulations*.

IT IS SO ORDERED.

The 15th day of March, 2023.

Trinidad Navarro
Commissioner
Delaware Department of Insurance

606 Proof of Automobile Insurance

1.0 Authority

This regulation is adopted under the authority of 18 **Del.C.** ~~§§311, 2304(26) and 2741~~; §311 and 21 **Del.C.** §2118, and adopted in cooperation with the Division of Motor Vehicles. This regulation is promulgated under the provisions of the Administrative Procedures Act, 29 **Del.C.** Ch.101.

2.0 Purpose

2.1 The purpose of this regulation is to:

- 2.1.1 Establish requirements to govern the form of the standardized Insurance Identification Card for each insured vehicle pursuant to Delaware law;
- 2.1.2 Establish the procedure by which automobile insurers shall notify the Division of Motor Vehicles when automobile insurance coverage is terminated or when insurers pay claims for uninsured motorists; and
- 2.1.3 Provide procedures for the submission of insurance company data to the Division of Motor Vehicles for administrative efficiency.

3.0 Definitions

To the extent necessary, the definitions contained in 21 **Del.C.** §101 shall apply to all terms not otherwise defined in Section 3.0 of this regulation. The following words and terms, when used in this regulation, shall have the following meaning unless the context in which they are used clearly indicates otherwise:

"Commercial auto coverage", **"commercial vehicle coverage"** or **"commercial lines policy"** means any coverage provided to an insured, regardless of the number of vehicles or entities covered, under a commercial auto, garage, or truckers coverage form or rated from either a commercial manual or rating rule as filed and approved by the Delaware Department of Insurance. Vehicle type and ownership are not necessarily the primary factors in either underwriting the coverage or rating the coverage. The rating may be subject to individual risk characteristics including but not limited to experience rating, schedule rating, loss rating or deductible rating.

"Fleet" means five or more vehicles under single ownership or lease used for commercial purposes.

"Personal lines auto coverage", **"personal lines vehicle coverage"** or **"personal lines policy"** means any automobile insurance or insurance policy that does not fall within commercial lines.

4.0 Insurance Identification Card

- 4.1 All companies licensed to write automobile insurance in the State of Delaware must furnish Insurance Identification Cards to their insureds in accordance with the following:
- 4.1.1 If the insured and insurance company both consent, the Insurance Identification Card may be produced in electronic format;
 - 4.1.2 Acceptable electronic formats include display of electronic images on a cellular phone or any other type of portable electronic device;
 - 4.1.3 At least one written Insurance Identification Card or Insurance Identification Card in electronic format must be issued for each vehicle for which liability insurance is in effect; and
 - 4.1.4 Delaware policyholders who are members of the military and are stationed outside of Delaware may be issued an Insurance Identification Card of that state provided their coverage meets Delaware requirements.
- 4.2 If an Insurance Identification Card is produced in written format, insurers may use uniform ACORD format or may prepare the ACORD format as described below:
- 4.2.1 The size, weight, and color of the Insurance Identification Card shall be as below:
 - 4.2.1.1 Size: Not smaller than 3-1/2" x 2-1/4" or larger than 3" x 5"
 - 4.2.1.2 Weight: Optional
 - 4.2.1.3 Color: White

5.0 Insurance Identification Cards for Personal Lines Coverage

- 5.1 The Insurance Identification Card for privately owned or leased motor vehicles, for vehicles that are used non-commercially but covered under commercial lines policies, or both shall contain the following information, whether the Insurance Identification Card is provided in written or electronic format:
- 5.1.1 The statement "The Insurance Identification Card must be carried in the vehicle at all times" shall be shown on the face of the Insurance Identification Card if space is available; otherwise this statement may appear on the back of the Insurance Identification Card;
 - 5.1.2 The Insurance Identification Card shall be identified as "Insurance Identification Card";
 - 5.1.3 The insurance company name shall be printed on the face of the Insurance Identification Card. If the insurer is part of a group, the group name may be printed on the Insurance Identification Card so long as the card clearly identifies the name of the insurer issuing the insurance;
 - 5.1.4 Insurer's ~~five-digit~~ 5 digit National Association of Insurance Commissioners ("NAIC") company identification number;
 - 5.1.5 The name of the named insured, which must match the name of the named insured as carried in the insurer's records;
 - 5.1.6 The address of the insured, to be included at the insurer's option;
 - 5.1.7 Policy Number;
 - 5.1.8 Effective date and the time period during which the policy shall be in effect;
 - 5.1.9 Expiration Date. The Insurance Identification Card shall be valid for no more than the term stated in the policy but not to exceed 6 months. Notwithstanding the foregoing limitation, an Insurance Identification Card may be issued for a period of 12 months if the premium has been written on an annual basis and the premium is being paid in installments of no more than for a 12-month period. The expiration date shall be stated in such manner that the exact date of expiration can be clearly identified. For purposes of subsection 5.1.9 of this regulation, a policy renewed in the same company with a lapse in coverage of 30 days or less shall be considered to have been continuously insured by a licensed insurance company during the preceding six months; and
 - 5.1.10 Vehicle or Vehicles Insured. Information shall be completed by indicating any of the following, depending on the type of policy or vehicle involved:
 - 5.1.10.1 Year, Make, and Vehicle Identification Number ("VIN") of the vehicle or vehicles insured. Model of the vehicle may be shown as the Make. The Year and Make of the vehicle may be abbreviated, but the complete VIN must be shown.

