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# Delaware Register of Regulations

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Issue Date: July 1, 2021

Volume 25 - Issue 1, Pages 1 - 110

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## IN THIS ISSUE:

Regulations:  
Emergency  
Proposed  
Final

Calendar of Events &  
Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before June 15, 2021.

*Bethany Beach*

Photo by

Dana Miller, Dagsboro, Delaware



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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

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## CITATION TO THE DELAWARE REGISTER

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

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

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

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## 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.

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other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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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*.

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## CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
August 1	July 15	4:30 p.m.
September 1	August 16	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.

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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.

**Emergency Regulations**

Under 29 **Del.C.** §10119 an agency may promulgate a regulatory change as an Emergency under the following conditions:

**§ 10119. Emergency regulations.**

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than the notice required by § 10115, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable;

(2) The order adopting, amending or repealing a regulation shall state, in writing, the reasons for the agency's determination that such emergency action is necessary;

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days;

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof; and

(5) The agency shall submit a copy of the emergency order to the Registrar for publication in the next issue of the *Register of Regulations*. (60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 71 Del. Laws, c. 48, § 10.)

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**DEPARTMENT OF HEALTH AND SOCIAL SERVICES****DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 3201

**EMERGENCY SECRETARY'S ORDER**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

16 *Del. Admin. C.* § 3201 *Skilled and Intermediate Care Nursing Facilities*

**3201 Skilled and Intermediate Care Nursing Facilities**

**AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C. 3201: Skilled and Intermediate Care Nursing Facilities*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

**REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

## EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 *Del. Admin. C. § 3201: Skilled and Intermediate Care Nursing Facilities*, specifically, Section 6.10 which expands infection prevention and control program requirements, is temporarily modified by making deletions as shown by strike through and insertions as shown by underline as follows:

### 6.10 Infection Control

#### 6.10.1 Infection Prevention and Control ~~Committee~~ Program

6.10.1.1 The nursing facility shall establish an infection prevention and control ~~committee~~ program (or a subcommittee of an overall quality control program) of professional staff whose responsibility shall be to manage the infection control program in the facility. One member of the ~~committee~~ program shall be designated the infection control coordinator.

6.10.1.2 The infection prevention and control ~~committee~~ program shall consist of members of the medical and nursing staffs, administration, dietetic department, pharmacy, housekeeping, maintenance, and therapy services.

6.10.1.3 The infection prevention and control ~~committee~~ program shall ~~establish written policies and procedures that describe the role and scope of each department/service in infection prevention and control activities. shall be based upon the Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.~~

6.10.1.3.1 The infection prevention and control program must cover all services and all areas of the nursing facility, including provision of the appropriate personal protective equipment for all patients/residents, staff, and visitors.

6.10.1.4 ~~The committee is responsible for the development and coordination of policies and procedures to accomplish the following:~~

~~6.10.1.4.1 Prevent the spread of infections and communicable diseases~~

~~6.10.1.4.2 Promote early detection of outbreaks of infection~~

~~6.10.1.4.3 Ensure a sanitary environment for residents, staff and visitors~~

~~6.10.1.4.4 Establish guidelines for the implementation of isolation/precautionary measures~~

~~6.10.1.4.5 Monitor the rate of nosocomial infection~~

~~6.10.1.5 6.10.1.4 The infection control coordinator shall must maintain records of all nosocomial infections and corrective actions related to those infections to enable the committee to analyze clusters or significant increases in the rate of infection and to make recommendations for the prevention and control of additional cases.~~

6.10.1.4.1 Develop and implement a comprehensive plan that includes actions to prevent, identify and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the nursing facility's infection control outcomes.

6.10.1.4.2 Maintain records of all nosocomial infections and corrective actions related to those infections to enable the committee to analyze clusters or significant increases in the rate of infection and to make recommendations for the prevention and control of additional cases.

~~6.10.1.6~~ 6.10.1.5 The infection control committee shall establish the infection control training of staff and volunteers, and disseminate current information on health practices.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the

expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

## PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

## ORDER

It is hereby ordered, this 25th day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 3201: *Skilled and Intermediate Care Nursing Facilities*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C, and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

### 3201 Skilled and Intermediate Care Nursing Facilities (Break in Continuity of Sections)

#### 6.0 Services To Residents

##### (Break in Continuity Within Section)

#### 6.10 Infection Control

##### 6.10.1 Infection ~~Prevention and Control~~ Committee Program

6.10.1.1 The nursing facility shall establish an infection ~~prevention and control committee program~~ (or a subcommittee of an overall quality control program) of professional staff whose responsibility shall be to manage the infection control program in the facility. One member of the ~~committee program~~ shall be designated the infection control coordinator.

6.10.1.2 The infection ~~prevention and control committee program~~ shall consist of members of the medical and nursing staffs, administration, dietetic department, pharmacy, housekeeping, maintenance, and therapy services.

6.10.1.3 The infection ~~prevention and control committee program~~ shall ~~establish written policies and procedures that describe the role and scope of each department/service in infection prevention and control activities. shall be based upon the Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.~~

6.10.1.3.1 The infection prevention and control program must cover all services and all areas of the nursing facility, including provision of the appropriate personal protective equipment for all patients/residents, staff, and visitors.

6.10.1.4 ~~The committee is responsible for the development and coordination of policies and procedures to accomplish the following:~~

6.10.1.4.1 ~~Prevent the spread of infections and communicable diseases~~

6.10.1.4.2 ~~Promote early detection of outbreaks of infection~~

6.10.1.4.3 ~~Ensure a sanitary environment for residents, staff and visitors~~

6.10.1.4.4 ~~Establish guidelines for the implementation of isolation/precautionary measures~~

6.10.1.4.5 ~~Monitor the rate of nosocomial infection~~

6.10.1.5 ~~6.10.1.4~~ The infection control coordinator shall ~~must~~ maintain records of all nosocomial infections and corrective actions related to those infections to enable the committee to analyze clusters or significant increases in the rate of infection and to make recommendations for the prevention and control of additional cases.



6.10.1.4.1 Develop and implement a comprehensive plan that includes actions to prevent, identify and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the nursing facility's infection control outcomes.

6.10.1.4.2 Maintain records of all nosocomial infections and corrective actions related to those infections to enable the committee to analyze clusters or significant increases in the rate of infection and to make recommendations for the prevention and control of additional cases.

~~6.10.1.6~~6.10.1.5 The infection control committee shall establish the infection control training of staff and volunteers, and disseminate current information on health practices.

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

**3201 Skilled and Intermediate Care Nursing Facilities**

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## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 3210

### EMERGENCY SECRETARY'S ORDER

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

16 *Del. Admin. C.* § 3210 *Nursing Homes Admitting Pediatric Residents*

**3210 Nursing Homes Admitting Pediatric Residents**

### AUTHORITY

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* 3210: *Nursing Homes Admitting Pediatric Residents*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

### REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

### EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 *Del. Admin. C.* § 3210: *Nursing Homes Admitting Pediatric Residents*, specifically,

Section 17.0 which added infection prevention and control program requirements, is temporarily modified by making insertions as shown by underline as follows:

**17.0 Infection Prevention and Control Program**

- 17.1 The licensee shall establish and implement an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 17.1.1 The infection prevention and control program must cover all services and all areas of the facility, including provision of the appropriate personal protective equipment for all residents, staff and visitors.
- 17.2 The individual designated to lead the licensee's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the licensee's infection control outcomes.
- 17.3 All licensee's staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

**PETITION FOR RECOMMENDATIONS**

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

**ORDER**

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 3210: *Nursing Homes Admitting Pediatric Residents*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Molly K. Magarik, MS  
Cabinet Secretary

**3210 Nursing Homes Admitting Pediatric Residents  
(Break in Continuity of Sections)****17.0 Infection Prevention and Control Program**

- 17.1 The licensee shall establish and implement an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 17.1.1 The infection prevention and control program must cover all services and all areas of the facility, including provision of the appropriate personal protective equipment for all residents, staff and visitors.
- 17.2 The individual designated to lead the licensee's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the licensee's infection control outcomes.
- 17.3 All licensee's staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

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

**3210 Nursing Homes Admitting Pediatric Residents**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 3225

**EMERGENCY SECRETARY'S ORDER**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

16 *Del. Admin. C.* § 3225 *Assisted Living Facilities*

**3225 Assisted Living Facilities**

**AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* 3225: Assisted Living Facilities. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

**REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

**EFFECTIVE DATE OF ORDER**

It is hereby ordered, that 16 *Del. Admin. C.* § 3225: *Assisted Living Facilities*, specifically, Section 9.9 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

9.9 Infection Prevention and Control Program

9.9.1 The assisted living facility shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

9.9.1.1 The infection prevention and control program must cover all services and all areas of the assisted living facilities, including provision of the appropriate personal protective equipment for all residents, staff, and visitors.

## EMERGENCY REGULATIONS

- 9.9.2 The individual designated to lead the assisted living facility's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the assisted living facility's infection control outcomes.
- 9.9.3 All assisted living facility staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

### PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

### ORDER

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 3225: Assisted Living Facilities, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Molly K. Magarik, MS  
Cabinet Secretary

### **3225 Assisted Living Facilities** *(Break in Continuity of Sections)*

#### **9.0 Infection Control**

#### *(Break in Continuity Within Section)*

#### 9.9 Infection Prevention and Control Program

- 9.9.1 The assisted living facility shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 9.9.1.1 The infection prevention and control program must cover all services and all areas of the assisted living facilities, including provision of the appropriate personal protective equipment for all residents, staff, and visitors.
- 9.9.2 The individual designated to lead the assisted living facility's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the assisted living facility's infection control outcomes.
- 9.9.3 All assisted living facility staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

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

**3225 Assisted Living Facilities**

## DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 Del.C. §1119C & 29 Del.C. §10119)  
16 DE Admin. Code 3305

### EMERGENCY SECRETARY'S ORDER

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119

16 Del. Admin. C. § 3305 Group Homes for Persons with Mental Illness

### 3305 Group Homes for Persons with Mental Illness

#### AUTHORITY

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 Del. Admin. C. 3305: *Group Homes for Persons with Mental Illness*. Additionally, 29 Del.C. §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. Moreover, 16 Del.C. §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

#### REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

#### EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 Del. Admin. C. § 3305: *Group Homes for Persons with Mental Illness*, specifically, Section 15.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

##### 15.0 Infection Control

15.1 The group home shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

15.1.1 The infection prevention and control program must cover all services and all areas of the group home, including provision of the appropriate personal protective equipment for all patients/residents, staff, and visitors.

15.2 The individual designated to lead the group home's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and

## EMERGENCY REGULATIONS

communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the group home's infection control outcomes.

15.3 All group home staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

### ~~45.0~~ 16.0 Noncompliance

~~45.4~~ 16.1 Upon receipt of written notice of a violation of these regulations, the service provider shall submit a written plan of action to correct deficiencies cited within ten (10) days or such other time period as may be required by the Department. The plan of action shall address the corrective actions to be taken and include all measures to prevent their recurrence.

~~45.2~~ 16.2 The Department may impose civil money penalties and/or other enforcement remedies in accordance with the procedures outlined in 16 Del.C., Ch. 11, Subchapter I, Licensing by the State.

~~45.3~~ 16.3 The Department may suspend or revoke a license, or refuse to renew it, in accordance with 16 Del.C., Ch. 11, Subchapter I, Licensing by the State.

### ~~46.0~~ 17.0 Waiver of Standards

Waivers may be granted by the Division of Long Term Care Residents Protection for good cause.

### ~~47.0~~ 18.0 Severability

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of the regulations shall not be affected.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 Del.C. §10119(3).

## PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

## ORDER

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 Del. Admin. C. § 3305: *Group Homes for Persons with Mental Illness*, a copy of which is hereby attached, is adopted, pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, as referenced above, and supported by the evidence contained herein.

Molly K. Magarik, MS

Cabinet Secretary

### **3305 Group Homes for Persons with Mental Illness (Break in Continuity of Sections)**

#### **15.0 Infection Control**

15.1 The group home shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

15.1.1 The infection prevention and control program must cover all services and all areas of the group home, including provision of the appropriate personal protective equipment for all patients/residents, staff, and visitors.

- 15.2 The individual designated to lead the group home's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the group home's infection control outcomes.
- 15.3 All group home staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

**~~45.0~~ 16.0 Noncompliance**

- ~~45.116.1~~ Upon receipt of written notice of a violation of these regulations, the service provider shall submit a written plan of action to correct deficiencies cited within ten (10) days or such other time period as may be required by the Department. The plan of action shall address the corrective actions to be taken and include all measures to prevent their recurrence.
- ~~45.216.2~~ The Department may impose civil money penalties and/or other enforcement remedies in accordance with the procedures outlined in 16 **Del.C.**, Ch. 11, Subchapter I, Licensing by the State.
- ~~45.316.3~~ The Department may suspend or revoke a license, or refuse to renew it, in accordance with 16 **Del.C.**, Ch. 11, Subchapter I, Licensing by the State.

**~~46.0~~ 17.0 Waiver of Standards**

Waivers may be granted by the Division of Long Term Care Residents Protection for good cause.

**~~47.0~~ 18.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of the regulations shall not be affected.

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

**3305 Group Homes for Persons with Mental Illness**

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**DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 3310

**EMERGENCY SECRETARY'S ORDER**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

**16 *Del. Admin. C.* § 3310 *Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities***

**3310 *Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities***

**AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* 3310: *Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.*

§10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

#### **REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

#### **EFFECTIVE DATE OF ORDER**

It is hereby ordered, that 16 *Del. Admin. C.* § 3310: *Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities*, specifically, Section 11.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

##### 11.0 Infection Control

11.1 The provider shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

11.1.1 The infection prevention and control program must cover all services and all areas of the facility, including provision of the appropriate personal protective equipment for all residents, staff and visitors.

11.2 The individual designated to lead the licensee's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the licensee's infection control outcomes.

11.3 All staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

##### **~~44.0~~ 12.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

#### **PETITION FOR RECOMMENDATIONS**

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

#### **ORDER**

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 3310: *Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.



Molly K. Magarik, MS  
Cabinet Secretary

## 3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities (Break in Continuity of Sections)

### **11.0 Infection Control**

- 11.1 The provider shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 11.1.1 The infection prevention and control program must cover all services and all areas of the facility, including provision of the appropriate personal protective equipment for all residents, staff and visitors.
- 11.2 The individual designated to lead the licensee's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the licensee's infection control outcomes.
- 11.3 All staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

### **~~44.0~~ 12.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

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

**3310 Neighborhood Homes for Individuals with Intellectual and/or Developmental Disabilities**

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### **DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 3315

### **EMERGENCY SECRETARY'S ORDER**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

16 *Del. Admin. C.* § 3315 *Family Care Homes*

**3315 Family Care Homes**

### **AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C. 3315: Family Care Homes*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

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# EMERGENCY REGULATIONS

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## REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

## EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 *Del. Admin. C.* § 3315: *Family Care Homes*, specifically, Section 11.0 which includes infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

### 11.0 Infection Prevention and Control

11.1 The FCH shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

11.1.1 The infection prevention and control program must cover all services and all areas of the FCH including provision of the appropriate personal protective equipment for all occupants of the FCH and visitors.

11.1.2 The individual designated to lead the FCH's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the FCH's infection control outcomes.

### 11.0 Severability

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

## PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

## ORDER

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 3315: *Family Care Homes*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Molly K. Magarik, MS  
Cabinet Secretary

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## 3315 Family Care Homes (Break in Continuity of Sections)

### **11.0 Infection Prevention and Control**

- 11.1 The FCH shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 11.1.1 The infection prevention and control program must cover all services and all areas of the FCH including provision of the appropriate personal protective equipment for all occupants of the FCH and visitors.
- 11.1.2 The individual designated to lead the FCH's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the FCH's infection control outcomes.

### **12.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

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

**3315 Family Care Homes**

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### **DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 3320

### **EMERGENCY SECRETARY'S ORDER**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

16 *Del. Admin. C.* § 3320 *Intensive Behavioral Support and Educational Residence*

**3320 Intensive Behavioral Support and Educational Residence**

### **AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* 3320: *Intensive Behavioral Support and Educational Residence*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

### **REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within

nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

#### EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 *Del. Admin. C. § 3320: Intensive Behavioral Support and Educational Residence*, specifically, Section 10.0 which includes infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

#### **10.0 Infection Prevention and Control**

10.1 The IBSER shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

10.1.1 The infection prevention and control program must cover all services and all areas of the IBSER, including provision of the appropriate personal protective equipment for all residents, staff, and visitors.

10.2 The individual designated to lead the IBSER's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the IBSER's infection control outcomes.

10.3 All IBSER staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

#### **~~10.0~~ 11.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C. §10119(3)*.

#### PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

#### ORDER

It is hereby ordered, this 25th day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C. § 3320: Intensive Behavioral Support and Educational Residence*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C. §1119C* and 29 *Del.C. §10119*, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

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## 3320 Intensive Behavioral Support and Educational Residence (Break in Continuity of Sections)

### **10.0 Infection Prevention and Control**

- 10.1 The IBSER shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 10.1.1 The infection prevention and control program must cover all services and all areas of the IBSER, including provision of the appropriate personal protective equipment for all residents, staff, and visitors.
- 10.2 The individual designated to lead the IBSER's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the IBSER's infection control outcomes.
- 10.3 All IBSER staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

### **~~40-0~~ 11.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

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

**3320 Intensive Behavioral Support and Educational Residence**

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### **DIVISION OF HEALTH CARE QUALITY**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 3345

### **EMERGENCY SECRETARY'S ORDER**

**Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119**

**16 Del. Admin. C. § 3345 Personal Assistance Services Agencies**

**3345 Personal Assistance Services Agencies**

### **AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* 3345: *Personal Assistance Services Agencies*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for personal assistance services agencies.

## REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving home care services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

## EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 *Del. Admin. C. § 3345: Personal Assistance Services Agencies*, specifically, Section 9.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

9.0 Infection Prevention and Control

- 9.1 The agency shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 9.1.1 The infection prevention and control program must cover all services provided by the agency, including provision of the appropriate personal protective equipment for all consumers and staff.
- 9.2 The individual designated to lead the agency's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the agency's infection control outcomes.
- 9.3 All agency staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

~~9.0~~ 10.0 Severability

In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C. §10119(3)*.

## PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

## ORDER

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C. § 3345: Personal Assistance Services Agencies*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C. §1119C* and 29 *Del.C. §10119*, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

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## 3345 Personal Assistance Services Agencies (Break in Continuity of Sections)

### **9.0 Infection Prevention and Control**

- 9.1 The agency shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 9.1.1 The infection prevention and control program must cover all services provided by the agency, including provision of the appropriate personal protective equipment for all consumers and staff.
- 9.2 The individual designated to lead the agency's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the agency's infection control outcomes.
- 9.3 All agency staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

### **~~9.0~~ 10.0 Severability**

In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

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

**3345 Personal Assistance Services Agencies**

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### **DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 4402

### **EMERGENCY SECRETARY'S ORDER**

**Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119**

**16 Del. Admin. C. § 4402 Regulations for Adult Day Care Facilities**

**4402 Regulations for Adult Day Care Facilities**

### **AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* § 4402: *Regulations for Adult Day Care Facilities*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for adult day care facilities.

### **REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving

healthcare services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

#### EFFECTIVE DATE OF ORDER

It is hereby ordered, that *16 Del. Admin. C. § 4402: Regulations for Adult Day Care Facilities*, specifically, Section 16.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

##### 16.0 Infection Control

16.1 The adult day care center shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

16.1.1 The individual designated to lead the adult day care's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the adult day care's infection control outcomes.

16.2 The infection prevention and control program must include all services and each particular area of the adult day care center, including the appropriate personal protective equipment for all patients, staff, and visitors.

16.3 All adult day care staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

##### ~~16.0~~ 17.0 Severability

~~16.4~~ 17.1 In the event any particular clause or section of these Regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

#### PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

#### ORDER

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to *16 Del. Admin. C. § 4402: Regulations for Adult Day Care Facilities*, a copy of which is hereby attached, is adopted, pursuant to *16 Del.C.* §1119C and *29 Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary



**4402 Regulations for Adult Day Care Facilities  
(Break in Continuity of Sections)****16.0 Infection Control**

- 16.1 The adult day care center shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 16.1.1 The individual designated to lead the adult day care's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the adult day care's infection control outcomes.
- 16.2 The infection prevention and control program must include all services and each particular area of the adult day care center, including the appropriate personal protective equipment for all patients, staff, and visitors.
- 16.3 All adult day care staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

**~~16.0~~ 17.0 Severability**

- ~~16.4~~ 17.1 In the event any particular clause or section of these Regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

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

**4402 Regulations for Adult Day Care Facilities**

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**DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 4403

**EMERGENCY SECRETARY'S ORDER**

**Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119**

**16 Del. Admin. C. § 4403 Free Standing Birthing Centers**

**4403 Free Standing Birthing Centers**

**AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* § 4403: *Free Standing Birthing Centers*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for free standing birthing Centers.

**REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

**EFFECTIVE DATE OF ORDER**

It is hereby ordered, that 16 *Del. Admin. C. § 4403: Free Standing Birthing Centers*, specifically, Section 14.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

14.0 Infection Prevention and Control

14.1 The birthing center shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

14.1.1 The infection prevention and control program must include all services and each particular area of the birthing center, including the appropriate personal protective equipment for all patients, staff, and visitors.

14.2 There needs to be an individual designated to lead the birthing center's infection prevention and control program, must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the birthing center's infection control outcomes.

14.3 All birthing center staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

~~14.0~~ 15.0 Severability

~~14.1~~ 15.1 In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C. §10119(3)*.

**PETITION FOR RECOMMENDATIONS**

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

**ORDER**

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C. § 4403: Free Standing Birthing Centers*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C. §1119C* and 29 *Del.C. §10119*, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

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**4403 Free Standing Birthing Centers  
(Break in Continuity of Sections)****14.0 Infection Prevention and Control**

- 14.1 The birthing center shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 14.1.1 The infection prevention and control program must include all services and each particular area of the birthing center, including the appropriate personal protective equipment for all patients, staff, and visitors.
- 14.2 There needs to be an individual designated to lead the birthing center's infection prevention and control program, must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the birthing center's infection control outcomes.
- 14.3 All birthing center staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

**~~44.0~~ 15.0 Severability**

- ~~44.1~~ 15.1 In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

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

**4403 Free Standing Birthing Centers**

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**DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 4406

**EMERGENCY SECRETARY'S ORDER**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

16 *Del. Admin. C.* § 4406 *Home Health Agencies--Aide Only*

**4406 Home Health Agencies--Aide Only (Licensure)**

**AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* § 4406: *Home Health Agencies--Aide Only*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for Home Health Agencies--Aide Only.

**REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving home care services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

**EFFECTIVE DATE OF ORDER**

It is hereby ordered, that 16 *Del. Admin. C. § 4406: Home Health Agencies--Aide Only*, specifically, Section 11.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

**11.0 Infection Control**

11.1 The Agency shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

11.1.1 The infection prevention and control program must include all services offered by the Agency, including the appropriate personal protective equipment for all patients and staff.

11.2 The individual designated to lead the Agency's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the Agency's infection control outcomes.

11.3 All Agency staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

**~~11.0~~ 12.0 Severability**

In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C. §10119(3)*.

**PETITION FOR RECOMMENDATIONS**

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

**ORDER**

It is hereby ordered, this 25th day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C. § 4406: Home Health Agencies--Aide Only*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C. §1119C* and 29 *Del.C. §10119*, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

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## 4406 Home Health Agencies--Aide Only (Licensure) (Break in Continuity of Sections)

### **11.0 Infection Control**

- 11.1 The Agency shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 11.1.1 The infection prevention and control program must include all services offered by the Agency, including the appropriate personal protective equipment for all patients and staff.
- 11.2 The individual designated to lead the Agency's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the Agency's infection control outcomes.
- 11.3 All Agency staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

### **44-0 12.0 Severability**

In the event any particular clause or section of these regulations should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.

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

**4406 Home Health Agencies--Aide Only (Licensure)**

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### **DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 4407

### **EMERGENCY SECRETARY'S ORDER**

**Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119**

**16 Del. Admin. C. § 4407 Hospital Standards (Construction, Maintenance, and Operation)**

**4407 Hospital Standards (Construction, Maintenance, and Operation)**

### **AUTHORITY**

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* § 4407: *Hospital Standards (Construction, Maintenance, and Operation)*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for hospitals.

### **REASON FOR THE EMERGENCY ORDER**

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving

healthcare services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

#### **EFFECTIVE DATE OF ORDER**

It is hereby ordered, that 16 *Del. Admin. C. § 4407: Hospital Standards (Construction, Maintenance, and Operation)*, specifically, Section 6.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

#### 6.0 Infection Prevention and Control

- 6.1 The hospital shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 6.1.1 The infection prevention and control program must include all services and all areas of the hospital, including provision of the appropriate personal protective equipment for all patients, staff, and visitors.
- 6.2 The individual designated to lead the hospital's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the hospital's infection control outcomes.
- 6.3 All hospital staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C. §10119(3)*.

#### **PETITION FOR RECOMMENDATIONS**

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

#### **ORDER**

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C. § 4407: Hospital Standards (Construction, Maintenance, and Operation)*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C. §1119C* and 29 *Del.C. §10119*, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

#### **4407 Hospital Standards (Construction, Maintenance, and Operation)**

#### **1.0 General Licensing Requirements and Procedures**

- 1.1 Definitions: The definitions as contained in 16 **Del.C.** 1001 of the Hospital Licensure Law shall apply to these rules and regulations.

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- 1.2 Purpose: The purpose of these regulations is to establish reasonable standards of equipment, capacity, sanitation, and any conditions which might influence the health care received by patients or promote the purposes of the Hospital Licensure Law.
  - 1.3 Application: These rules and regulations apply to all health facilities that meet the criteria for a hospital as defined under 16 **Del.C.** 1001 of the Hospital Licensure Law. The Department of Health and Social Services in these regulations officially adopts certain National Standards for hospital licensure inspections and procedures. Nothing stated in these rules and regulations shall relieve a hospital from complying with local, city, county ordinances, codes, laws, regulations or relieve the hospital from compliance with other State or Federal requirements.
  - 1.4 Issuance and Renewal of License. Upon receipt and approval of a complete application the Department of Health and Social Services shall issue or renew a license in accordance with one of the following categories:
    - 1.4.1 Annual License: An annual license shall be issued or renewed on a calendar year basis if the applying hospital is in substantial compliance with the provisions of these rules and regulations:
    - 1.4.2 Provisional License: A provisional license for a term not to exceed six (6) calendar months may be granted only to an applying hospital which, although not in substantial compliance, is demonstrating satisfactory evidence to meet the provisions of these rules and regulations.

## **2.0 New Construction, Additions and Alterations**

- 2.1 Definition: "**New construction, additions, and alterations**" means new buildings to be used as hospitals, additions to existing buildings to be used as hospitals, conversion of existing buildings or portions thereof for use as hospitals, alterations other than minor alterations to existing hospitals.
- 2.2 A person desiring to establish a new hospital or a new addition or alteration to a licensed hospital must apply to the Department of Health and Social Services prior to establishing or beginning construction. The person must demonstrate that the new facility will meet the standards of these rules and regulations. A letter of approval to proceed with the development of plans and specifications will be issued by the Department of Health and Social Services to any person or hospital which demonstrates that the new facility will be in accordance with these rules and regulations. Plans and specifications for new construction, additions, or alterations, other than minor alterations must be prepared by or under the direction of an architect or engineer duly registered in the State of Delaware. A narrative description must be submitted with or prior to the submission of preliminary drawings. Final working drawings and specifications must be submitted to and approved by the Department of Health and Social Services prior to the beginning of actual construction.
- 2.3 Under the authority of 16 **Del.C.** Ch. 10 as amended, the Department of Health and Social Services adopts as the official standards for new construction, additions and alterations of hospitals, where applicable, the "Guidelines for Construction and Equipment of Hospital and Medical Facilities". U.S. Department of Health and Human Services, Public Health Service Publication Number (HRS-M-HF), 84-1 and all codes or standards referred under these adopted parts. When a hospital that is required to be licensed under these rules and regulations does not normally provide a particular service or department the parts of the following which relate to such service or department shall not be applicable. This Section of rules and regulations shall apply to new construction, additions, or alterations of hospitals only and not to existing facilities.

## **3.0 Physical Environment**

- 3.1 Under the authority of 16 **Del.C.** Ch. 10, as amended, the Department of Health and Social Services adopts as the official standards for the physical environment in hospitals the following parts of the regulations, Medicare Program Regulations, 42 CFR Part 405, Subpart J, U.S. Department of Health and Human Services, Social Security Administration, dated October, 1977, Sections 405.1020 - 405.1034 inclusive, and all codes and standards referred to under these adopted parts. If any part of this section is in conflict with Section 50.1, "New Construction, Additions, and Alterations" this part shall be void and the preceding section shall apply. When a hospital that is required to be licensed

under these rules and regulations does not normally provide a particular service or department, the parts of the following which relate to such service or department shall not be applicable.

- 3.2 Physical Environment. Section 405.1022 and subsection b of Section 405.1025 shall apply. The Department of Health and Social Services' regulation governing the sanitation of eating places shall also apply to the dietary department. The radiation control regulations adopted by the Authority on Radiation Protection shall govern the hospital's radiological department.

#### **4.0 Governing Body, Organization and Staff**

- 4.1 Under the authority of 16 Del.C. Ch. 10, as amended, the Department of Health and Social Services adopts as the official standards for the governing body, organization, and staff of hospitals the following parts of "Standards for Accreditation of Hospitals Plus Provisional Interpretations", published by the Joint Commission on Accreditation of Hospitals, dated 1981 Edition, and the "Requirements and Interpretative Guide for Accredited Hospitals", by the American Osteopathic Hospital Association, and all codes or standards referred to under these adopted parts. If any part of this section is in conflict with Section 2.0 "New Construction, Additions, and Alterations" or Section 3.0 "Physical Environment", this part shall be void and the preceding Sections shall apply. When a hospital that is required to be licensed under these rules and regulations does not normally provide a particular service or department the parts of the following which relate to such service or department shall not be applicable.
- 4.2 Allopathic Hospitals. Pages 1 through 107 inclusive of the Standards for Accreditation of Hospitals Plus Provisional Interpretations by the Joint Commission on Accreditation of Hospitals, shall apply to the governing body, organization and staff of all allopathic hospitals.
- 4.3 Osteopathic Hospitals. Pages 7 through 93 inclusive of the Requirements and Interpretative Guide for Accredited Hospitals by the American Osteopathic Association shall apply to the governing body, organization and staff of all osteopathic hospitals.
- 4.4 Hospitals must develop and implement policies and procedures for hospital staff to have ready access to a locked hospital bathroom in the event of an emergency.

#### **5.0 Fire Safety**

Fire safety in hospitals shall comply with the adopted rules and regulations of the State Fire Prevention Commission. Enforcement of the fire requirements is the responsibility of the State Fire Prevention Commission. All applications for license must include, with the application, a letter certifying compliance by the Fire Marshall having jurisdiction. Notification of non-compliance with the rules and regulations of the State Fire Prevention Commission may be grounds for revocation of license.