- 5.1.11 Items which are not obvious as to meaning shall be appropriately captioned.
- 5.2 The order of the information to be contained on the Insurance Identification Card may be rearranged at the option of the company, provided there is no drastic change and the rearrangement is necessary to accommodate a fixed printout system already established by a company.
- 5.3 At least ~~one~~ 1 Insurance Identification Card shall be issued for each vehicle insured under the policy for which liability insurance is in effect.
- 5.4 If a vehicle is specifically described on the Insurance Identification Card, the company must issue a new Insurance Identification Card upon either a change of vehicle or the acquisition of any additional one. If a different policy number is assigned upon renewal, a new Insurance Identification Card must also be issued. The expiration date requirement of subsection 5.1.9 of this regulation shall apply to an insured's replacement or additional insured vehicle in a manner similar to the previously owned or insured vehicle. The owner of the vehicle shall so inform the insurer of the additional or replacement vehicle. Only after the insurer is so informed, shall the insurer be obligated to issue an Insurance Identification Card to the insured for the additional or replacement vehicle.
- 5.5 A letter or notification should accompany every Insurance Identification Card advising the insured that the Insurance Identification Card is required to register the vehicle, to obtain new tags, and to serve as evidence of insurance for the law enforcement authorities, e.g., in cases involving accidents, moving traffic violations or road spot checks. This notification may be printed on the back of the Insurance Identification Card. Delaware law requires the Insurance Identification Card to be in the vehicle when it is being operated.
- 5.6 The Division of Motor Vehicles will accept for registration purposes a copy of the application for insurance or the assignment notice or binder pending issuance of insurance or the assignment notice pending issuance of the Insurance Identification Card. However, such evidence of insurance will be accepted for registration purposes only if it has been dated prior to the date and no later than the day preceding the date of application for registration. For Assigned Risk coverage, insurers shall instruct their agents to place an insurer identification code of "99999" on applications to indicate placement with the Assigned Risk Plan.
- 5.7 Insurance Identification Cards shall be issued in conformance with subsection 5.1 of this regulation. The Insurance Commissioner may exercise his statutory authority to investigate and examine the compliance of insurance carriers with this regulation. The Insurance Commissioner may, after notice and hearing, impose and enter an order as follows:
- 5.7.1 For each occasion where the Insurance Commissioner determines that an Insurance Identification Card was issued inadvertently in non-compliance with subsection 5.1.9 of this regulation, the insurer shall be fined \$100. No fine, however, shall be imposed if the Insurance Identification Card was validly issued.
- 5.7.2 For each occasion where the Insurance Commissioner determines an Insurance Identification Card was issued with disregard of the requirements of subsection 5.1.9 of this regulation, but with no pattern of conscious disregard, the insurer shall be fined \$1,000.
- 5.7.3 For each occasion where the Insurance Commissioner determines an Insurance Identification Card was issued as part of a pattern of conscious disregard of the requirements of subsection 5.1.9 of this regulation, the insurer shall be fined \$2,000.
- 5.8 "Date of issuance" of an Insurance Identification Card shall be the effective date of that Insurance Identification Card.

6.0 Insurance Identification Cards for Commercial Lines Coverage

- 6.1 Unless otherwise covered in Section 5.0 of this regulation, the Insurance Identification Card for each vehicle insured under each commercial lines policy, which shall include any insurance issued for fleet vehicles, shall contain the following information, whether the Insurance Identification Card is provided in written or electronic format:
- 6.1.1 The information set forth in subsections 5.1.1 through 5.1.4, subsection 5.1.6 and subsection 5.1.11 of this regulation;

- 6.1.2 The name of the commercial entity or registrant that owns or leases the fleet as carried in the insurer's records. The insurer, at its option, may include the name of any parent company involved or, in the case of vehicles not operated by the registrant, an indication that the vehicle is "owned or operated by _____";
- 6.1.3 The policy number with any appropriate designations required by the insurer for commercial or fleet vehicles; and
- 6.1.4 The effective and expiration dates of the policy.
- 6.2 The expiration date for Insurance Identification Cards shall be no more than ~~twelve~~ 12 months from the effective date of the policy and the expiration date shall be stated by day, month and year or month, day and year, so long as the exact date of expiration can be clearly identified.
- 6.3 Insurance Identification Cards subject to the requirements of this Section 6.0 of this regulation shall also be subject to the requirements set forth in subsections 5.2 through 5.6 of this regulation.
- 6.4 Insurance Identification Cards shall be issued in conformance with subsection 6.1 of this regulation. The Insurance Commissioner may exercise the Commissioner's statutory authority to investigate and examine the compliance of insurance carriers with this regulation. The Insurance Commissioner may, after notice and hearing, impose and enter an order as follows:
- 6.4.1 For each occasion where the Insurance Commissioner determines that an Insurance Identification Card was issued inadvertently in non-compliance with subsection 6.2 of this regulation, the insurer shall be fined \$100. No fine, however, shall be imposed if the Insurance Identification Card was validly issued.
- 6.4.2 For each occasion where the Insurance Commissioner determines an Insurance Identification Card was issued with disregard of the requirements of subsection 6.2 of this regulation, but with no pattern of conscious disregard, the insurer shall be fined \$1,000.
- 6.4.3 For each occasion where the Insurance Commissioner determines an Insurance Identification Card was issued as part of a pattern of conscious disregard of the requirements of subsection 6.2 of this regulation, the insurer shall be fined \$2,000.
- 6.5 "Date of issuance" of an Insurance Identification Card shall be the effective date of that Insurance Identification Card.

7.0 Violations and Penalties

- 7.1 If an insurer violates any of the provisions of this regulation, the Commissioner shall give written notice to the insurer of the violation and the notice shall inform the insurer of the right to request a hearing pursuant to 18 **Del.C.** §323.
- 7.2 If the Commissioner determines that an insurer is in violation by consent or after a hearing, the Commissioner may impose penalties as permitted pursuant to the Insurance Code.

8.0 Notice of Cancellation or Termination

- 8.1 When an insurer determines to cancel or terminate a personal lines insurance policy and that cancellation or termination is final under 18 **Del.C.** ~~§3904(a)~~ §3904(a)(1) within 6 months of the original date of issuance, the insurer shall file a Notice of Cancellation with the Division of Motor Vehicles.
- 8.2 The insurer shall file the notice of cancellation or termination with the Division of Motor Vehicles within 30 days following the effective date on which cancellation has become final, and in accordance with the following:
- 8.2.1 For purposes of subsection 8.2 of this regulation, "Final" means the date after which coverage cannot be reinstated except by the issuance of a new policy; and
- 8.2.2 The insurer shall file the notice of cancellation or termination in accordance with instructions posted by the Division of Motor Vehicles on the Division's website.
- 8.3 The notice shall be a form with the size, content, and format approved by the Division of Motor Vehicles.

9.0 Furnishing Motor Vehicle Liability Insurance Information to the Division of Motor Vehicles

- 9.1 An insurer shall furnish within 21 days of a request by the Division of Motor Vehicles prescribed information on each motor vehicle insured in the State of Delaware in accordance with the following:
- 9.1.1 The information shall be provided in the form and manner approved by the Division of Motor Vehicles, as more fully set out in instructions posted by the Division of Motor Vehicles on the Division's website.
- 9.1.2 All information submitted by the insurer shall include the insurer's most current Delaware consumer complaint contact designee as submitted by the insurer to the National Association of Insurance Commissioners State Based Systems data base.

10.0 Random Selection/Verification

- 10.1 Pursuant to 21 **Del.C.** §2118 the Division of Motor vehicles shall periodically randomly select on an annual basis at least 10 percent of the vehicle registrations and send them to the insurers of record for verification of liability insurance.
- 10.2 All responses from the insurers shall be delivered to the Delaware Division of Motor Vehicles within 21 days of the mailing date of the verification request.
- 10.3 The random selection/verification process shall be done no more than ~~twelve~~ 12 times and no less than ~~four~~ 4 times annually.

11.0 Notification of Uninsured Drivers

Each insurer licensed to write automobile liability insurance in Delaware shall notify the Division of Motor Vehicles on a form approved by the Division of Motor Vehicles the name of any person or persons involved in an accident or filing a claim who is alleged to have been operating a Delaware registered motor vehicle without the insurance required under Delaware law. The insurer shall provide the name, address, and description of the vehicle alleged to be uninsured.

12.0 Additional Required Proofs of Insurance

When the Division of Motor Vehicles requests that an insurer provide verification of insurance coverage, an insurer licensed to write automobile liability insurance in this State shall furnish verification of the insurance in force to the Division of Motor Vehicles by using a form and filing methods that are approved by the Division of Motor Vehicles.

13.0 Severability

If any provision of this regulation or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the regulation which can be given effect without the invalid provision or application and to this end the provisions of this regulation are declared to be severable.

14.0 Effective Date

~~This Regulation shall become effective May 11, 2020.~~ This regulation became effective December 11, 2007, 10 days after being published as a final regulation. The amendments to this regulation updating and clarifying requirements for insurer notice of automobile insurance cancellations and terminations became effective May 11, 2020. The current amendments to this regulation shall become effective 10 days after being published in the *Register of Regulations*.

*Regulation No. 31 was entitled "Insurance Identification Card" under an effective date of July 1, 1979; amended July 1, 1982; amended effective January 1, 1991 and again on May 12, 1993 under present title except for the conditions specified under § 6 and § 4 of the regulation and April 12, 1993.

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311, 332, 6408, 6416 and 6417 and 29 Delaware Code, Chapter 101 (18 **Del.C.** §§311, 332, 6408, 6416 & 6417 and 29 **Del.C.** Ch. 101)

18 DE Admin. Code 1301

EXEMPT FINAL ORDER

1301 Internal Review and Independent Utilization Review of Health Insurance Claims

Regulation 1301 implements 18 **Del.C.** §§332, 6408, 6416 and 6417 which require health insurance carriers to establish a procedure for internal review of a carrier's adverse coverage determination and which require the Delaware Insurance Department to establish and administer procedures for independent utilization review upon completion of the carrier's internal review process.

With this order, the Department is updating Regulation 1301 to remove subsection 3.4.2.2, amend Section 4.0 and revise the definition of "authorized representative" to remove references to the availability of legal assistance from attorneys working for the Delaware Department of Justice in the preparation of an appeal of an adverse determination involving treatment for substance abuse. These changes are being made due to the January 1, 2020 sunset of HB 100, 81 **Del. Laws** Ch. 28, §3 (May 30, 2017), which amended 18 **Del.C.** §332. The Department is also taking the opportunity to make stylistic updates to the regulation.

This order is exempt from the requirement of public notice and comment because it includes "amendments to existing regulations to make them consistent with changes in basic law but which do not otherwise alter the substance of the regulation," pursuant to 29 **Del.C.** §10113(b)(5) and it includes "non-substantive changes in existing regulations to alter style or form or to correct technical errors," pursuant to 29 **Del.C.** §10113(b)(4).

This order shall be effective 10 days after publication in the *Register of Regulations*.

IT IS SO ORDERED.

This 15th day of March, 2023

Trinidad Navarro
Commissioner, Delaware Department of Insurance

1301 Internal Review and Independent Utilization Review of Health Insurance Claims

1.0 Purpose and Statutory Authority

The purpose of this Regulation is to implement 18 **Del.C.** §§332, 6408, 6416 and 6417 which require health insurance carriers to establish a procedure for internal review of a carrier's adverse coverage determination and which require the Delaware Insurance Department to establish and administer procedures for independent utilization review upon completion of the carrier's internal review process. This Regulation is promulgated pursuant to 18 **Del.C.** §§311, 332, 6408, 6416, and 6417 and 29 **Del.C.** Ch. 101. This Regulation should not be construed to create any cause of action not otherwise existing at law.

2.0 Definitions

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

"Adverse determination" means a decision by a carrier to deny (in whole or in part), reduce, limit or terminate health insurance benefits or a determination that an admission or continued stay, or course of treatment, or other covered health service does not satisfy the insurance policy's clinical requirements for appropriateness, necessity, health care setting and/or level of care.

"Appeal" means a request for external review of a carrier's final coverage decision through the Independent Health Care Appeals Program.

“Appropriateness of services” means an appeal classification for adverse determinations that are made based on identification of treatment as cosmetic, investigational, experimental or not an appropriate or preferred treatment method or setting for the condition for which treatment is sought.

“Authorized representative” means an individual whom a covered person willingly acknowledges to represent his interests during the internal review process and/or an appeal through the arbitration process or the Independent Health Care Appeals Program, including but not limited to a provider to whom a covered person has assigned the right to collect sums due from a carrier for health care services rendered by the provider to the covered person. A carrier may require the covered person to submit written verification of his consent to be represented. If a covered person has been determined by a physician to be incapable of assigning the right of representation, the covered person may be represented by a family member or a legal representative. ~~In cases involving the existence or scope of private or public coverage for substance abuse treatment, assistance may be provided by or through the Delaware Department of Justice as an authorized representative, regardless of whether the covered person has been determined by a physician to be incapable of assigning the right of representation. The Department of Justice may be reached by calling 302-577-4206, by visiting <http://attorneygeneral.delaware.gov/dojtreatmentassistance/>, or by email at dojtreatmentassistance@state.de.us.~~

“Carrier” means any entity that provides health insurance in this State. Carrier includes an insurance company, health service corporation, managed care organization and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. Carrier also includes any third-party administrator or other entity that adjusts, administers or settles claims in connection with health insurance.