#### **6.0 Infection Prevention and Control**

- 6.1 The hospital shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 6.1.1 The infection prevention and control program must include all services and all areas of the hospital, including provision of the appropriate personal protective equipment for all patients, staff, and visitors.
- 6.2 The individual designated to lead the hospital's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the hospital's infection control outcomes.
- 6.3 All hospital staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.



## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 Del.C. §1119C & 29 Del.C. §10119)  
16 DE Admin. Code 4409

### EMERGENCY SECRETARY'S ORDER

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119

**16 Del. Admin. C. § 4409 Prescribed Pediatric Extended Care Centers**

**4409 Prescribed Pediatric Extended Care Centers (PPECC)**

### AUTHORITY

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 Del. Admin. C. § 4409: Prescribed Pediatric Extended Care Centers. Additionally, 29 Del.C. §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. Moreover, 16 Del.C. §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for Prescribed Pediatric Extended Care Centers.

### REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

### EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 Del. Admin. C. § 4409: Prescribed Pediatric Extended Care Centers, specifically, Section 8.7 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

#### 8.7 Infection Control

8.7.1 PPECC shall have written policies and procedures for infection control in accordance with the Delaware Requirements for Day Care, and the needs of all children being treated.

8.7.2 The PPECC shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

8.7.2.1 The infection prevention and control program must include all services and all areas of the PPECC, including provision of the appropriate personal protective equipment for all patients, staff, and visitors.

8.7.3 There needs to be an individual designated to lead the PPECC's infection prevention and control program, must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the PPECC's infection control outcomes.

## EMERGENCY REGULATIONS

8.7.4 All PPECC staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

### PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

### ORDER

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 4409: *Prescribed Pediatric Extended Care Centers*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

### 4409 Prescribed Pediatric Extended Care Centers (PPECC) (Break in Continuity of Sections)

#### 8.0 Services Available

#### (Break in Continuity Within Section)

#### 8.7 Infection Control

8.7.1 PPECC shall have written policies and procedures for infection control in accordance with the Delacare Requirements for Day Care, and the needs of all children being treated.

8.7.2 The PPECC shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

8.7.2.1 The infection prevention and control program must include all services and all areas of the PPECC, including provision of the appropriate personal protective equipment for all patients, staff, and visitors.

8.7.3 There needs to be an individual designated to lead the PPECC's infection prevention and control program, must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the PPECC's infection control outcomes.

8.7.4 All PPECC staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

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

**4409 Prescribed Pediatric Extended Care Centers (PPECC)**

## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 **Del.C.** §1119C & 29 **Del.C.** §10119)  
16 **DE Admin. Code** 4410

### EMERGENCY SECRETARY'S ORDER

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119

16 *Del. Admin. C.* § 4410 *Skilled Home Health Agencies*

**4410 Skilled Home Health Agencies (Licensure)**

### AUTHORITY

Pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 *Del. Admin. C.* § 4410: *Skilled Home Health Agencies*. Additionally, 29 *Del.C.* §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 *Del.C.* §10115. Moreover, 16 *Del.C.* §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for Skilled Home Health Agencies.

### REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

### EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 *Del. Admin. C.* § 4410: *Skilled Home Health Agencies*, specifically, Section 6.9 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

#### 6.9 Infection Control

6.9.1 The Skilled Home Health Agency shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

6.9.1.1 The infection prevention and control program must include all services offered by the Skilled Home Health Agency, including the appropriate personal protective equipment for all patients and staff.

6.9.2 The individual designated to lead the Skilled Home Health Agency's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the Skilled Home Health Agency's infection control outcomes.

6.9.3 All Skilled Home Health Agency staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not

exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

**PETITION FOR RECOMMENDATIONS**

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

**ORDER**

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 4410: *Skilled Home Health Agencies*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

**4410 Skilled Home Health Agencies (Licensure)**  
***(Break in Continuity of Sections)*****6.0 Patient Care Management*****(Break in Continuity Within Section)*****6.9 Infection Control**

- 6.9.1** The Skilled Home Health Agency shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
- 6.9.1.1** The infection prevention and control program must include all services offered by the Skilled Home Health Agency, including the appropriate personal protective equipment for all patients and staff.
- 6.9.2** The individual designated to lead the Skilled Home Health Agency's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the Skilled Home Health Agency's infection control outcomes.
- 6.9.3** All Skilled Home Health Agency staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

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

**4410 Skilled Home Health Agencies (Licensure)**

## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119  
(16 Del.C. §1119C & 29 Del.C. §10119)  
16 DE Admin. Code 4468

### EMERGENCY SECRETARY'S ORDER

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119

16 Del. Admin. C. § 4468 *Delivery of Hospice Services*

### 4468 Delivery of Hospice Services

#### AUTHORITY

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 Del. Admin. C. § 4468: *Delivery of Hospice Services*. Additionally, 29 Del.C. §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. Moreover, 16 Del.C. §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for the delivery of hospice services.

#### REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for to prevent or significantly decrease transmission of COVID-19 and other infections.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

#### EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 Del. Admin. C. § 4468: *Delivery of Hospice Services*, specifically, Section 7.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

##### 7.0 Infection Prevention and Control

7.1 The hospice program shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

7.1.1 The infection prevention and control program must include all services and all areas of the hospice program, including provision of the appropriate personal protective equipment for all patients, staff, and visitors.

7.2 The individual designated to lead the hospice program's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the hospice program's infection control outcomes.

7.3 All hospice program staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

~~7.0~~ 8.0 Suspension or Revocation of Licenses

~~7.1~~ 8.1 The Department of Health and Social Services may suspend or revoke a license issued pursuant to these regulations on any of the following grounds:

~~7.1.1~~ 8.1.1 Violation of these rules and regulations issued pursuant thereto.

~~7.1.2~~ 8.1.2 Permitting, aiding or abetting the commission of any illegal act in the hospice operation.

~~7.1.3~~ 8.1.3 Conduct or practices detrimental to the health or welfare of the patient.

~~7.2~~ 8.2 Before any license issued pursuant to these regulations is suspended or revoked, thirty (30) days notice shall be given in writing to the holder of the license, during which time he may appeal for a hearing before the Department of Health and Social Services. The Department of Health and Social Services shall hear the appeal at the next regularly scheduled meeting of the Department of Health and Social Services and shall render its decision within fifteen (15) days following such hearing.

~~8.0~~ 9.0 Renewal of License After Suspension or Revocation

If and when the conditions upon which the suspension or revocation of a license are based have been corrected, a new license may be granted.

~~9.0~~ 10.0 Severability

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

## PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to [Corinna.Getchell@Delaware.gov](mailto:Corinna.Getchell@Delaware.gov), or by fax to 302-421-7401.

## ORDER

It is hereby ordered, this 17<sup>th</sup> day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 4468: *Delivery of Hospice Services*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Xx Molly K. Magarik, MS  
Secretary

**4468 Delivery of Hospice Services**  
**(Break in Continuity of Sections)**

**7.0 Infection Prevention and Control**

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7.1.1 The infection prevention and control program must include all services and all areas of the hospice program, including provision of the appropriate personal protective equipment for all patients, staff, and visitors.

7.2 The individual designated to lead the hospice program's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify and manage infections and communicable diseases. The plan must include mechanisms that result in immediate

action to take preventive or corrective measures that improve the hospice program's infection control outcomes.

- 7.3 All hospice program staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

## **~~7-0~~ 8.0 Suspension or Revocation of Licenses**

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7.1.1 8.1.1 Violation of these rules and regulations issued pursuant thereto.

7.1.2 8.1.2 Permitting, aiding or abetting the commission of any illegal act in the hospice operation.

7.1.3 8.1.3 Conduct or practices detrimental to the health or welfare of the patient.

- 7.2 8.2 Before any license issued pursuant to these regulations is suspended or revoked, thirty (30) days notice shall be given in writing to the holder of the license, during which time he may appeal for a hearing before the Department of Health and Social Services. The Department of Health and Social Services shall hear the appeal at the next regularly scheduled meeting of the Department of Health and Social Services and shall render its decision within fifteen (15) days following such hearing.

## **~~8-0~~ 9.0 Renewal of License After Suspension or Revocation**

If and when the conditions upon which the suspension or revocation of a license are based have been corrected, a new license may be granted.

## **~~9-0~~ 10.0 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

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

**4468 Delivery of Hospice Services**

**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.

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**DEPARTMENT OF EDUCATION****OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))  
14 **DE Admin. Code** 525

**PUBLIC NOTICE****Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)****525 Requirements for Career and Technical Education Programs****A. TYPE OF REGULATORY ACTION REQUIRED**

Amendment to Existing Regulation

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

Pursuant to 14 **Del.C.** §122(b), the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 525 Requirements for Career and Technical Education Programs. This regulation is being amended to align with the current FY2019-2023 Workforce Innovation and Opportunities Act (WIOA) Combined State Plan which includes the state plan for the Strengthening Career and Technical Education for the 21st Century Act of 2019 ("Perkins V").

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 2, 2021 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to [DOEregulations.comment@doe.k12.de.us](mailto:DOEregulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Department of Education's Office of the Secretary, located at the address above.

**C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.



2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies. The amended regulation aligns Delaware law with current federal guidelines and best practices in the area.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There should be no material increases in costs to implementing this amended regulation. Districts bear the costs of career and technical programs.

**\*Please Note:**

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 40RFA 07-01-21.pdf>

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

[525 Requirements for Career and Technical Education Programs](#)

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## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(a) (14 Del.C. §122(a))  
14 DE Admin. Code 701

### PUBLIC NOTICE

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

**701 Unit Count**

#### A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

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

Pursuant to 14 Del.C. §122 (a), the Secretary of Education intends to amend 14 DE Admin. Code 701 Unit Count. The Department has reviewed the regulation in order to comply with 29 Del.C. §10407 which requires regulations to be reviewed on a recurring basis every four years. The proposed amendments are made to align

language in this regulation with language in Regulation 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs related to a child with a disability who is determined eligible for special education and related services. Other changes are grammatical in nature and are made to ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 2, 2021 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to [DOEregulations.comment@doe.k12.de.us](mailto:DOEregulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or obtained at the Department of Education, located at the address listed above.

## C. IMPACT CRITERIA

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

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 41RFA 07-01-21.pdf>

## 701 Unit Count

### 1.0 Forms and Record Keeping

- 1.1 All information submitted through the unit count process shall be on ~~the~~ forms provided by the Department of Education or in such other format as may be acceptable to the Department.
- 1.2 Each school shall maintain September enrollment records in a manner which ~~will allow~~ allows for efficient enrollment audits by the Department of Education and the State Auditor of Accounts. At the end of September, each school shall assemble a comprehensive enrollment file that contains all necessary support materials to substantiate the enrollments reported. This file shall be retained in the school for at least three (3) years.

- 1.3 Records to substantiate students with disabilities included in the enrollment count shall contain a student ~~individual~~ Individualized Education Program (IEP) in effect during the last week of school in September and eligibility documentation. However, individual student files may be reviewed by the Department of Education or State Auditor of Accounts to ascertain that the students reported are identified as a child with a disability determined to be eligible for special education students and related services as per under 14 DE Admin. Code 925.

## 2.0 Special Situations Regarding Enrollment

- 2.1 All exceptions and extenuating circumstances relating to the enrollment count are addressed to the Secretary of Education and shall be received by the Secretary for consideration prior to September 30.
- 2.2 Students with disabilities included in the special education unit count under the placement provisions of Transfer Students or Change of Placement shall meet the evaluation and placement requirements found in 14 **DE Admin. Code** 925.
- 2.3 Students not assigned to a specific grade shall be reported in a grade appropriate for their age or their instructional level for purposes of the unit count.

## 3.0 Accounting for Students Not in Attendance the Last Ten Days in September

- 3.1 For students not in attendance at school during the last 10 school days of September during which students are required to be in attendance, the following information shall be on file to substantiate their inclusion in the enrollment count:
- 3.1.1 Reason for absence, usually medical, and date of last direct contact with student or parent.
- 3.1.2 Reason to believe that student will be returning to school prior to November ~~1st~~ 1.
- 3.1.3 ~~Districts and Charter Schools~~ District and charter schools enrolling an intra-state transfer student during the last 10 school days of September during which students are required to be in attendance shall first determine if the student is currently obligated under a choice agreement or ~~first-year~~ first-year charter agreement before enrolling the student. If ~~said obligation~~ an agreement exists, "good cause" pursuant to 14 **Del.C.** §402 and §506(d) respectively must be determined before the receiving ~~district/charter~~ district or charter school can enroll the student. ~~Districts~~ District and charter schools enrolling an in state transfer student during the last 10 school days of September shall notify the student's previous district or charter school of such enrollment no later than the last student attendance day of September. The notification shall be by fax with a follow up letter to the previous ~~district/charter~~ district or charter school's unit count coordinator's office. The notification shall be clearly labeled Unit Count Transfer Students and include the student's name, grade, and previous school of attendance. A student enrolling with a formal notice of withdrawal from the previous district or charter school is exempted from this notification requirement. Failure to follow the notification procedure may result in including the same student in two different district or charter school enrollments and hence unit counts. If that occurs, the student will be disallowed from the receiving district or charter school's enrollment and unit count. Copies of the fax transmittals and follow up letters shall be on file to substantiate the student's inclusion in the receiving district or charter school's enrollment and unit count.

## 4.0 Programs, Situations and Program Types that Qualify for Inclusion in the Unit Count

- 4.1 Students in the following programs, situations and program types shall qualify for inclusion in the enrollment count:
- 4.1.1 Delaware Adolescent Program, Inc. (DAPI):
- 4.1.1.1 Students enrolled in DAPI shall be counted in the enrollment of the sending school.
- 4.1.1.2 Students shall receive the level of special education service as defined by the current IEP.
- 4.1.1.3 If a student was enrolled the previous year in a Career Technical Program in the reporting school, the students shall be reported as enrolled in the next career technical course in the program series.

# PROPOSED REGULATIONS

- 4.1.2 Repeating seniors who are enrolled in school for a minimum number of instructional hours defined as three ~~(3)~~ traditional courses or an equivalent time in a block schedule, shall be included in the unit count provided they meet the age and residency requirements. Students in the James H. Groves In ~~school~~ School Credit Program (14 **DE Admin. Code** ~~915.2-4~~ 915, subsection 2.4) and students in the Advanced Placement Program shall be enrolled and attend at least one ~~(1)~~ full credit course in their high school to be included in the unit count provided they also meet the age and residency requirements.
- 4.1.3 Temporary problem, usually medical, which precludes school attendance prior to November 4<sup>st</sup> ~~1~~.
- 4.1.4 Supportive Instruction (~~Homebound~~): (Homebound)
- 4.1.4.1 Students receiving supportive instruction (homebound) pursuant to 14 **DE Admin. Code** 930 qualify for inclusion in the unit count.
- 4.1.4.1.4 ~~4.1.4.2A~~ child with a disability receiving supportive instruction (homebound) shall be included in the unit count as a special education student if, in the child's placement immediately preceding the homebound placement, the child had an IEP in effect during the last week of school in September.
- 4.1.5 Department of Services for Children, Youth and Their Families or Department of Correction Facilities: Students on a temporary basis pending disposition of case who are expected to return to school prior to November 4<sup>st</sup> ~~1~~.
- 4.1.6 Consortium Discipline Alternative Program:
- 4.1.6.1 Students enrolled at a Consortium Discipline Alternative Programs site shall be counted in the enrollment of the sending school pursuant to 14 **DE Admin. Code** 611.
- 4.1.6.2 Students shall receive the level of special education service as defined by the current IEP.
- 4.1.6.3 If a student was enrolled in the previous year in a Career Technical Program in the reporting school, the students shall be reported as enrolled in the next career technical course in the program series.
- 4.1.7 Except as provided in ~~section~~ Sections 5.0 and 7.0, all ~~pre-kindergarten~~ pre-kindergarten children with disabilities shall be counted in the Preschool ~~Pre-K-12~~ Pre-K to 12 Intensive Special Education (~~Intensive~~), (Intensive) or ~~Pre-K-12~~ Pre-K to 12 Complex Special Education (~~complex~~ Complex) units.
- 4.1.8 Students enrolled in residential facilities as of the last day of September. ~~These students are included in the enrollment count of the district operating the instructional program in that facility. The facilities that are eligible shall be identified each year by the Department of Education.~~
- 4.1.9 Regular programs include students who are enrolled in the regular elementary or secondary curriculum of the school, i.e., the core of the school subjects, ~~which most students take~~ taken by most students.
- 4.1.10 Special education services include students who have been ~~properly identified~~ found eligible for special education and related services under 14 DE Admin Code 925, Section 6.0 and have an IEP in effect during the last week of school in September. Students with disabilities must have appropriate supporting documentation on file as required by the Identification, Evaluation and Placement Process in 14 **DE Admin. Code** 925.
- 4.1.11 A maximum of 900 minutes of career and technical education time per week per student shall be credited toward the career and technical education unit determination. However, units shall be counted on the basis of 4 ~~one~~ (1) unit for each 30 students for students enrolled in the New Castle County Votech School District, the POLYTECH School District and the Sussex Technical School District.

## 5.0 Programs and Situations that Do Not Qualify for the Unit Count

- 5.1 Students in the following programs and situations do not qualify for inclusion in the enrollment count:
- 5.1.1 Students who have not attended school during the last 10 days of ~~September~~ September.
- 5.1.2 Students who are enrolled in General Education Development (GED) ~~programs~~ programs.

- 5.1.3 Students who are enrolled in other than Department of Education approved ~~programs~~ programs.
- 5.1.4 Students who are transferred to a state residential facility during September shall not be included in the enrollment count of the ~~District/Charter School~~ district or charter school unless that ~~District/Charter School~~ district or charter school operates the facility's instructional program; otherwise the student must be treated as a ~~withdrawal~~ withdrawal.
- 5.1.5 Students enrolled in a ~~Homeschool~~ homeschool as defined in 14 **Del.C.** §2703A.

## 6.0 Nontraditional High School Schedules

- 6.1 For unit count ~~purposes~~ purposes, if a career technical student in a school utilizing nontraditional schedules receives, during the course of the year, the same amount of instruction the student would have received under a traditional class schedule, the district shall average the time and calculate instructional time on a weekly basis; providing however, that a career technical student receives a minimum of 300 minutes of instruction per week.
- 6.1.1 The following exemplifies a situation with the required minimum minutes and hours for a full time career technical student and shows that the heavy concentration of minutes or hours could occur either in the fall or the spring of the ~~year~~: year:

Fall and Spring Career Technical= 300 minutes per week  
Spring and Fall Career Technical= 1500 minutes per week  
1800 /2 = 900 minutes per week

- 6.2 For unit count ~~purposes~~ purposes, a district shall meet the following criteria to include selected students participating in a district's Distance Education/Twilight Program in the September ~~30<sup>th</sup>~~ 30 unit ~~count~~: count:

6.2.1 For purposes of this section, a Distance Education/Twilight Program shall mean a district approved credit bearing program as follows:

~~6.2.1~~ 6.2.1.1 Students must be currently suspended indefinitely or expelled by the district and enrolled in the district's alternative placement program; or

~~6.2.2~~ 6.2.1.2 Students with disabilities enrolled in the district's Distance Education/Twilight Program for credit recovery only must be receiving services as decided upon by the IEP team and reflected in the IEP on-site; or

~~6.2.3~~ 6.2.1.3 The inclusion of students with non-behavior issues and not special education in the unit count can only be included if there is not a break in educational service and they meet the entry criteria of the program and the additional criteria outlined in subsections 6.2.4 through 6.2.11;

~~6.2.4~~ 6.2.2 Students and their ~~parent(s)/guardian(s)~~ parents or guardians must attend a mandatory program orientation session provided by the district staff. A sign in sheet and signed agreement will be kept on file and serve as sufficient evidence to meet this requirement.

~~6.2.5~~ 6.2.3 Students must be enrolled for a minimum of three (3) courses.

~~6.2.6~~ 6.2.4 Students must be required to complete a minimum number of hours of active engagement each week that they are enrolled in the program. The minimum number of hours should not be less than three (3) hours per week.

~~6.2.7~~ 6.2.5 Students must be enrolled in eSchoolPLUS, the statewide pupil accounting system.

~~6.2.8~~ 6.2.6 The district must keep records on file for the school year of the unit count on work completed and time spent working on the educational program for each enrolled student. The district must submit a sample to the Department of Education that may serve as sufficient evidence to meet this requirement.

~~6.2.9~~ 6.2.7 The district must provide evidence of staff monitoring the progress of each student and providing feedback to participating students and their ~~parents/guardians~~ parents or guardians.

~~6.2.10~~ 6.2.8 The district must show evidence on how progress of students enrolled in the program is incorporated into their academic record for meeting the district's graduation requirements.

~~6.2-14~~ ~~6.2.9~~ An audit file containing information listed in subsection 6.2 and its subsections must be maintained on all students participating in the program and must be presented upon request to the Department of Education ~~and/or~~ or the State Auditor's Office.

## 7.0 Charter Schools

Funding for charter schools is limited to students lawfully enrolled in such grades K through 12 as the charter school may be approved to operate. Charter schools shall not include any ~~Pre-K~~ Pre-K students in their enrollment for unit count purposes. This section shall not be interpreted to authorize any charter school to enroll ~~Pre-K~~ Pre-K students.

## 8.0 Unit Adjustments After Audit

If, after the units are certified by the Secretary of Education, a student is disqualified through the auditing process from the unit count, the units will be recalculated without that student. Another eligible student shall not be substituted for the disqualified student. A special education student who has been identified and is receiving special education services and is disqualified from the unit count due to irregularities contained within supporting documentation, may then be included in the appropriate regular enrollment category provided the student meets eligibility requirements. Only a student disqualified by the audit process may be reassigned to another unit category. In no event can this adjustment result in a net increase in units for a district.

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### PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))  
14 **DE Admin. Code** 1534

### PUBLIC NOTICE

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

### 1534 Middle Level Social Studies Teacher

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

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

Pursuant to 14 **Del.C.** §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1534 Middle Level Social Studies Teacher. The regulation concerns the requirements for a Middle Level Social Studies Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include adding defined terms in Section 2.0; clarifying the requirements for issuing a Middle Level Social Studies Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Middle Level Social Studies Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Middle Level Social Studies Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 3, 2021 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to [DOERegulations.comment@doe.k12.de.us](mailto:DOERegulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Department of Education's Office of the Secretary, located at the address

above.

**C. IMPACT CRITERIA**

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

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

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** §1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Middle Level Social Studies Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 8.0 is consistent with the statute.

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

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

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

9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of this amended regulation.

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

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 46RFA 07-01-21.pdf>

**1534 Middle Level Social Studies Teacher****1.0 Content**

4-4 This regulation shall apply to the issuance of a Middle Level Social Studies Teacher Standard Certificate, Certificate pursuant to 14 **Del.C.** §1220(a), ~~for Middle Level Social Studies Teacher~~. This ~~certification~~ Standard Certificate is required for grades 6, 7 and 8 in a ~~Middle Level~~ middle level Delaware public school. Notwithstanding the above requirement, the Secondary Social Studies Teacher ~~Certification~~ Standard Certificate may be used for grades 6, 7 and 8 in a ~~Middle Level~~ middle level school in lieu of ~~this certification~~ the Middle Level Social Studies Teacher Standard Certificate.

# PROPOSED REGULATIONS

- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

## 2.0 Definitions

- 2.1 ~~The definitions set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 The following ~~word~~ words and ~~term~~ terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Department"** means the Delaware Department of Education.

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

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

**"Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

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

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

**"Standard Certificate"** means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

**"Standards Board"** means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

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

## 3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Middle Level Social Studies Teacher Standard Certificate as a ~~Middle Level Social Studies Teacher~~ to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License~~; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; ~~2003 and meets the requirements set forth in Section 4.0 of this regulation;~~ or
- 3.1.2 ~~Has met the requirements as set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto;~~ and Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a middle level social studies teacher issued by another state or jurisdiction.
- 3.1.3 ~~Has satisfied the additional requirements in this regulation.~~



3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Middle Level Social Studies Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

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

4.1 An educator shall have also met the following:

~~4.1.1 achieved on the *Praxis* Subject Assessment – Middle School Social Studies (ETS Test # 5089) a Passing Score of 164.~~

4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.

4.1.1 The applicant shall have:

4.1.1.1 Obtained and currently maintain a Social Studies certificate from the National Board for Professional Teaching Standards; or

4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in middle level social studies education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or

4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach middle level social studies as provided in 14 Del.C. §§1260 - 1266; or

4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in middle level social studies education.

4.1.2 The applicant shall have achieved a minimum score of 164 on the Praxis Subject Assessment - Middle School Social Studies (ETS Test Code # 5169).

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

## **5.0 Application Requirements**

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

5.2 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Middle Level Social Studies Teacher Standard Certificate:

5.2.1 Evidence of obtaining and maintaining a Social Studies certificate from the National Board for Professional Teaching Standards, if applicable; and

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

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

5.2.2.2 Sealed paper transcripts may be submitted.

5.2.2.3 The Department will not accept copies of transcripts; and

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

5.2.4 Additional documentation as required by the Department.

5.3 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Middle Level Social Studies Teacher Standard Certificate:

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

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5.3.2 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate as a middle level social studies teacher, the following documentation is required in the application for a Middle Level Social Studies Teacher 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 Validity of a Standard Certificate**

6.1 A Middle Level Social Studies Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Middle Level Social Studies Teacher Standard Certificate is not subject to renewal.

## **7.0 Disciplinary Action**

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

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

7.3 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.

## **8.0 Secretary of Education Review**

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

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

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

## **9.0 Past Certificate Recognized**

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

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))  
14 DE Admin. Code 1544

### PUBLIC NOTICE

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

#### 1544 Secondary Social Studies Teacher

##### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

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

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1544 Secondary Social Studies Teacher. The regulation concerns the requirements for a Secondary Social Studies Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include adding defined terms in Section 2.0; clarifying the requirements for issuing a Secondary Social Studies Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Secondary Social Studies Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Secondary Social Studies Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 3, 2021 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to [DOEregulations.comment@doe.k12.de.us](mailto:DOEregulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Department of Education's Office of the Secretary, located at the address above.

##### C. IMPACT CRITERIA

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

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

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 Del.C. §1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Secondary Social Studies Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 8.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates

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

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

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

9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of this amended regulation.

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

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 51RFA 07-01-21.pdf>

## 1544 Secondary Social Studies Teacher

### 1.0 Content

- 4.4 This regulation shall apply to the issuance of a Secondary Social Studies Teacher Standard Certificate, Certificate pursuant to 14 **Del.C.** §1220(a), ~~for Secondary Social Studies Teacher~~. This certification Standard Certificate is required for grades 9 to 12 and is valid in a Middle Level school, grades 6 to 8 and may be used in lieu of the Middle Level Social Studies Teacher certification in grades 6 to 8 in Delaware public schools. The Secondary Social Studies Teacher Standard Certificate may be used for grades 6, 7, and 8 in a middle level school in lieu of the Middle Level Social Studies Teacher Standard Certificate.
- 4.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

### 2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 The following ~~word~~ words and ~~term~~ terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:
- "Department"** means the Delaware Department of Education.
- "Educator"** means a person licensed and certified by the State under 14 **Del.C.** Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.
- "Employing Authority"** means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.
- "Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

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

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

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

"Standards Board" means the Professional Standards Board established pursuant to 14 Del.C. §1201.

"Valid and Current License or Certificate" means a current full or permanent certificate or license issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification 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 Secondary Social Studies Teacher Standard Certificate as a Secondary Social Studies Teacher to an educator applicant who has met the following:

3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; 2003 and meets the requirements set forth in Section 4.0 of this regulation; or

3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and~~ Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a secondary social studies teacher issued by another state or jurisdiction.

3.1.3 ~~Has satisfied the additional requirements in this regulation.~~

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Secondary Social Studies Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

### **4.0 Additional Prescribed Education, Knowledge, and Skills Requirements**

4.1 An educator shall have also met the following:

4.1.1 ~~achieved on the Praxis Subject Assessment—Social Studies: Content Knowledge (ETS Test # 5081) a Passing Score of 157.~~

4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.

4.1.1 The applicant shall have:

4.1.1.1 Obtained and currently maintain a Social Studies certificate from the National Board for Professional Teaching Standards; or

4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in secondary social studies education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator

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# PROPOSED REGULATIONS

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Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or

4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach secondary social studies as provided in 14 Del.C. §§1260 - 1266; or

4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in secondary social studies education.

4.1.2 The applicant shall have achieved a minimum score of 157 on the Praxis Subject Assessment - Social Studies: Content Knowledge (ETS Test Code # 5081).

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

## **5.0 Application Requirements**

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

5.2 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Secondary Social Studies Teacher Standard Certificate:

5.2.1 Evidence of obtaining and maintaining a Social Studies certificate from the National Board for Professional Teaching Standards, if applicable; and

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

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

5.2.2.2 Sealed paper transcripts may be submitted.

5.2.2.3 The Department will not accept copies of transcripts; and

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

5.2.4 Additional documentation as required by the Department.

5.3 For an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a Secondary Social Studies Teacher Standard Certificate:

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

5.3.2 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate as a secondary social studies teacher, the following documentation is required in the application for a Secondary Social Studies Teacher 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 Validity of a Standard Certificate**

6.1 A Secondary Social Studies Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Secondary Social Studies Teacher Standard Certificate is not subject to renewal.

## **7.0 Disciplinary Action**

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

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

7.3 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.

## **8.0 Secretary of Education Review**

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

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

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

## **9.0 Past Certificate Recognized**

The Department shall recognize a Secondary Social Studies Teacher Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach secondary social studies.

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### PROFESSIONAL STANDARDS BOARD

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

14 DE Admin. Code 1556

#### PUBLIC NOTICE

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

#### 1556 School To Work Transition Teacher

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

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

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1556 School To Work Transition Teacher. The regulation concerns the requirements for a School to Work Transition Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include adding defined terms in Section 2.0; clarifying the requirements for issuing a School to Work Transition Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a School to Work Transition Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a School to Work Transition Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 3, 2021 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to [DOERegulations.comment@doe.k12.de.us](mailto:DOERegulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Department of Education's Office of the Secretary, located at the address

above.

## C. IMPACT CRITERIA

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

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

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 Del.C. §1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a School to Work Transition Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 8.0 is consistent with the statute.

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

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

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

9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of this amended regulation.

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

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 55RFA 07-01-21.pdf>

## 1556 School ~~To~~ to Work Transition Teacher

### 1.0 Content

- 4.4 This regulation shall apply to the issuance and retention of a Standard Certificate, School to Work Transition Teacher Standard Certificate pursuant to 14 Del.C. §1220(a), ~~for School to Work Transition Teacher. This certification~~ The School to Work Transition Teacher Standard Certificate is required for grades 9 to 12 and is valid in a Middle Level school, grades 6–8 educators who provide employability skills training, career exploration, and counseling and support in the transition to and graduation from high school for grades 6 to 12 in Delaware public schools.



- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

## 2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 The following words and terms, when used in this regulation, shall have the following meaning ~~unless the context clearly indicates otherwise:~~

**"Department"** means the Delaware Department of Education.

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

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

**"Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

**"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.

**"School to Work Transition"** means the provision of work transition training, counseling and assistance to, and support in meeting graduation requirements for public high school students.