“Covered person” means an individual and/or family who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with a carrier, pursuant to which the carrier provides health insurance for such person or persons.

“Department” means the Delaware Insurance Department.

“Final coverage decision” means the decision by a carrier at the conclusion of its internal review process upholding, modifying or reversing its adverse determination.

“Grievance” means a request by a covered person or his authorized representative that a carrier review an adverse determination by means of the carrier’s internal review process.

“Health care services” means any services or supplies included in the furnishing to any individual of medical care, or hospitalization or incidental to the furnishing of such care or hospitalization, as well as the furnishing to any individual of any and all other services for the purpose of preventing, alleviating, curing or healing human illness, injury, disability or disease.

“Health insurance” means a plan or policy issued by a carrier for the payment for, provision of, or reimbursement for health care services.

“Independent Health Care Appeals Program (“IHCAP”) means a program administered by the Department that provides for an external review by an Independent Utilization Review Organization of a carrier’s final coverage decision based on medical necessity or appropriateness of services.

“Independent Utilization Review Organization (“IURO”) means an entity that conducts independent external reviews of a carrier’s final coverage decisions resulting in a denial, termination, or other limitation of covered health care services based on medical necessity or appropriateness of services.

“Internal review process (“IRP”) means a procedure established by a carrier for internal review of an adverse determination.

“Medical necessity” means providing of health care services or products that a prudent physician would provide to a patient for the purpose of diagnosing or treating an illness, injury, disease or its symptoms in a manner that is:

- A. In accordance with generally accepted standards of medical practice;
- B. Consistent with the symptoms or treatment of the condition; and
- C. Not solely for anyone’s convenience.

“**Pre-Authorization**” is a requirement by a carrier or health insurance plan that states physicians need to submit a treatment plan or service request to the carrier for evaluation of appropriateness of the plan or service before treatment is rendered. It lets the insured and physician know in advance which procedures are covered.

“**Provider**” means an individual or entity, including without limitation, a licensed physician, a licensed nurse, a licensed physician assistant and a licensed nurse practitioner, a licensed diagnostic facility, a licensed clinical facility, and a licensed hospital, who or which provides health care services in this State.

3.0 Minimum Requirements for an Internal Review Process (IRP)

- 3.1 In addition to the requirements set forth in 18 **Del.C.** §332, the provisions of this section shall govern the internal review process of all carriers offering health insurance in Delaware:
- 3.2 All written procedures and forms utilized by a carrier shall be readable and understandable by a person of average intelligence and education. All such documents shall meet the following criteria:
 - 3.2.1 The type size shall not be smaller than 11 point;
 - 3.2.2 The type style selection shall be at the discretion of the carrier but shall be of a type that is clear and legible;
 - 3.2.3 Captions or headings shall be designed to stand out clearly;
 - 3.2.4 White space separating subjects or sections should be distinct;
 - 3.2.5 There must be included a table of contents sufficient to guide and assist the covered person or his authorized representative;
 - 3.2.6 Where appropriate, definitions shall be included, shall be sufficient to clearly apply to the usage intended, and shall not conflict with the definitions contained in this regulation; and
 - 3.2.7 The forms shall be written in everyday, conversational language to the extent possible to preserve the legal meaning.
 - 3.2.8 Short familiar words shall be used and sentences shall be kept as short and simple as possible.
- 3.3 The carrier shall provide all forms relating to grievances, appeals, arbitration or other procedures relating to IRP as examples along with the written notice of IRP provided to the covered person.
- 3.4 Written notice.
 - 3.4.1 For any IRP not previously approved by the Department, the carrier shall provide written notice of the IRP to all covered persons within 30 days of approval by the Department.
 - 3.4.2 The carrier shall provide the notice required by 18 **Del.C.** §332(c)(1) to covered persons following any adverse determination, and annually, either upon the policy renewal date, open enrollment date, or a set date for all covered persons, in the carrier’s discretion. In addition to the requirements set forth in 18 **Del.C.** §332(c)(1), the notice shall also, at a minimum, provide as follows:
 - 3.4.2.1 You have the right to seek a review of a claim reduction or denial through this insurer’s internal review process.
 - 3.4.2.2 ~~If your claim involves an adverse determination involving treatment for substance abuse, you may be eligible to receive assistance by or through the Delaware Department of Justice during this company’s internal review process. The Delaware Department of Justice may be reached by calling 302-577-4206, by visiting <http://attorneygeneral.delaware.gov/doj-treatmentassistance/>, or by email at doj-treatmentassistance@state.de.us, for more information.~~
 - 3.4.3 For every new policy issued after the Department’s approval of the IRP, the carrier shall provide covered persons with a copy of the IRP at the time, or prior to the time, the carrier sends identification cards, member handbooks or similar member materials to newly covered persons.
 - 3.4.4 When a covered person’s dependents are also covered, a single notice to the principal covered person shall be sufficient under this section.

- 3.5 Under circumstances where an oral or written grievance may not contain sufficient information and the carrier requests additional information, such request shall not be burdensome or require such information as the carrier might reasonably be expected to obtain through its normal claims process.

4.0 Notice Requirements for Appeal of a Carrier's Final Coverage Decision

At the time a carrier provides to a covered person written notice of a carrier's final coverage decision, if the final coverage decision does not authorize payment of the claim in its entirety, the carrier shall provide the covered person with a written notice of the process by which a covered person may appeal the carrier's final coverage decision. The notice shall include a statement that mediation services are offered by the Department. Such notice may be separate from or a part of the written notice of the carrier's decision.

The notice provided to a covered person shall, at a minimum, contain the following language:

"You have the right to seek a review of a claim reduction or denial through the Delaware Insurance Department. The Delaware Insurance Department provides free informal mediation services which are in addition to, but do not replace, your right to a review of this decision through an external review or through the Department's arbitration program, as applicable. You can contact the Delaware Insurance Department for information about claim denial review or mediation by calling the Consumer Services Division at 800-282-8611 or 302-674-7310.

Your decision to pursue mediation with the Department does not change the deadlines imposed for filing a request for an external review (set by Section 5.0 of this regulation) or arbitration (set by Regulation 1315 of Delaware Administrative Code Chapter 18, 18 **DE Admin. Code** 1315).

~~If your request for review involves a claim reduction or denial involving treatment for substance abuse, you may be eligible to receive assistance by or through the Delaware Department of Justice by calling 302-577-4206, by visiting <http://attorneygeneral.delaware.gov/dojtreatmentassistance/>, or by email at dojtreatmentassistance@state.de.us for more information.~~

All requests for review through the Department's arbitration program must be filed with the Department within 60 days from the date you receive this carrier's notice, otherwise, this decision will be final. All requests for external review must be filed with this carrier within four months of your receipt of this final coverage decision."

5.0 IHCAP Procedure

- 5.1 A covered person or his authorized representative may request review of a final coverage decision based, in whole or in part, on medical necessity or appropriateness of services by filing an appeal with the carrier within four months of receipt of the final coverage decision.
- 5.2 Upon receipt of an appeal, the carrier shall transmit the appeal electronically to the Department as soon as possible, but within no more than three business days.
- 5.3 Within five calendar days of receipt of an appeal, the Department shall assign an approved, impartial Independent Utilization Review Organization to review the final coverage decision and shall notify the carrier.
- 5.4 The assigned IURO shall, within five calendar days of assignment, notify the covered person or his authorized representative in writing by certified or registered mail that the appeal has been accepted for external review.
- 5.4.1 The notice shall include a provision stating that the covered person or his authorized representative may submit additional written information and supporting documentation that the IURO shall consider when conducting the external review.
- 5.4.2 The covered person or his authorized representative shall submit such written documentation to the IURO within seven calendar days following the date of receipt of the notice.

- 5.4.3 Upon receipt of any information submitted by the covered person or his authorized representative, the assigned IURO shall as soon as possible, but within no more than two business days, forward the information to the carrier.
- 5.4.4 The IURO must accept additional documentation submitted by the carrier in response to additional written information and supporting documentation from the covered person or his authorized representative.
- 5.5 Within seven calendar days after the receipt of the notification required in subsection 5.3 of this regulation, the carrier shall provide to the assigned IURO the documents and any information considered in making the final coverage decision.
- 5.5.1 If the carrier fails to submit documentation and information or fails to participate within the time specified, the assigned IURO may terminate the external review and make a decision, with the approval of the Department, to reverse the final coverage decision.
- 5.6 The external review may be terminated if the carrier decides to reverse its final coverage decision and provide coverage or payment for the health care service that is the subject of the appeal.
- 5.6.1 Immediately upon making the decision to reverse its final coverage decision, the carrier shall notify the covered person or his authorized representative, the assigned IURO, and the Department in writing of its decision. The assigned IURO shall terminate the external review upon receipt of the written notice from the carrier.
- 5.7 Within 45 days after the IURO's receipt of an appeal, the assigned IURO shall provide written notice of its decision to uphold or reverse the final coverage decision to the covered person or his authorized representative, the carrier and the Department, which notice shall include the following information:
- 5.7.1 The qualifications of the members of the review panel;
- 5.7.2 A general description of the reason for the request for external review;
- 5.7.3 The date the IURO received the assignment from the Department to conduct the external review;
- 5.7.4 The date(s) the external review was conducted;
- 5.7.5 The date of its decision;
- 5.7.6 The principal reason(s) for its decision; and
- 5.7.7 References to the evidence or documentation, including practice guidelines and clinical review criteria, considered in reaching its decision.
- 5.8 The decision of the IURO is binding upon the carrier except as provided in 18 **Del.C.** §6416(b).

6.0 Expedited IHCAP Procedure

- 6.1 A covered person or his authorized representative may request an expedited appeal at the time the carrier issues its final coverage decision if the covered person suffers from a condition that poses an imminent, emergent or serious threat or has an emergency medical condition.
- 6.1.1 For an emergency medical condition, the claimant may file for an external review without having already exhausted the internal appeal process. To the extent the State process requires exhaustion of an internal claims and appeals process, exhaustion must be unnecessary where the carrier (or, if applicable, the plan) has waived the requirement, the carrier (or the plan) is considered to have exhausted the internal claims and appeals process under applicable law (including by failing to comply with any of the requirements for the internal appeal process, as outlined in 45 CFR 147.136(b)(2) and (3)), or the claimant has applied for expedited external review at the same time as applying for an expedited internal appeal.
- 6.2 At the time the carrier receives a request for an expedited appeal, the carrier shall immediately transmit the appeal electronically to the Department, but within no more than three business days.
- 6.3 If the Department determines that the review meets the criteria for expedited review, the Department shall assign an approved, impartial IURO to conduct the external review and shall notify the carrier.
- 6.4 At the time the carrier receives the notification of the assigned IURO, the carrier shall provide or transmit all necessary documents and information considered in making its final coverage decision to

the assigned IURO electronically, by telephone, by facsimile or any other available expeditious method.

- 6.5 As expeditiously as the covered person's medical condition permits or circumstances require, but in no event more than 72 hours after the IURO's receipt of the expedited appeal, the IURO shall make a decision to uphold or reverse the final coverage decision and immediately notify the covered person or his authorized representative, the carrier, and the Department of the decision.
- 6.6 Within one calendar day of the immediate notification, the assigned IURO shall provide written confirmation of its decision to the covered person or his authorized representative, the carrier, and the Department.
- 6.7 The decision of the IURO is binding upon the carrier except as provided in 18 **Del.C.** §6416(b).

7.0 Refusal or Dismissal of IHCAP Appeal

- 7.1 The Department may refuse to accept any appeal that is not timely filed or does not otherwise meet the criteria for IHCAP review. If the subject of the appeal is appropriate for arbitration, the Department shall advise the covered person or his authorized representative of the arbitration procedure. If the subject of the appeal is appropriate for arbitration, the appeal shall be treated as a petition for arbitration.
- 7.2 Carrier's motion to dismiss an IHCAP appeal.
- 7.2.1 A carrier may move to dismiss an IHCAP appeal if the carrier believes the appeal:
- 7.2.1.1 Concerns a benefit that is the subject of an express written exclusion from the covered person's health insurance;
 - 7.2.1.2 Is appropriate for arbitration; or
 - 7.2.1.3 Should be dismissed because it is inappropriate for IHCAP review as explained in a sworn statement by an officer of the carrier.
- 7.2.2 The carrier's motion to dismiss must be made in writing at the time the carrier transmits the appeal to the Department and must include any necessary supporting documentation.
- 7.2.3 The Department shall review the appeal and motion for dismissal and may, in its discretion:
- 7.2.3.1 Dismiss the appeal and notify the covered person or his authorized representative in writing that the appeal is inappropriate for the IHCAP; or
 - 7.2.3.2 Appoint an IURO to conduct a full external review.