**"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 issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

## 3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a School to Work Transition Teacher Standard Certificate ~~as a School to Work Transition Teacher~~ to an applicant who ~~has met the following:~~
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, ~~2003; and, 2003 and meets the requirements set forth in Section 4.0 of this regulation; or~~
- 3.1.2 Has met the requirements ~~as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto~~ for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a school to work transition teacher issued by another state or jurisdiction.

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# PROPOSED REGULATIONS

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3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a School to Work Transition Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

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

~~4.1 An educator must also have met the following additional education requirements:~~

~~4.1.1 Has completed eighteen (18) semester hours or the equivalent in course work or professional development, to include three semester hours in each of the following areas:~~

~~4.1.1.1 Educational Psychology, Human Growth and Development and Adolescent Psychology;~~

~~4.1.1.2 Tools and Techniques in Counseling;~~

~~4.1.1.3 Methods of Teaching School to Work Transition Students;~~

~~4.1.1.4 Job Development Training;~~

~~4.1.1.5 Career Guidance and Information; and~~

~~4.1.1.6 Occupational and Educational Information.~~

~~4.1.2 Professional development programs developed by the Jobs for Delaware Graduates (JDG) Office and approved by the Department may be substituted.~~

~~4.2 An educator must also have completed a minimum of two years of full time work experience in trade, business, education, social services or industry, as approved by the Department.~~

4.1 An applicant for a School to Work Transition Teacher Standard Certificate shall have satisfied one of the following education requirements:

4.1.1 The applicant earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in school to work transition education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or

4.1.2 The applicant satisfactorily completed a Department-approved educator preparation program in school to work transition; or

4.1.3 The applicant earned a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactorily completed a professional development program developed by Jobs for Delaware Graduates (JDG) and approved by the Department. The program shall include not less than 150 hours of professional development in the following areas:

4.1.3.1 Classroom management and student engagement;

4.1.3.2 Instructional practices for school to work transition programs;

4.1.3.3 Career coaching and student goal planning;

4.1.3.4 Creating and maintaining data systems and contracts for school to work transition programs; and

4.1.3.5 School to work curriculum and assessment.

## **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 For an applicant who is applying for the School to Work Transition Teacher Standard Certificate under subsection 3.1.1 of this regulation, the following documentation is required in the application:

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

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

5.2.1.2 Sealed paper transcripts may be submitted.

5.2.1.3 The Department will not accept copies of transcripts; and

5.2.2 Documentation that the applicant completed a Department-approved professional development program developed by JDG, if applicable; and

5.2.3 Additional documentation as required by the Department.

5.3 For an applicant who is applying for the School to Work Transition Teacher Standard Certificate under subsection 3.1.2 of this regulation, the following documentation is required in the application:

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

5.3.2 Additional documentation as required by the Department.

## **6.0 Validity of a Standard Certificate**

6.1 A School to Work Transition Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A School to Work Transition Teacher Standard Certificate is not subject to renewal.

## **7.0 Disciplinary Action**

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

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

7.3 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.

## **8.0 Secretary of Education Review**

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

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

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

## **9.0 Past Certificate Recognized**

The Department shall recognize a School to Work Transition Teacher Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach school to work transition.

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# PROPOSED REGULATIONS

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## DEPARTMENT OF INSURANCE

### OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311, 7105 and 7107 (18 Del.C. §§311, 7105 & 7107)

18 DE Admin. Code 1404

#### PUBLIC NOTICE

#### 1404 Long-Term Care Insurance

##### A. Type of Regulatory Action Required

Proposal of amendments to Regulation 1404 - Long-Term Care Insurance.

##### B. Synopsis of Subject Matter of the Regulation

Regulation 1404 implements 18 Del.C. Ch. 71 by setting forth regulations that apply to long term care insurance coverage in Delaware. The purpose of the proposed amendments is to add three additional disclosure requirements upon a rate increase at proposed new subsections 8.2.5.1.4 through 8.2.5.1.7 and to ensure that agents of record are made aware of any rate increases that insurers are imposing on their policy holders by adding proposed new subsection 8.6.

The Department is also updating formatting and internal cross-references and adding an effective date of these proposed amendments at Section 33.0.

##### C. Notice and Public Comment

The proposed amendments appear below and may also be viewed on the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>. The Department will not be holding a public hearing on the proposed amendments.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 31st day of August 2021 and should be directed to:

Leslie W. Ledogar, Regulatory Specialist

Delaware Department of Insurance

1351 West North Street, Suite 101

Dover, DE 19904

(302) 674-7379

Email: [Leslie.Ledogar@delaware.gov](mailto:Leslie.Ledogar@delaware.gov)

##### \*Please Note:

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 60RFA 07-01-21.pdf>

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

1404 Long-Term Care Insurance

## DEPARTMENT OF LABOR DIVISION OF INDUSTRIAL AFFAIRS

Statutory Authority: 19 Delaware Code, Sections 105(a)(8) and 3503(f); 29 Delaware Code, Section 8503(7) (19 **Del.C.** §§105(a)(8) & §3503(f); 29 **Del.C.** §8503(7))  
19 **DE Admin. Code** 1326

### PUBLIC NOTICE

#### 1326 Workplace Fraud Act Regulations

The State of Delaware, Department of Labor's Division of Industrial Affairs ("the Division") hereby gives notice of its intention to adopt amended regulations pursuant to the General Assembly's delegation of authority to do so found at 29 *Del. C.* §10111(1).

#### HOW TO COMMENT ON THE PROPOSED REGULATION

The Department solicits, and will consider, timely filed written comments from interested individuals and groups concerning these proposed amended regulations. The proposed regulations will be considered at a public hearing scheduled for Monday, July 26, 2021 from 4:00 p.m. to 6:00 p.m. The deadline for the filing of such written comments will be August 10, 2021.

Delaware Department of Labor/Fox Valley Annex  
Harold Stafford Training Center  
19 E. Lea Blvd  
Wilmington, DE 19802

Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing or calling Mr. Francis Chudzik, Division of Industrial Affairs, Delaware Department of Labor, 4425 North Market Street, Wilmington Delaware 19802, telephone number (302) 761-8174. Members of the public may present written comments on the proposed regulation by submitting such written comments to Mr. Francis Chudzik at the address of the Delaware Department of Labor as set forth above. The deadline for the filing written comments will be fifteen (15) after the public hearing, which in this case, is August 10, 2021.

#### NATURE OF PROCEEDINGS; SYNOPSIS OF THE SUBJECT AND SUBSTANCE OF THE PROPOSED REGULATION

In accordance with procedures set forth in 29 *Del. C.*, Ch. 11, Subch. III and 29 *Del. C.* § 10111(1), the Department of Labor is proposing to amend its regulations for the Workplace Fraud Act as described in 19 *Del. C.* §§ 3501 *et seq.* The proposed amendments create definitions for the terms "contractor", "general contractor", "construction manager", "labor broker", "outside of the usual course of business", "place of business", and "subcontractor" and revises the definition of "independent contractor". Explicitly prohibits labor brokers from providing construction services. Allows general contractors, construction managers, and subcontractors to engage other construction companies in the same line of work as the general contractor, construction manager, or subcontractor.

#### STATUTORY BASIS AND LEGAL AUTHORITY TO ACT

29 *Delaware Code*, §8503(7); 19 *Delaware Code*, §105(a)(8); 19 *Delaware Code*, §3503(f).

#### OTHER REGULATIONS AFFECTED

None.

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# PROPOSED REGULATIONS

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**\*Please Note:**

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 61RFA 07-01-21.pdf>

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

**1326 Workplace Fraud Act Regulations**

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## DIVISION OF INDUSTRIAL AFFAIRS

Statutory Authority: 19 Delaware Code, Sections 105(a)(8) and 3603; 29 Delaware Code, Section 8503(7) (19 Del.C. §§105(a)(8) & 3603; 29 Del.C. §8503(7))

### PUBLIC NOTICE

#### 1329 Delaware Contractor Registration Act Regulations

The State of Delaware, Department of Labor's Division of Industrial Affairs ("the Division") hereby gives notice of its intention to adopt regulations pursuant to the General Assembly's delegation of authority to do so found at 29 Del.C §10111(1).

#### HOW TO COMMENT ON THE PROPOSED REGULATION

The Department solicits, and will consider, timely filed written comments from interested individuals and groups concerning these proposed regulations. The proposed regulations will be considered at a public hearing scheduled for Monday, July 26, 2021 from 4:00 p.m. to 6:00 p.m. The deadline for the filing of such written comments will be August 10, 2021.

Delaware Department of Labor/Fox Valley Annex  
Harold Stafford Training Center  
19 E. Lea Blvd  
Wilmington, DE 19802

Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing or calling Mr. Francis Chudzik, Division of Industrial Affairs, Delaware Department of Labor, 4425 North Market Street, Wilmington Delaware 19802, telephone number (302) 761-8174. Members of the public may present written comments on the proposed regulation by submitting such written comments to Mr. Francis Chudzik at the address of the Delaware Department of Labor as set forth above. The deadline for the filing written comments will be fifteen (15) after the public hearing, which in this case, is August 10, 2021.

#### NATURE OF PROCEEDINGS; SYNOPSIS OF THE SUBJECT AND SUBSTANCE OF THE PROPOSED REGULATION

In accordance with procedures set forth in 29 Del.C., Ch. 11, Subch. III and 29 Del.C. § 10111(1), the Department of Labor is proposing to promulgate regulations for the Delaware Contractor Registration Act as described in 19 Del.C. §§ 3601 et seq. The proposed regulations will provide guidance to entities seeking to register under the Delaware Contractor Registration Act. The proposed regulations will also provide guidance on enforcement procedures of the Delaware Department of Labor and outline the administrative process for entities found by the Department to be in violation of the Delaware Contractor Registration Act.

#### STATUTORY BASIS AND LEGAL AUTHORITY TO ACT

29 Del.C. § 8503(7); 19 Del.C. § 105(a)(8); 19 Del.C. § 3603.

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## OTHER REGULATIONS AFFECTED

None.

### \*Please Note:

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

[http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 62RFA 07-01-21.pdf](http://regulations.delaware.gov/register/july2021/proposed/25%20DE%20Reg%2062RFA%2007-01-21.pdf)

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

[1329 Delaware Contractor Registration Act Regulations](#)

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF CLIMATE, COASTAL AND ENERGY

Statutory Authority: 29 Delaware Code, Section 8057 (29 Del.C. §8057)  
7 DE Admin. Code 2103

### REGISTER NOTICE

SAN # 2016-09

DOCKET # 2019-R-CCE-0019

### 2103 Regulations for the Green Energy Program

1. TITLE OF THE REGULATIONS:

7 DE Admin. Code 2103 Regulations for the Green Energy Program

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

The State of Delaware Green Energy Fund was created by House Bill 10 in 1999 as part of the deregulation of Delaware's electric utilities. The existing program regulations need to be revised due to changes to the program required by the legislative updates to 29 Del. C. §8057 enacted by S.B. 266 in 2010. Additionally, the proposed revisions to the Green Energy Program regulations will streamline the Green Energy Program application process and requirements to the benefit of Green Energy Program participants, renewable energy installers, and program staff.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

There is no sunset date for this regulation.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

29 Del. C. §8057, the Delaware Energy Act.

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

None.

6. NOTICE OF PUBLIC COMMENT:

# PROPOSED REGULATIONS

A virtual public hearing (Docket #2019-R-CCE-0019) will be held on Wednesday, July 28, 2021 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 password, please use GEFRegAmend. To access the audio portion of the virtual hearing, dial 1-408-418-9388 and enter event code 173 899 9390. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon 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 July 1, 2021 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or in-person, by appointment only, by contacting Brett Swan by phone at 302-735-3491 or by email at [brett.swan@delaware.gov](mailto:brett.swan@delaware.gov).

The Department will accept public comment through the close of business on Thursday, August 12, 2021. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Lisa Vest, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY:

Brett Swan  
Division of Climate, Coastal and Energy - DNREC  
100 W. Water Street, Suite 10B, Dover, DE 19904  
Phone: 302-735-3491; Email: [brett.swan@delaware.gov](mailto:brett.swan@delaware.gov)

**\*Please Note:**

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

[http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 63RFA 07-01-21.pdf](http://regulations.delaware.gov/register/july2021/proposed/25%20DE%20Reg%2063RFA%2007-01-21.pdf)

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

[2103 Regulations for the Green Energy Program](#)

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## DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(b), (c), and (d); and 903(a), (b), and(e)(2)a.  
(7 Del.C. §§901(b), (c), and (d) & 903(a), (b) & (e)(2)a.)  
7 DE Admin. Code 3542

**REGISTER NOTICE**  
**SAN # 2021-03**  
**DOCKET # 2021-R-F-0008**

**3542 Tilefish**

1. TITLE OF THE REGULATIONS:

Amend 7 **DE Admin. Code** 3542 Tilefish to implement changes to the recreational and commercial daily possession limits and establish a closed recreational season for Blueline Tilefish.



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

The Mid-Atlantic Marine Fisheries Council (MAFMC) approved Tilefish management actions that resulted in a significant increase to the 2020 and 2021 recreational possession limits for Golden and Blueline Tilefish in federal waters, imposed a recreational closed season for Blueline Tilefish and increased the daily landings limit for the commercial Tilefish fishery. Delaware's Tilefish regulation, in effect since 2016, has lower recreational possession limits than the new federal waters limits, no closed recreational season for Blueline Tilefish and a lower daily commercial landings limit. While states may maintain more conservative regulations for state waters than those approved by MAFMC for federal waters, Delaware's current recreational possession limits differing from the federal water possession limits (see the table below) has proven confusing to the angling public, which may lead to inadvertent violations by anglers harvesting Tilefish. For example, a recreational angler harvesting the federal waters possession limit of Golden Tilefish would be in violation of Delaware's regulation. Conversely, a private boat recreational angler harvesting the Delaware possession limit of Tilefish, but only keeping Blueline Tilefish would be in violation of the federal waters Blueline Tilefish possession limit. In addition, Delaware's regulation allows Blueline Tilefish harvest during the federal waters closed season. Finally, Delaware's commercial Tilefish fishery will benefit by increasing the daily landings limit for state waters from 300 pounds to the federal waters limit of 500 pounds. Delaware's Advisory Council on Tidal Finfisheries voted unanimously recommending that Delaware's Tilefish management measures be revised to match the federal waters recreational management measures.

**Current Tilefish Recreational Possession Limits and Fishing Seasons**

Jurisdiction	Golden Tilefish	Blueline Tilefish
<b>Federal Waters</b>	8  No Closed Season	3 Private vessel; 5 United States Coast Guard uninspected for-hire vessel; 7 United States Coast Guard inspected for-hire vessel  Closed Season - November 1 through April 30
<b>Delaware Waters</b>	7 Tilefish – Any combination of Golden and Blueline No Closed Season	

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

N/A

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 **Del.C.** §901 (b), (c) & (d); §903 (a) & (b); §903 (e)(2)a.

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

N/A

**6. NOTICE OF PUBLIC COMMENT:**

The proposed amendments may be inspected online starting July 1, 2021 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or in-person, by appointment only, by contacting John H. Clark, by phone at (302)739-9914 or by email at [John.Clark@delaware.gov](mailto:John.Clark@delaware.gov).

A virtual public hearing will be held following the adjournment of the public hearing on proposed amendments to 7 DE Admin. Code 3550 Cobia (SAN # 2021-02; Hearing Docket No. 2021-R-F-0007) on **Thursday, July 22, 2021, beginning at 6 p.m.** The web link to the virtual meeting is found on the DNREC Public Hearings site at <https://de.gov/dnrechearings>. If prompted for a password, please use: Fish. To access the audio-only portion of the virtual hearing, dial 1-408-418-9388 and enter event code 173 319 0455. Closed-captioning is available by request if made at least 7 days before the event.