8.0 IHCAP Costs

- 8.1 All costs for IHCAP review by an IURO, whether the review is preliminary, or partially or fully completed, shall be borne by the carrier.
- 8.1.1 These costs shall include a ~~\$75.00~~ \$75 administration fee for processing and handling by the Department.
- 8.2 The carrier shall reimburse the Department for the cost of the IHCAP review within 90 calendar days of receipt of the decision by the IURO or within 90 days of termination of review by the IURO by other means.

9.0 Approval of Independent Utilization Review Organizations

- 9.1 The Department shall approve IUROs eligible to be assigned to conduct IHCAP reviews as provided in 18 **Del.C.** §6417(a).
- 9.2 An IURO seeking approval to conduct IHCAP reviews shall submit an application to the Department that includes the information required by 18 **Del.C.** §§6417(c)(1), 6417(c)(2), 6417(c)(4), and a copy of its certification by URAC or other nationally recognized certification organization.
- 9.3 The Department shall maintain a current list of approved IUROs.

- 9.4 In connection with each external review, neither the expert reviewer, nor the independent review organization, shall have any material professional, familial or financial conflict of interest with any of the following:
- 9.4.1 The plan;
 - 9.4.2 Any officer, director or management of the plan;
 - 9.4.3 The physician, the physician's medical group or the independent practice association proposing the service or treatment;
 - 9.4.4 The institution at which the service or treatment would be provided;
 - 9.4.5 The development or manufacture of the principal drug, device, procedure or other therapy proposed for the covered person whose treatment is under review;
 - 9.4.6 The covered person; or
 - 9.4.7 Any national, state or local trade association of health benefit plans or health-care providers.

10.0 Recordkeeping and Reporting Requirements

- 10.1 A carrier and IURO shall maintain written or electronic records for five years, after completion of the appeal process, documenting all grievances and appeals for IHCAP review including, at a minimum, the following information:
- 10.1.1 For each grievance:
 - 10.1.1.1 The date received;
 - 10.1.1.2 Name and plan identification number of the covered person on whose behalf the grievance was filed;
 - 10.1.1.3 A general description of the reason for the grievance; and
 - 10.1.1.4 The date and description of the final coverage decision.
 - 10.1.2 For each appeal for IHCAP review:
 - 10.1.2.1 The date received;
 - 10.1.2.2 Name and plan identification number of the covered person on whose behalf the appeal was filed;
 - 10.1.2.3 A general description of the reason for the appeal; and
 - 10.1.2.4 Date and description of the IURO's decision or other disposition of the appeal.
- 10.2 A carrier shall file with its annual report to the Department the following information:
- 10.2.1 The total number grievances filed; and
 - 10.2.2 The total number of IHCAP appeals filed, with a breakdown showing the total number of final coverage decisions:
 - 10.2.2.1 Upheld through IHCAP; and
 - 10.2.2.2 Reversed through IHCAP.
- 10.3 A carrier shall make available to the Department upon request any of the information specified in the foregoing subsections 10.1 and 10.2 of this regulation, and other information regarding its internal review process including but not limited to the written IRP procedures and forms the carrier distributes to covered persons.
- 10.4 An IURO shall make available to the Department upon request any of the information specified in the foregoing subsections 10.1 and 10.2 of this regulation to the extent within the IURO's records.

11.0 Non-Retaliation

- 11.1 A carrier shall not disenroll, terminate or in any way penalize a covered person who exercises his or her rights to file a grievance or appeal for IHCAP review solely on the basis of such filing.
- 11.2 A carrier shall not terminate or in any way penalize a provider with whom it has a contractual relationship and who exercises, on behalf of a covered person, the right to file a grievance or appeal for IHCAP review solely on the basis of such filing.

12.0 Confidentiality of Health Information

Nothing in this Regulation shall supersede any federal or state law or regulation governing the privacy of health information.

13.0 Computation of Time

In computing any period of time prescribed or allowed by this Regulation, the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or Sunday, or other legal holiday, or other day on which the Department is closed, in which event the period shall run until the end of the next day on which the Department is open. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and other legal holidays shall be excluded in the computation. As used in this section, "legal holidays" shall be those days provided by statute or appointed by the Governor or the Chief Justice of the State of Delaware.

14.0 Effective Date

This regulation ~~shall become~~ became effective July 11, 2007, 10 days after being published as a final regulation. The amendments to Sections 3.0 and 4.0 of this regulation and to the definition of "Authorized representative," ~~all of which implement HB 100, 81 Del. Laws, Ch. 28 §3 (May 30, 2017) shall become effective 10 days after being published as a final regulation and shall sunset on January 1, 2020 unless expressly reauthorized prior to that date~~ became effective January 11, 2018. The current amendments to Sections 3.0 and 4.0 of this regulation and to the definition of "Authorized representative" shall become effective 10 days after being published in the *Register of Regulations*.

DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 3366 and 3570A (18 Del.C. §§3366 and 3570A)

NOTICE

Autism Spectrum Disorders Coverage

The purpose of this notice is to comply with 18 Del.C. §§ 3366(b) (Health Insurance Contracts - Autism spectrum disorders coverage) and 3570A(b) (Group and Blanket Health Insurance - Autism spectrum disorders coverage), which require that:

After December 31, 2012, the Insurance Commissioner shall, on or before April 1 of each calendar year, publish in the *Delaware Register of Regulations* an adjustment to the maximum benefit [for coverage for applied behavior analysis services, which is] equal to the change in the United States Department of Labor Consumer Price Index for all Urban Consumers (CPI-U) in the preceding year and the published adjusted maximum benefit shall be applicable to all health insurance policies issued or renewed thereafter.

The General Assembly established the maximum benefit on August 13, 2012 at \$36,000 per twelve-month period per person (See SB No. 22/SA Nos 1&3, 146th Gen. Assem. (2011-2012)), and specified that the benefit "shall not be subject to any limits on the number of visits an individual may make to an autism services provider, or that a provider may make to an individual, regardless of the locations in which services are provided."

Using the CPI-U Historical Tables published by the U.S. Bureau of Labor Statistics at https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_us_table.htm, the maximum benefit for coverage for applied behavior analysis services per person for 2023 is \$37,455.43. The maximum per person 2023 benefit shall go into effect on April 1, 2023 and shall remain in effect until March 31, 2024.

Questions concerning this notice should be directed to:

Delaware Department of Insurance
ATTN: Consumers Division - Autism spectrum disorders coverage
1351 West North St., Ste. 101
Dover, DE 19904
compliance@delaware.gov (please put "Autism spectrum disorders coverage" in the subject line of the email).

GENERAL NOTICES

DEPARTMENT OF TRANSPORTATION

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Operation Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 Del.C. §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Airport Road (N340)

March 2, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), notice is hereby given by the Delaware Department of Transportation, Traffic Operation Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following temporary traffic control device for the safe movement of traffic in the area:

- "Trailers, semi-trailers, and recreational trailers unattached to a motor vehicle, shall be prohibited from stopping, standing, or parking" on Airport Road (N340) Along Airport Road (N340) from the I-95 NB Exit 5A Ramp to Airport Road/Commons Boulevard (SR 37) (N341)

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag, P.E., PTOE
Chief of Traffic Engineering

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 Del.C. §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Barley Mill Road (N259)

February 09, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 Del. C. §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 Del. C. §4505(c), for the following permanent traffic control devices for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on Barley Mill Road (N259) between Centre Road (SR 141) (N271) and Centerville Road (N273).

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

GENERAL NOTICES

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 **Del.C.** §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Bayview Manor and Bayview Manor II Subdivisions

March 7, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on all local streets in the Bayview Manor and Bayview Manor II subdivisions.

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 **Del.C.** §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Belvedere, Meadowbrook, and Masonicville Subdivisions

March 7, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on all local streets in the Belvedere, Meadowbrook, and Masonicville subdivisions.

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

GENERAL NOTICES

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 **Del.C.** §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Christiana Acres Subdivision

March 2, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on all local streets in the Christiana Acres subdivision.

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 **Del.C.** §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Darley Road (N207)

February 20, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on Darley Road (N207) between SR92 Naamans Road (N17) and US13 Philadelphia Pike (N24)

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

GENERAL NOTICES

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 Del.C. §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Milltown Road (N280 & N318)

March 9, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 Del. C. §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 Del. C. §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on Milltown Road (N280 & N318) between SR2 Kirkwood Highway (N11) and SR41 Newport Gap Pike (N21)

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 **Del.C.** §4505(d)(1))

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Peachtree Lane (N72)

February 20, 2023

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

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on Peachtree Lane (N27) between SR92 Naamans Road (N17) and Darley Road (N207)

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,
Peter Haag
Chief of Traffic Engineering

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education meets monthly, generally at 5:00pm on the third Thursday of the month. These meetings are open to the public. The Board rotates locations of regular meetings among the three counties.

The State Board of Education provides information about meeting dates and times, materials, minutes, and audio recordings on its website:

<https://education.delaware.gov/community/governance/state-board-of-education/sbe-monthly-meetings/>

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF HEALTH CARE QUALITY
PUBLIC NOTICE**3345 Personal Assistance Services Agencies**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the **Delaware Code**, Chapter 1, Section 122(3)(x), Delaware Health and Social Services (DHSS)/ Division of Health Care Quality (DHCQ) is proposing regulations governing Personal Assistance Services Agencies.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Nancy.Lizzi@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2023. Please identify in the subject line: Regulations Governing Personal Assistance Services Agencies.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DIVISION OF HEALTH CARE QUALITY
PUBLIC NOTICE**3350 Skilled Home Health Agencies (Licensure)**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the **Delaware Code**, Chapter 1, Section 122(3)(o), Delaware Health and Social Services (DHSS)/ Division of Health Care Quality (DHCQ) is proposing regulations governing Skilled Home Health Agencies.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Nancy.Lizzi@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2023. Please identify in the subject line: Regulations Governing Skilled Home Health Agencies.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DIVISION OF HEALTH CARE QUALITY
PUBLIC NOTICE**3351 Home Health Agencies--Aide Only (Licensure)**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the **Delaware Code**, Chapter 1, Section 122(3)(o), Delaware Health and Social Services (DHSS)/ Division of Health Care Quality (DHCQ) is proposing regulations governing home health agencies-aide only.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Nancy.Lizzi@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on May 1, 2023. Please identify in the subject line: Regulations Governing Home Health Agencies-Aide Only.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DEPARTMENT OF JUSTICE
FRAUD AND CONSUMER PROTECTION DIVISION
PUBLIC NOTICE
106 Home Improvement Services

Public Notice

In compliance with the State's Administrative Procedures Act (APA -Title 29, Chapter 101 of the Delaware Code) and 29 **Del.C.** §2521, the Consumer Protection Unit of the Delaware Department of Justice ("the Consumer Protection Unit") hereby publishes notice of a proposed regulation to the Consumer Fraud Act (6 **Del.C.** §2511 et seq.) pursuant to 29 **Del.C.** §2521.

Summary of Proposed Regulation

The proposed regulation was created to assist in the implementation and clarification of the Consumer Fraud Act by identifying certain home improvement acts and practices that constitute unlawful practices as described in 6 **Del.C.** §2513(a). The proposed regulation is primarily modeled after W. Va. Code R. § 142-5-3, with additional guidance from 40 Mass. Code Regs. § 3.09; N.J. Admin. Code §§ 13:45A-16.1 to 13:45A-16.2; Wis. Admin. Code ATCP §§ 110-01 to 110-09. Additionally, business practices observed by the Consumer Protection Unit guided the creation of this regulation.

Possible Terms of the Action Agency

None.

Other Regulations That May be Affected by the Proposal

The Consumer Protection Unit does not believe that other regulations will be impacted.

Notice of Public Hearing

A public hearing will be held on May 24, 2023, beginning at 12:00 PM in the 3rd Floor Conference Room in the Carvel State Office Building, 820 N. French Street, Wilmington, DE 19801, where members of the public can offer comments.

Notice of Public Comment

Persons wishing to comment on the proposed regulation may submit their comments in writing no later than June 9, 2023, by email to Brian.Canfield@Delaware.gov.

To be considered at the May 24, 2023 hearing, however, written materials must be submitted on or before May 1, 2023.