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

The Department will accept public comment through the close of business on **Friday, August 6, 2021**. Comments pertaining to the above matter will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), using the online form at <https://de.gov/dnreccomments>, or by U.S. mail

# PROPOSED REGULATIONS

to the following address: Theresa Newman, Hearing Officer, DNREC-Office of the Secretary, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

John H. Clark

Email: [John.Clark@delaware.gov](mailto:John.Clark@delaware.gov)

Phone: (302)739-9914

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 64RFA 07-01-21.pdf>

## 3542 Tilefish

### 1.0 Tilefish possession limits

- 1.1 It is unlawful for a recreational finfisherman to possess aboard a vessel more than ~~seven (7)~~ eight golden tilefish (*Lopholatilus chamaelonticeps*), unless otherwise authorized by the Department. It is unlawful for a recreational finfisherman to possess more than three blueline tilefish (*Caulolatilus microps*) or golden tilefish (*Lopholatilus chamaelonticeps*) if fishing from a private vessel, more than five blueline tilefish if fishing from a United States Coast Guard uninspected for-hire vessel, or more than seven blueline tilefish if fishing from a United States Coast Guard inspected for-hire vessel, unless otherwise authorized by the Department.
- 1.2 It shall be unlawful for any recreational fisherman to take and reduce to possession or to land any blueline tilefish (*Lopholatilus chamaelonticeps*) beginning at 12:01 a.m. November 1 and ending midnight April 30.
- 4-21.3 Notwithstanding the provisions of subsection 1.1, a person issued a valid commercial food fishing license may possess aboard a vessel up to ~~300~~ 500 pounds of tilefish in aggregate to include blueline tilefish (*Caulolatilus microps*) or golden tilefish (*Lopholatilus chamaelonticeps*) in any number, provided said tilefish were taken using gear for which said person is lawfully permitted under 7 **Del.C.** §915.
- 4-31.4 It is unlawful for a person issued a valid commercial food fishing license to possess aboard a vessel more than ~~300~~ 500 pounds of tilefish in aggregate to include blueline tilefish (*Caulolatilus microps*) or golden tilefish (*Lopholatilus chamaelonticeps*).

### DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901 and 903(a), (b) & (e)  
(7 **Del.C.** §§901 & 903(a), (b) & (e))  
7 **DE Admin. Code** 3550

### REGISTER NOTICE

SAN # 2021-02

DOCKET # 2021-R-F-0007:

### 3550 Cobia (*Rachycentron canadum*)

#### 1. TITLE OF THE REGULATIONS:

Amend 7 **DE Admin. Code** 3550 Cobia to implement changes to the minimum size, vessel limit and season depending on the option chosen.

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

The Atlantic States Marine Fisheries Commission adopted Addendum I to the Interstate Fishery Management Plan (FMP) for Atlantic Migratory Group Cobia (FMP) in October 2020, which mandated changes to recreational *de minimis* measures.

Cobia presence in Delaware waters is sporadic, but they are targeted by anglers when known to be present. Delaware had no reported commercial or recreational Cobia landings in the three years preceding adoption of the FMP. Therefore, Delaware qualified for *de minimis* status under the 2017 FMP criteria and adopted compliant *de minimis* measures in 2020. However, Addendum I redefined the recreational *de minimis* measures, so Delaware must adopt either of the following two *de minimis* options to remain in compliance with the plan:

Delaware's proposed Cobia management options (**Bolded items** are changes to current measures)

	<b>Option 1</b> <i>De Minimis</i>	<b>Option 2</b> Nearest Non- <i>De Minimis</i> State
	Recreational	Recreational
Min. Length	<b>37"</b>	40" ( <b>only 1/vessel &gt; 50"</b> )
Possession Limit	1	1
Vessel Limit	<b>1</b>	<b>2</b>
Open Season	<b>All Year</b>	<b>June 15 - Sept. 15</b>

Option 1 reflects the *de minimis* management measures outlined in Addendum I to the FMP and Option 2 reflects the management measures in place for the nearest non-*de minimis* jurisdiction (Virginia). Addendum I does not require any changes to the commercial Cobia management measures that Delaware adopted in 2020. Adoption of either option will ensure compliance with Addendum I to the FMP, as required by the Atlantic Coastal Fisheries Cooperative Management Act (16 USC §§5101, *et seq.*). The proposed action is expected to complement federal management in a consistent manner throughout the management unit and provide for the long-term stability of the stock. Given the sporadic occurrence of Cobia in Delaware waters, it is unlikely that the proposed action will have significant, measurable, or predicable costs to the affected Delaware fisheries or their dependent businesses.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del. C. §901 & §903(a), (b) & (e)

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

N/A

6. NOTICE OF PUBLIC COMMENT:

The proposed amendments may be inspected online starting July 1, 2021 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or in-person, by appointment only, by contacting John H. Clark, by phone at (302)739-9914 or by email at [John.Clark@delaware.gov](mailto:John.Clark@delaware.gov).

A virtual public hearing will be held on **Thursday, July 22, 2021, beginning at 6 p.m.** The web link to the virtual meeting is found on the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: Fish. To access the audio-only portion of the virtual hearing, dial 1-408-418-9388 and enter event code 173 319 0455. Closed-captioning is available by request if made at least 7 days before the event.

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

The Department will accept public comment through the close of business on **Friday, August 6, 2021**. Comments pertaining to the above matter will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), 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:

John H. Clark

Email: [John.Clark@delaware.gov](mailto:John.Clark@delaware.gov)

Phone: (302)739-9914

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

<http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 66RFA 07-01-21.pdf>

**3550 Cobia (*Rachycentron canadum*)****4.0 Recreational Seasons**

- 1.1 It is ~~unlawful for a recreational fisherman to possess any Cobia during the periods of January 1 through May 31 and September 16 through December 31.~~
- 1.2 It is ~~lawful for a recreational fisherman to possess Cobia during the period of June 1 through September 15 in accordance with Sections 2.0 and 3.0.~~

**2.01.0 Recreational Possession Limits**

- 2.1.1 It is unlawful for a recreational fisherman to possess more than one Cobia per day or per trip, whichever is longer.
- 2.2.2 Except in accordance with ~~4.0 Section 3.0~~ of this ~~section~~ regulation, it is unlawful to have aboard any vessel more than ~~three~~ one Cobia.

**3.0 2.0 Recreational Size Limit**

It is unlawful for a recreational fisherman to possess any Cobia that measures less than ~~40~~ 37 inches in total length.

**4.0 3.0 Commercial Possession Limits**

- 4.1 3.1 A commercial fisherman may take and reduce to possession no more than two Cobia per day or per trip, whichever is longer, using commercial fishing gear for which said fisherman is lawfully permitted.
- 4.2 3.2 It is unlawful for a commercial fisherman to possess more than two Cobia per day or per trip, whichever is longer.
- 4.3 3.3 Notwithstanding subsections 4.1 3.1 and 4.2 3.2, a commercial fishing vessel may have up to six Cobia per day or per trip, whichever is longer, onboard provided the number of Cobia does not exceed twice the number of commercial fishermen onboard that vessel.

**5.0 4.0 Commercial Size Limit**

It is unlawful for a commercial fisherman to possess, trade, barter or sell or attempt to trade, barter or sell any Cobia that measure less than 37 inches in total length.

**OR****1.0 Recreational Seasons**

- 1.1 It is unlawful for a recreational fisherman to possess any Cobia during the periods of January 1 through ~~May 31~~ June 14 and September 16 through December 31.
- 1.2 It is lawful for a recreational fisherman to possess Cobia during the period of June 4 15 through September 15 in accordance with Sections 2.0 and 3.0.

## 2.0 Recreational Possession Limits

- 2.1 It is unlawful for a recreational fisherman to possess more than one Cobia per day or per trip, whichever is longer.
- 2.2 Except in accordance with 4.0 of this section, it is unlawful to have aboard any vessel more than ~~three~~ two Cobia with only one that measures greater than 50 inches in total length.

## 3.0 Recreational Size Limit

It is unlawful for a recreational fisherman to possess any Cobia that measures less than 40 inches in total length.

## 4.0 Commercial Possession Limits

- 4.1 A commercial fisherman may take and reduce to possession no more than two Cobia per day or per trip, whichever is longer, using commercial fishing gear for which said fisherman is lawfully permitted.
- 4.2 It is unlawful for a commercial fisherman to possess more than two Cobia per day or per trip, whichever is longer.
- 4.3 Notwithstanding subsections 4.1 and 4.2, a commercial fishing vessel may have up to six Cobia per day or per trip, whichever is longer, onboard provided the number of Cobia does not exceed twice the number of commercial fishermen onboard that vessel.

## 5.0 Commercial Size Limit

It is unlawful for a commercial fisherman to possess, trade, barter or sell or attempt to trade, barter or sell any Cobia that measure less than 37 inches in total length.

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**2700 BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS**  
Statutory Authority: 24 Delaware Code, Section 2706(a)(1) (24 **Del.C.** §2706(a)(1))  
24 **DE Admin. Code** 2700

**PUBLIC NOTICE**

**2700 Board of Registration for Professional Land Surveyors**

The Delaware Board of Professional Land Surveyors, in accordance with 24 **Del.C.** §2706(a)(1), has proposed revisions to its rules and regulations. The proposed revisions to the Rules and Regulations are intended to memorialize the passing score for the Delaware Drainage exam. The Board will hold a public hearing on the proposed rule changes on September 16, 2021 at 8:30 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or telephonically (call in number will be provided on the Public Meeting calendar: <https://publicmeetings.delaware.gov/#/>). Written comments should be sent to Jennifer Witte, Administrator of the Delaware Board of Professional Land Surveyors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904, no later than October 1, 2021.

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

[http://regulations.delaware.gov/register/july2021/proposed/25 DE Reg 69RFA 07-01-21.pdf](http://regulations.delaware.gov/register/july2021/proposed/25%20DE%20Reg%2069RFA%2007-01-21.pdf)

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# PROPOSED REGULATIONS

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## 2700 Board of Registration for Professional Land Surveyors (*Break in Continuity of Sections*)

### 6.0 Designation of the Drainage Examination/Delaware Law Examination

For the required drainage examination/Delaware law examination the Board adopts the bank of questions developed for this purpose ~~and/or~~ and approved for this purpose by a recognized psychometrician or other authority whose services are acquired and approved by the Division of Professional Regulation of the Delaware Department of State. Section 2706(a)(4). A passing score on the exam shall be 65% or higher.

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

**2700 Board of Registration for Professional Land Surveyors**

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## 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.

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## DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))  
1 DE Admin. Code 701

### FINAL ORDER ADOPTING REGULATION CHANGES

#### 701 Administration and Enforcement

In the February 2021 issue of the *Delaware Register of Regulations*, the Delaware State Fire Prevention Commission, pursuant to 16 Del. C. § 6604(1), published proposed amendments to revise the following Commission Regulations: (1) 701 Administration and Enforcement ("Regulation 701"); (2) 702 Fire Protection in Building Construction ("Regulation 702"); (3) 703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers ("Regulation 703"); (4) 704 Hazardous Processes and Operations ("Regulation 704"); and (5) 705 General Fire Safety ("Regulation 705"). Collectively, the proposed changes to these regulations included many non-substantive changes, some to alter style and form and to correct technical and spelling errors, and other changes. The substantive changes as to each are set forth below:

1. Regulation 701: The Commission proposed updating language in Chapter 1, subsection 3.1.4 to be consistent with the provisions of the existing regulations and the codes and standards of the National Fire Protection Association (NFPA), as adopted and/or modified by the regulations for rehabilitation of existing buildings; changed minor wording in Chapter 3, Section 3.0 Permit Required; subsection 3.1.5 - changed "more than 50" to "50 or more;" Chapter 4, Submittal of Plans 2.0 - Requirement for Sealed or Signed Plans; amended subsections 2.1 and 2.2 in their entirety to be more consistent with the requirements of the building officials; Chapter 7 Adopted Codes and Standards - amended more than 120 currently-adopted NFPA codes and standards to the most recent version, deleted four adopted NFPA codes and standards no longer in use; added three new

NFPA codes and standards; and amended the current modifications of NFPA codes and standards to the recent proposed adopted codes and standards.

2. Regulation 702: The Commission removed inconsistencies with current regulations and NFPA standards 13, 13R and 13D to better clarify where sprinklers are required to be installed; removed outdated NFPA codes and standards and replaced them with updated NFPA codes and standards; changed hydrant spacing for one and two-family detached dwellings from 1,000 feet on center to 800 feet on center to be consistent with the rest of the requirements in Fire Flow Table 2, as well as other additional changes.

3. Regulation 703: The Commission proposed to delete an incorrect reference in the definition of "Testing" in Chapter 1, Section 2.0.

4. Regulation 704: The Commission proposed replacing the reference to 16 *Del. C.* § 6611 with 16 *Del. C.* § 6614 in Chapter 2, subsection 5.1.8.

5. Regulation 705: The Commission proposed replacing September 1, 2015 with March 11, 2016 in Chapter 1, subsection 15.3; updating the perimeter access requirements in Chapter 5, subsection 3.5; and updating the requirement for parking between building and perimeter access in Chapter 5, subsection 3.5.2.

The proposed amendments to the above regulations were published in the *Delaware Register of Regulations* on February 1, 2021 (24 **DE Reg.** 743 - 751 (02/01/21)). A written comment period was held open for thirty days, through March 3, 2021.

A public hearing was held on March 16, 2021.

At the hearing, the State Fire Marshal, and Commission staff confirmed, that no public comments to the proposed regulation changes were received. The Fire Marshal noted that he did receive one submission, but it was not comments on the proposed changes. The Fire Marshal attempted to follow up with that commentor, but without success. Several other non-substantive suggested changes were also noted during the hearing. The Fire Marshal also recommended making a technical change to Figure 6.1 in Regulation 705.

At the time of the public hearing, the Commission opened the hearing for public comment. There were no comments opposing any of the proposed changes to regulations or any supporting or opposing any specific proposed changes.

### Summary of the Findings of Fact

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

### Decision of the Commission

The technical, non-substantive changes suggested during the hearing and as mentioned above will also be made.

Therefore, the Commission adopts the proposed amendments to Regulations 701 through 705 as set forth above as final, with the deletions and other non-substantive changes set forth in this Order. The final proposed amendments are reflected in Exhibits A through E hereto.

THESE AMENDMENTS SHALL BECOME EFFECTIVE SEPTEMBER 1, 2021.

IT IS SO ORDERED, this 15th day of June 2021, by the Delaware State Fire Prevention Commission:

Ronald Marvel, Chairman

Alan Robinson, Jr., Vice-Chairman

Lynn Truitt

William Kelly

Joseph J. Leonetti, Sr.

Richard T. Perillo

Bill Betts

**701 Administration and Enforcement**  
**(Break in Continuity of Sections)**



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## Chapter 4 Submittal of Plans (Break in Continuity Within Chapter)

### 2.0 Requirement for Sealed or Signed Plans.

#### (Break in Continuity Within Section)

2.2 The State Fire Marshal may accept plans that are not sealed or signed, when in the State Fire Marshal's opinion the scope of the project being submitted for review does not warrant the need for sealed or signed plans.

2.2.1 All plans[, except for non-sealed plans,] accepted for review and approval by the Office of the State Fire Marshal shall have the signature of the building owner, the building systems' owner, or the owner of the occupancy, operation or process, affixed to each page of the plan being submitted.

#### (Break in Continuity of Sections)

### 4.0 Required Site Plan Information.

#### 4.1 Information on Plan.

4.1.1 Information required to accompany site plans shall include, but not be limited to, the following:

#### (Break in Continuity Within Section)

4.1.1.2 When the plans ~~se~~ submitted include single family homes arranged in a townhouse or rowhouse configuration, the following additional information shall be included:

4.1.1.2.1 A plan note stating how these townhouse or rowhouse units are to ~~separated, and;~~  
**[be] separated, and;**

#### (Break in Continuity of Sections)

## Chapter 7 Adopted Codes and Standards

### 1.0 NFPA Codes and Standards

1.1 Each of the following Codes and Standards, published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, are hereby adopted in their entirety with the exception of any changes, additions or deletions as listed in these Regulations as a supplement and addition to the Delaware State Fire Prevention Regulations. The text of these adopted Codes and Standards shall be fully enforceable as provisions of these Regulations as if the same were incorporated and set forth at length herein. If a newer Code or Standard has been adopted and issued by the National Fire Protection Association, the State Fire Marshal may accept the newer Code or Standard as an alternative, provided that such Code or Standard affords an equivalent level of safety in the opinion of the State Fire Marshal. Where the Codes or Standards as listed herein are updated versions of adopted Codes or Standards, the updated versions will replace the existing versions in these Regulations.

#### (Break in Continuity Within Section)

**[NFPA 92, Smoke Control Systems, 2018]**

NFPA 96, Ventilation Control and Fire Protection of Commercial Cooking Operations, ~~2014~~ 2021

NFPA 99, Health Care Facilities, ~~2015~~ **[2020 2021]**

#### (Break in Continuity Within Section)

**[NFPA 914, Code for Fire Protection of Historic Structures, 2019]**

#### (Break in Continuity Within Section)

**NFPA 58, Liquefied Petroleum Gases Code, [2014 2020].**

\*Please note that no additional changes were made to the regulation as originally proposed and published in the February 2021 issue of the *Register* at page 743 (24 DE Reg. 743). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

**701 Administration and Enforcement**

## DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))  
1 DE Admin. Code 702

### FINAL ORDER ADOPTING REGULATION CHANGES

#### 702 Fire Protection in Building Construction

In the February 2021 issue of the *Delaware Register of Regulations*, the Delaware State Fire Prevention Commission, pursuant to 16 Del. C. § 6604(1), published proposed amendments to revise the following Commission Regulations: (1) 701 Administration and Enforcement ("Regulation 701"); (2) 702 Fire Protection in Building Construction ("Regulation 702"); (3) 703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers ("Regulation 703"); (4) 704 Hazardous Processes and Operations ("Regulation 704"); and (5) 705 General Fire Safety ("Regulation 705"). Collectively, the proposed changes to these regulations included many non-substantive changes, some to alter style and form and to correct technical and spelling errors, and other changes. The substantive changes as to each are set forth below:

1. Regulation 701: The Commission proposed updating language in Chapter 1, subsection 3.1.4 to be consistent with the provisions of the existing regulations and the codes and standards of the National Fire Protection Association (NFPA), as adopted and/or modified by the regulations for rehabilitation of existing buildings; changed minor wording in Chapter 3, Section 3.0 Permit Required; subsection 3.1.5 - changed "more than 50" to "50 or more;" Chapter 4, Submittal of Plans 2.0 - Requirement for Sealed or Signed Plans; amended subsections 2.1 and 2.2 in their entirety to be more consistent with the requirements of the building officials; Chapter 7 Adopted Codes and Standards - amended more than 120 currently-adopted NFPA codes and standards to the most recent version, deleted four adopted NFPA codes and standards no longer in use; added three new NFPA codes and standards; and amended the current modifications of NFPA codes and standards to the recent proposed adopted codes and standards.

2. Regulation 702: The Commission removed inconsistencies with current regulations and NFPA standards 13, 13R and 13D to better clarify where sprinklers are required to be installed; removed outdated NFPA codes and standards and replaced them with updated NFPA codes and standards; changed hydrant spacing for one and two-family detached dwellings from 1,000 feet on center to 800 feet on center to be consistent with the rest of the requirements in Fire Flow Table 2, as well as other additional changes.

3. Regulation 703: The Commission proposed to delete an incorrect reference in the definition of "Testing" in Chapter 1, Section 2.0.

4. Regulation 704: The Commission proposed replacing the reference to 16 Del. C. § 6611 with 16 Del. C. § 6614 in Chapter 2, subsection 5.1.8.

5. Regulation 705: The Commission proposed replacing September 1, 2015 with March 11, 2016 in Chapter 1, subsection 15.3; updating the perimeter access requirements in Chapter 5, subsection 3.5; and updating the requirement for parking between building and perimeter access in Chapter 5, subsection 3.5.2.

The proposed amendments to the above regulations were published in the *Delaware Register of Regulations* on February 1, 2021 (24 DE Reg. 743 - 751 (02/01/21)). A written comment period was held open for thirty days, through March 3, 2021.

A public hearing was held on March 16, 2021.

At the hearing, the State Fire Marshal, and Commission staff confirmed, that no public comments to the proposed regulation changes were received. The Fire Marshal noted that he did receive one submission, but it was not comments on the proposed changes. The Fire Marshal attempted to follow up with that commentor, but without

success. Several other non-substantive suggested changes were also noted during the hearing. The Fire Marshal also recommended making a technical change to Figure 6.1 in Regulation 705.

At the time of the public hearing, the Commission opened the hearing for public comment. There were no comments opposing any of the proposed changes to regulations or any supporting or opposing any specific proposed changes.

## Summary of the Findings of Fact

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

## Decision of the Commission

The technical, non-substantive changes suggested during the hearing and as mentioned above will also be made.

Therefore, the Commission adopts the proposed amendments to Regulations 701 through 705 as set forth above as final, with the deletions and other non-substantive changes set forth in this Order. The final proposed amendments are reflected in Exhibits A through E hereto.

THESE AMENDMENTS SHALL BECOME EFFECTIVE SEPTEMBER 1, 2021.

IT IS SO ORDERED, this 15th day of June 2021, by the Delaware State Fire Prevention Commission:

Ronald Marvel, Chairman

Alan Robinson, Jr., Vice-Chairman

Lynn Truitt

William Kelly

Joseph J. Leonetti, Sr.

Richard T. Perillo

Bill Betts

## 702 Fire Protection in Building Construction

### *(Break in Continuity of Chapters)*

#### Chapter 2 Fire Barriers

### *(Break in Continuity of Sections)*

#### 4.0 ~~Two-Hour~~ Two-Hour Rated Fire Barrier Wall (Class "C" Fire Barrier).

### *(Break in Continuity Within Section)*

- 4.2 The ~~Two-Hour Rated Fire Barrier~~ **[Wall]** two-hour rated fire barrier wall for use in ~~Duplex, Townhouse, Rowhouse, duplex, townhouse, rowhouse,~~ etc. shall consist of a listed assembly extending from the foundation tight to the underside of the smooth surface of the roof deck. The roof decking, extending four (4) feet to each side of the ~~Two-Hour Wall~~ Two-hour wall assembly, shall be fire retardant or fire treated lumber or a ~~non-combustible~~ non-combustible material.

### *(Break in Continuity of Chapters)*

## Chapter 5 ~~Mid-Rise~~ Mid-rise, ~~High-Rise~~ High-rise and Large Area Buildings

### *(Break in Continuity of Sections)*

#### 4.0 Large Area Buildings.

### *(Break in Continuity Within Section)*

- 4.5 Smoke Management Systems

### *(Break in Continuity Within Section)*

- 4.5.2 This smoke control system shall, at a minimum, consist of manually operated smoke vents installed in accordance with the Standard for Smoke and Heat Venting, NFPA 204 with the following criteria:

4.5.2.1 ~~[One,]~~ 100 sq. ft. ~~[vent of venting]~~ per 25,000 sq. ft. of floor area.

4.5.2.2 ~~[Each vent All vents]~~ shall be centrally located within the 25,000 sq. ft. protected area.

**Chapter 6 Standard for Fire Flow for Fire Protection**  
**(Break in Continuity of Sections)**

**7.0 Dry Hydrants.**

**(Break in Continuity Within Section)**  
**Fire Flow Table 2**

The requirements of Fire Flow Table 2 apply to areas where there is a public, private, or central water system.

Occupancy	Maximum Aggregate Gross Square Footage	Internal Fire Separation	Flow Required	Hydrant Spacing
One- and Two-Family Detached Dwellings <sup>1</sup>	10,000	n/a	500 GPM 20 PSI Residual Pressure 1 Hour Duration	<del>[4,000 800]</del> feet on center
Other Residential <sup>1</sup>	10,000	n/a	1,000 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center
Rowhouses <sup>1</sup> & Townhouses <sup>1</sup>	10,000	2-Hr rated wall	1,000 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center
		Reg. 701 Chapter 2		
Assembly Health Care Business Education	10,000	n/a	1,000 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center
Storage Industrial Mercantile	10,000	n/a	1,500 GPM 20 PSI Residual Pressure 2 Hour Duration	800 feet on center
Mini-Storage	10,000	n/a	750 GPM 20 PSI Residual Pressure 1 Hour Duration	800 feet on center

<sup>1</sup>Sites in New Castle County are subject to the provisions of New Castle County Code Chapter 40 Article 5. See Note on §1.4.1 and §1.4.2.

**Note:** Fire Flow Table 2, Hydrant Spacing. The phrase, "on center" is intended to represent the maximum distance fire hydrants are spaced from each other. Proper application of this intention would generally provide a fire department with a maximum "hose lay" to a hydrant that would not exceed 500 feet for One & Two Family Dwellings, and 400 feet for all other structures.

\*Please note that no additional changes were made to the regulation as originally proposed and published in the February 2021 issue of the *Register* at page 744 (24 DE Reg. 744). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

**702 Fire Protection in Building Construction**

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## DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))  
1 DE Admin. Code 703

### FINAL ORDER ADOPTING REGULATION CHANGES

#### **703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers**

In the February 2021 issue of the *Delaware Register of Regulations*, the Delaware State Fire Prevention Commission, pursuant to 16 Del. C. § 6604(1), published proposed amendments to revise the following Commission Regulations: (1) 701 Administration and Enforcement ("Regulation 701"); (2) 702 Fire Protection in Building Construction ("Regulation 702"); (3) 703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers ("Regulation 703"); (4) 704 Hazardous Processes and Operations ("Regulation 704"); and (5) 705 General Fire Safety ("Regulation 705"). Collectively, the proposed changes to these regulations included many non-substantive changes, some to alter style and form and to correct technical and spelling errors, and other changes. The substantive changes as to each are set forth below:

1. Regulation 701: The Commission proposed updating language in Chapter 1, subsection 3.1.4 to be consistent with the provisions of the existing regulations and the codes and standards of the National Fire Protection Association (NFPA), as adopted and/or modified by the regulations for rehabilitation of existing buildings; changed minor wording in Chapter 3, Section 3.0 Permit Required; subsection 3.1.5 - changed "more than 50" to "50 or more;" Chapter 4, Submittal of Plans 2.0 - Requirement for Sealed or Signed Plans; amended subsections 2.1 and 2.2 in their entirety to be more consistent with the requirements of the building officials; Chapter 7 Adopted Codes and Standards - amended more than 120 currently-adopted NFPA codes and standards to the most recent version, deleted four adopted NFPA codes and standards no longer in use; added three new NFPA codes and standards; and amended the current modifications of NFPA codes and standards to the recent proposed adopted codes and standards.

2. Regulation 702: The Commission removed inconsistencies with current regulations and NFPA standards 13, 13R and 13D to better clarify where sprinklers are required to be installed; removed outdated NFPA codes and standards and replaced them with updated NFPA codes and standards; changed hydrant spacing for one and two-family detached dwellings from 1,000 feet on center to 800 feet on center to be consistent with the rest of the requirements in Fire Flow Table 2, as well as other additional changes.

3. Regulation 703: The Commission proposed to delete an incorrect reference in the definition of "Testing" in Chapter 1, Section 2.0.

4. Regulation 704: The Commission proposed replacing the reference to 16 *Del. C.* § 6611 with 16 *Del. C.* § 6614 in Chapter 2, subsection 5.1.8.

5. Regulation 705: The Commission proposed replacing September 1, 2015 with March 11, 2016 in Chapter 1, subsection 15.3; updating the perimeter access requirements in Chapter 5, subsection 3.5; and updating the requirement for parking between building and perimeter access in Chapter 5, subsection 3.5.2.

The proposed amendments to the above regulations were published in the *Delaware Register of Regulations* on February 1, 2021 (24 **DE Reg.** 743 - 751 (02/01/21)). A written comment period was held open for thirty days, through March 3, 2021.

A public hearing was held on March 16, 2021.

At the hearing, the State Fire Marshal, and Commission staff confirmed, that no public comments to the proposed regulation changes were received. The Fire Marshal noted that he did receive one submission, but it was not comments on the proposed changes. The Fire Marshal attempted to follow up with that commentor, but without success. Several other non-substantive suggested changes were also noted during the hearing. The Fire Marshal also recommended making a technical change to Figure 6.1 in Regulation 705.

At the time of the public hearing, the Commission opened the hearing for public comment. There were no comments opposing any of the proposed changes to regulations or any supporting or opposing any specific proposed changes.

### Summary of the Findings of Fact

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

### Decision of the Commission

The technical, non-substantive changes suggested during the hearing and as mentioned above will also be made.

Therefore, the Commission adopts the proposed amendments to Regulations 701 through 705 as set forth above as final, with the deletions and other non-substantive changes set forth in this Order. The final proposed amendments are reflected in Exhibits A through E hereto.

THESE AMENDMENTS SHALL BECOME EFFECTIVE SEPTEMBER 1, 2021.

IT IS SO ORDERED, this 15th day of June 2021, by the Delaware State Fire Prevention Commission:

Ronald Marvel, Chairman

Alan Robinson, Jr., Vice-Chairman

Lynn Truitt

William Kelly

Joseph J. Leonetti, Sr.

Richard T. Perillo

Bill Betts

**\*Please note that no changes were made to the regulation as originally proposed and published in the February 2021 issue of the *Register* at page 745 (24 DE Reg. 745). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers**

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**DELAWARE STATE FIRE PREVENTION COMMISSION**

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))  
1 **DE Admin. Code** 704

**FINAL ORDER ADOPTING REGULATION CHANGES****704 Hazardous Processes and Operations**

In the February 2021 issue of the *Delaware Register of Regulations*, the Delaware State Fire Prevention Commission, pursuant to 16 *Del. C.* § 6604(1), published proposed amendments to revise the following Commission Regulations: (1) 701 Administration and Enforcement ("Regulation 701"); (2) 702 Fire Protection in Building Construction ("Regulation 702"); (3) 703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers ("Regulation 703"); (4) 704 Hazardous Processes and Operations ("Regulation 704"); and (5) 705 General Fire Safety ("Regulation 705"). Collectively, the proposed changes to these regulations included many non-substantive changes, some to alter style and form and to correct technical and spelling errors, and other changes. The substantive changes as to each are set forth below:

1. Regulation 701: The Commission proposed updating language in Chapter 1, subsection 3.1.4 to be consistent with the provisions of the existing regulations and the codes and standards of the National Fire Protection Association (NFPA), as adopted and/or modified by the regulations for rehabilitation of existing buildings; changed minor wording in Chapter 3, Section 3.0 Permit Required; subsection 3.1.5 - changed "more than 50" to "50 or more;" Chapter 4, Submittal of Plans 2.0 - Requirement for Sealed or Signed Plans; amended subsections 2.1 and 2.2 in their entirety to be more consistent with the requirements of the building officials; Chapter 7 Adopted Codes and Standards - amended more than 120 currently-adopted NFPA codes and standards to the most recent version, deleted four adopted NFPA codes and standards no longer in use; added three new NFPA codes and standards; and amended the current modifications of NFPA codes and standards to the recent proposed adopted codes and standards.

2. Regulation 702: The Commission removed inconsistencies with current regulations and NFPA standards 13, 13R and 13D to better clarify where sprinklers are required to be installed; removed outdated NFPA codes and standards and replaced them with updated NFPA codes and standards; changed hydrant spacing for one and two-family detached dwellings from 1,000 feet on center to 800 feet on center to be consistent with the rest of the requirements in Fire Flow Table 2, as well as other additional changes.