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL****DIVISION OF AIR QUALITY****REGISTER NOTICE****1140 Delaware Low Emission Vehicle Program**

NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2022-R-A-0011) will be held on Wednesday, April 26, 2023, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrechearings>. If prompted for a passcode, please use: 693764. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the meeting ID: 963 6971 8957. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC public hearings must pre-register no later than noon of the date of the virtual hearing at <https://de.gov/dnreccomments> or by telephone at 302-739-9295.

The proposed amendments may be inspected online starting April 1, 2023 at Delaware Register's website - https://regulations.delaware.gov/services/current_issue.shtml or in-person, by appointment only, by contacting Kyle Krall by phone at 302-739-9402 or by email at kyle.krall@delaware.gov.

The Department will accept public comment through Thursday, May 26, 2023. Comments will be accepted in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnreccomments>, or by U.S. mail to the following address:

Theresa Newman, Hearing Officer
DNREC - Office of the Secretary
89 Kings Highway, Dover, DE 19901

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
1900 Board of Nursing

The Delaware Board of Nursing, pursuant to 24 **Del.C.** §1904(c), proposes to revise its regulations to remove obsolete or inconsistent regulations, clarify the process for review of nursing schools under conditional approval, add regulations pertaining to allowing nursing schools to add innovative approaches to their curriculum, clarify when a supervised practice plan can be used in lieu of a refresher course, clarify that all applicants must have graduated from Board approved nursing schools, incorporate a list of tasks RN, LPNs, and unlicensed assistive personnel may perform, clarify the process for an APRN to obtain a temporary permit, clarify how continuing education units are measured, clarify the process for appointing members of advisory committees, and add crimes relating to sexual assault, trafficking, and illegal gun possession to the list of crimes related to the practice of nursing.

The Board will hold a public hearing on the proposed regulation changes on May 10, 2023 at 9:00 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 25, 2023 pursuant to 29 **Del.C.** §10118(a).

DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
2100 Board of Examiners in Optometry

The Delaware Board of Examiners in Optometry, pursuant to 24 **Del.C.** §2104(a)(1), proposes to revise its regulations. The proposed regulations seek to remove obsolete regulations pertaining to diagnostic licensure and paper applications, clarify the requirements for licensure through reciprocity, and amend the regulations regarding

telehealth services to comply with Title 24, Chapter 60.

The Board will hold a public hearing on the proposed rule change on July 20, 2023 at 4:30 p.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Alison Warren, Administrator of the Delaware Board of Examiners in Optometry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until August 4, 2023.

DIVISION OF PROFESSIONAL REGULATION**PUBLIC NOTICE****4100 Board of Home Inspectors**

The Delaware Board of Home Inspectors, pursuant to 24 **Del.C.** §4106(a)(1), proposes to amend its rules and regulations. The proposed regulation changes aim to address a growing practice in the profession of licensed home inspectors performing partial home inspections and not producing written reports. In addition, they expand the list of certifying bodies acceptable to the Board for experience applicants.

The original amendments were published on page 383 of the November 1, 2022 issue of the *Delaware Register of Regulations* (26 **DE Reg.** 383 (11/01/22)). The Board planned to hold a hearing on January 10, 2023 at 9:00 a.m., but the hearing was cancelled. As a result, the Board will now hold a public hearing on the proposed regulation change on May 9, 2023 at 9:00 a.m., either telephonically or in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Michelle Loper at the Delaware Board of Home Inspectors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until May 24, 2023 pursuant to 29 **Del.C.** §10118(a).

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. The proposed amendment to subsection 12.9.1 specifies that all massage establishments, not just licensed establishments, are subject to inspection by an agent of the Division of Professional Regulation. This change will make the regulation consistent with 24 **Del.C.** §5321(a) which authorizes inspection of "any" massage establishment. The revised subsection 12.9.1 will ensure that investigators can take necessary steps to address various public safety issues, including the presence of illicit massage establishments. A public hearing will be held on May 18, 2023 at 1:30 a.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.ridgway@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be June 2, 2023. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

**DELAWARE MOTION PICTURE AND TELEVISION DEVELOPMENT
COMMISSION****PUBLIC NOTICE****1501 Administration and Operation of the Delaware Motion Picture and Television Development
Commission****Summary**

Pursuant to the authority granted by Title 29 chapter 87A of the Delaware Code, the Delaware Motion Picture and

Television Development Commission proposes to adopt a regulation establishing certain procedures to be used in the administration and operation of the Delaware Motion Picture and Television Development Commission which shall include, without limitation, its receipt of applications for grants, rebates, and other financial assistance within the purview of the Commission; its review and evaluation of such Applications; and the exercise of its discretion to approve the award of grants, rebates, and other financial assistance for projects supported by the Fund.

The Delaware Motion Picture and Television Development Commission is issuing these proposed regulations in accordance with Title 29 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 regulation is being published in the April 1, 2023, edition of the *Delaware Register of Regulations*. A copy is also on file with the Delaware Motion Picture and Television Development Commission c/o Joseph Zilcosky, Carvel State Office Building, C302, 820 N. French Street, 10th Floor, Wilmington, DE 19801-3509 and is available for inspection during regular office hours. Copies are also published online at the *Delaware Register of Regulations* website: https://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations indicating whether these proposed regulations should be adopted, rejected or modified. Interested parties may hand deliver to the Delaware Motion Picture and Television Development Commission, any written suggestions, data, briefs or other materials at the above address. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before May 3, 2023. Written materials submitted will be available for inspection at the above address.

DEPARTMENT OF TRANSPORTATION**DIVISION OF TRANSPORTATION SOLUTIONS****PUBLIC NOTICE****2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual**

Pursuant to the authority provided by 21 **Del.C.** §4504, the Delaware Department of Transportation (DelDOT) adopted the Oversize/Overweight Vehicle Hauling Permit Policy and Procedures Manual

The Department, through its Division of Transportation Solutions seeks to adopt these revisions to address procedural changes and a new permit code to support economic development. These collective changes are administrative in nature and serve in part to clarify the intent of the Department as enacted through these regulations.

Public Comment Period

DelDOT will take written comments on these proposed revisions to Regulation 2405 of Title 2, Delaware Administrative Code, from April 1, 2023 through May 1, 2023. The public may submit their comments to:

James Osborne, P.E.
Traffic Safety Programs Manager
(James.Osborne@delaware.gov) or in writing to his attention,
Delaware Department of Transportation
Division of Transportation Solutions, Traffic Safety Section
169 Brick Store Landing Road
Smyrna, DE 19977