3. Regulation 703: The Commission proposed to delete an incorrect reference in the definition of "Testing" in Chapter 1, Section 2.0.

4. Regulation 704: The Commission proposed replacing the reference to 16 *Del. C.* § 6611 with 16 *Del. C.* § 6614 in Chapter 2, subsection 5.1.8.

5. Regulation 705: The Commission proposed replacing September 1, 2015 with March 11, 2016 in Chapter 1, subsection 15.3; updating the perimeter access requirements in Chapter 5, subsection 3.5; and updating the requirement for parking between building and perimeter access in Chapter 5, subsection 3.5.2.

The proposed amendments to the above regulations were published in the *Delaware Register of Regulations* on February 1, 2021 (24 **DE Reg.** 743 - 751 (02/01/21)). A written comment period was held open for thirty days, through March 3, 2021.

A public hearing was held on March 16, 2021.

At the hearing, the State Fire Marshal, and Commission staff confirmed, that no public comments to the proposed regulation changes were received. The Fire Marshal noted that he did receive one submission, but it was not comments on the proposed changes. The Fire Marshal attempted to follow up with that commentor, but without success. Several other non-substantive suggested changes were also noted during the hearing. The Fire Marshal also recommended making a technical change to Figure 6.1 in Regulation 705.

At the time of the public hearing, the Commission opened the hearing for public comment. There were no comments opposing any of the proposed changes to regulations or any supporting or opposing any specific proposed changes.

### **Summary of the Findings of Fact**

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

### **Decision of the Commission**

The technical, non-substantive changes suggested during the hearing and as mentioned above will also be made.

Therefore, the Commission adopts the proposed amendments to Regulations 701 through 705 as set forth above as final, with the deletions and other non-substantive changes set forth in this Order. The final proposed amendments are reflected in Exhibits A through E hereto.

THESE AMENDMENTS SHALL BECOME EFFECTIVE SEPTEMBER 1, 2021.

IT IS SO ORDERED, this 15th day of June 2021, by the Delaware State Fire Prevention Commission:

Ronald Marvel, Chairman

Alan Robinson, Jr., Vice-Chairman

Lynn Truitt

William Kelly

Joseph J. Leonetti, Sr.

Richard T. Perillo

Bill Betts

**\*Please note that no changes were made to the regulation as originally proposed and published in the February 2021 issue of the *Register* at page 745 (24 DE Reg. 745). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**704 Hazardous Processes and Operations**

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## **DELAWARE STATE FIRE PREVENTION COMMISSION**

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))  
1 **DE Admin. Code** 705

### **FINAL ORDER ADOPTING REGULATION CHANGES**

#### **705 General Fire Safety**

In the February 2021 issue of the *Delaware Register of Regulations*, the Delaware State Fire Prevention Commission, pursuant to 16 *Del. C.* § 6604(1), published proposed amendments to revise the following Commission Regulations: (1) 701 Administration and Enforcement ("Regulation 701"); (2) 702 Fire Protection in Building Construction ("Regulation 702"); (3) 703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers ("Regulation 703"); (4) 704 Hazardous Processes and Operations ("Regulation 704"); and (5) 705 General Fire Safety ("Regulation 705"). Collectively, the proposed changes to these regulations included many non-substantive changes, some to alter style and form and



to correct technical and spelling errors, and other changes. The substantive changes as to each are set forth below:

1. Regulation 701: The Commission proposed updating language in Chapter 1, subsection 3.1.4 to be consistent with the provisions of the existing regulations and the codes and standards of the National Fire Protection Association (NFPA), as adopted and/or modified by the regulations for rehabilitation of existing buildings; changed minor wording in Chapter 3, Section 3.0 Permit Required; subsection 3.1.5 - changed "more than 50" to "50 or more;" Chapter 4, Submittal of Plans 2.0 - Requirement for Sealed or Signed Plans; amended subsections 2.1 and 2.2 in their entirety to be more consistent with the requirements of the building officials; Chapter 7 Adopted Codes and Standards - amended more than 120 currently-adopted NFPA codes and standards to the most recent version, deleted four adopted NFPA codes and standards no longer in use; added three new NFPA codes and standards; and amended the current modifications of NFPA codes and standards to the recent proposed adopted codes and standards.

2. Regulation 702: The Commission removed inconsistencies with current regulations and NFPA standards 13, 13R and 13D to better clarify where sprinklers are required to be installed; removed outdated NFPA codes and standards and replaced them with updated NFPA codes and standards; changed hydrant spacing for one and two-family detached dwellings from 1,000 feet on center to 800 feet on center to be consistent with the rest of the requirements in Fire Flow Table 2, as well as other additional changes.

3. Regulation 703: The Commission proposed to delete an incorrect reference in the definition of "Testing" in Chapter 1, Section 2.0.

4. Regulation 704: The Commission proposed replacing the reference to 16 *Del. C.* § 6611 with 16 *Del. C.* § 6614 in Chapter 2, subsection 5.1.8.

5. Regulation 705: The Commission proposed replacing September 1, 2015 with March 11, 2016 in Chapter 1, subsection 15.3; updating the perimeter access requirements in Chapter 5, subsection 3.5; and updating the requirement for parking between building and perimeter access in Chapter 5, subsection 3.5.2.

The proposed amendments to the above regulations were published in the *Delaware Register of Regulations* on February 1, 2021 (24 **DE Reg.** 743 - 751 (02/01/21)). A written comment period was held open for thirty days, through March 3, 2021.

A public hearing was held on March 16, 2021.

At the hearing, the State Fire Marshal, and Commission staff confirmed, that no public comments to the proposed regulation changes were received. The Fire Marshal noted that he did receive one submission, but it was not comments on the proposed changes. The Fire Marshal attempted to follow up with that commentor, but without success. Several other non-substantive suggested changes were also noted during the hearing. The Fire Marshal also recommended making a technical change to Figure 6.1 in Regulation 705.

At the time of the public hearing, the Commission opened the hearing for public comment. There were no comments opposing any of the proposed changes to regulations or any supporting or opposing any specific proposed changes.

## Summary of the Findings of Fact

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

## Decision of the Commission

The technical, non-substantive changes suggested during the hearing and as mentioned above will also be made.

Therefore, the Commission adopts the proposed amendments to Regulations 701 through 705 as set forth above as final, with the deletions and other non-substantive changes set forth in this Order. The final proposed amendments are reflected in Exhibits A through E hereto.

# FINAL REGULATIONS

THESE AMENDMENTS SHALL BECOME EFFECTIVE SEPTEMBER 1, 2021.

IT IS SO ORDERED, this 15th day of June 2021, by the Delaware State Fire Prevention Commission:

Ronald Marvel, Chairman

Alan Robinson, Jr., Vice-Chairman

Lynn Truitt

William Kelly

Joseph J. Leonetti, Sr.

Richard T. Perillo

Bill Betts

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

**705 General Fire Safety**

## DEPARTMENT OF EDUCATION PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), 1210(c), and 1212 (14 **Del.C.** §§1203, 1205(b), 1210(c) & 1212)  
14 **DE Admin. Code** 1503

### REGULATORY IMPLEMENTING ORDER

**1503 Educator Mentoring**

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§1203, 1205(b), 1210(c), and 1212, the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1503 Educator Mentoring. The regulation concerns mentoring requirements for licensed educators in Delaware public schools. The proposed amendments include revising the title of the regulation; adding "Administrator Mentor" as a defined term, revising several defined terms, and striking several defined terms in Section 2.0; revising Section 3.0, which concerns the requirements for comprehensive educator induction programs for teachers and specialists; revising Sections 4.0 through 7.0, which concern the requirements for years one, two, three, and four, respectively, of the comprehensive educator induction program for teachers and specialists who hold an initial license; revising Section 8.0, which concerns the requirements of the comprehensive educator induction program for teachers and specialists who hold a continuing or advance license and are new to an area; adding Section 9.0, which concerns the requirements for comprehensive educator induction programs for administrators; adding Section 10.0, which concerns the requirements for year one of the comprehensive educator induction program for administrators who hold an initial, continuing, or advanced license; adding Sections 11.0 and 12.0, which concern the requirements for years two and three and four, respectively, of the comprehensive educator induction program for administrators who hold an initial license; revising Section 13.0, which concerns the duties and responsibilities of mentors; revising and clarifying Section 14.0, which concerns mentors' eligibility for salary supplements; and revising Section 15.0, which concerns the Department's requirement to report data on comprehensive educator induction programs to the Professional Standards Board.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2021. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

#### II. FINDINGS OF FACTS

On May 6, 2021, the Professional Standards Board considered the proposed amendments and found that subsection 9.1 should be amended to add the word "on." In accordance with 29 **Del.C.** §10118(c), the Professional Standards Board's Chairperson determined the amendment to subsection 9.1 is non-substantive and, as a result,

the Professional Standards Board is not required to repropose the regulation. The Professional Standards Board voted to propose 14 **DE Admin. Code** 1503 Educator Mentoring with the non-substantive amendment to subsection 9.1, 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** 1503 Educator Mentoring.

### **III. DECISION TO AMEND THE REGULATION**

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1503 Educator Mentoring subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), 1210(c), and 1212, 14 **DE Admin. Code** 1503 Educator Mentoring, attached hereto as Exhibit A, is hereby amended.

### **IV. TEXT AND CITATION**

The text of 14 **DE Admin. Code** 1503 Educator Mentoring adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1503 Comprehensive Educator Induction Programs 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 20th day of May, 2021.

#### **Department of Education**

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 20th day of May, 2021.

#### **State Board of Education**

/s/ Whitney Sweeney, President

Wali W. Rushdan, II, Vice President (Absent)

/s/ Shawn Brittingham

/s/ Candace Fifer

/s/ Vincent Lofink

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

Provey Powell, Jr. (Absent)

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

#### **Exhibit A**

#### **1503 Educator Mentoring Comprehensive Educator Induction Programs (Break in Continuity of Sections)**

#### **9.0 Comprehensive Educator Induction Programs for Administrators**

9.1 The Department shall develop and implement comprehensive educator induction programs for administrators. The administrators' program shall be based [on] the applicable national standards for administrators.

\*Please note that no additional changes were made to the regulation as originally proposed and published in the April 2021 issue of the *Register* at page 906 (24 DE Reg. 906). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

**1503 Educator Mentoring**

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**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) and 29 Delaware Code, Section 10113(b)(4) (14 **Del.C.** §§1203 & 1205(b); & 29 **Del.C.** §10113(b)(4))  
**14 DE Admin. Code 1543**

**REGULATORY IMPLEMENTING ORDER**

**1543 Secondary Science Teacher**

**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** 1543 Secondary Science Teacher. The regulation concerns the requirements for a Secondary Science Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include specifying the required certificates for teachers who are assigned to teach integrated science courses in subsection 1.2.1; specifying the required certificates for teachers who are assigned to teach physical science courses in subsection 1.2.2; adding defined terms to Section 2.0; clarifying the requirements for issuing a Secondary Science Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Secondary Science Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Secondary Science Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2021. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

**II. FINDINGS OF FACTS**

On May 6, 2021, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1543 Secondary Science Teacher, 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** 1543 Secondary Science Teacher.

**III. DECISION TO AMEND THE REGULATION**

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1543 Secondary Science Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1543 Secondary Science Teacher, attached hereto as Exhibit A, is hereby amended.

**IV. TEXT AND CITATION**

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The text of 14 **DE Admin. Code** 1543 Secondary Science Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1543 Secondary Science Teacher 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 20th day of May, 2021.

#### **Department of Education**

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 20th day of May, 2021.

#### **State Board of Education**

/s/ Whitney Sweeney, President

/s/ Vincent Lofink

Wali W. Rushdan, II, Vice President (Absent)

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

/s/ Shawn Brittingham

Provey Powell, Jr. (Absent)

/s/ Candace Fifer

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

### **REGULATORY IMPLEMENTING ORDER**

#### **1543 Secondary Science Teacher**

#### **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** 1543 Secondary Science Teacher, which concerns the requirements for a Secondary Science Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2021. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

On May 6, 2021, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1543 Secondary Science Teacher for adoption by the Department subject to the State Board of Education's approval. On May 20, 2021, the State Board of Education approved the proposed regulation.

Thereafter, the Professional Standards Board determined that the title of the Praxis Subject Assessment in subsection 4.1.2.4 erroneously included "Astronomy." In addition, the Professional Standards Board determined that the ETS Test Code # of the Praxis Subject Assessment - General Science: Content Knowledge in subsection 4.1.2.5 is incorrect and that "5435" is the correct ETS Test Code # for the Praxis Subject Assessment. On June 3, 2021, the Professional Standards Board voted to strike "Astronomy" from subsection 4.1.2.4 and to replace "5235" with "5435" in subsection 4.1.2.5. The amendments are exempt from the requirement of public notice and comment and are adopted informally in accordance with 29 **Del.C.** §10113(b)(4).

#### **II. FINDINGS OF FACTS**

The Department finds that the proposed amendments to the regulation are nonsubstantive changes to correct technical errors. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1543 Secondary Science Teacher pursuant to 14 **Del.C.** §§1203 and 1205(b) and 29 **Del.C.** §10113(b)(4).

# 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** 1543 Secondary Science Teacher. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b) and 29 **Del.C.** §10113(b)(4), 14 **DE Admin. Code** 1543 Secondary Science Teacher, attached hereto as Exhibit A, is hereby amended.

## IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1543 Secondary Science Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1543 Secondary Science Teacher 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 9th day of June, 2021.

**Department of Education**

Susan S. Bunting, Ed.D., Secretary of Education

**Exhibit A**

**1543 Secondary Science Teacher**

### 1.0 Content

- 1.1 This regulation shall apply to the issuance of a ~~Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Secondary Science Teacher in the individual secondary science curricular areas of Biology, Chemistry, Earth Science, Integrated Science, Physical Science, and Physics~~ Secondary Science Teacher Standard Certificate in the individual secondary science curricular areas of Biology, Chemistry, Earth Science, Integrated Science, Physical Science, and Physics pursuant to 14 **Del.C.** §1220(a).
- 1.2 An ~~educator~~ Educator shall hold a Standard Certificate in each secondary science curricular area the ~~educator is teaching;~~ Educator teaches in grades nine (9) to ~~twelve (12)~~ 12 in Delaware public schools unless subsection 1.2.1 or 1.2.2 applies.
  - 1.2.1 ~~Notwithstanding the requirements in 1.2, a secondary science teacher who holds a Standard Certificate in each of the secondary science curricular areas within a discrete integrated science course, may teach the course without holding a Standard Certificate~~ Secondary Science Teacher Integrated Science An Educator who is assigned to teach an integrated science course may hold a Secondary Science Teacher Standard Certificate in any of the secondary science curricular areas relevant to the course the Educator is assigned to teach.
  - 1.2.2 An Educator who is assigned to teach a physical science course may hold a Secondary Science Teacher Standard Certificate in the secondary curricular areas of Biology, Chemistry, Earth Science, Physical Science, or Physics.
- 1.3 ~~Any~~ The Secondary Science Teacher Standard Certificate in any secondary science curricular area may be used in lieu of 14 **DE Admin. Code** 1533 Middle Level Science Teacher for teachers teaching middle level science in grades six (6) to eight (8) for grades 6, 7, 8 in a middle level Delaware public school in lieu of the Middle Level Science Teacher Standard Certificate.

- 1.4 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

## 2.0 Definitions

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

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

**"Department"** means the Delaware Department of Education.

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

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

**"Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

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

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

**"Standard Certificate"** means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

**"Standards Board"** means the Professional Standards Board established pursuant to 14 Del.C. §1201.

**"Valid and Current License or Certificate"** means a current full or permanent certificate or license issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification 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 Secondary Science Teacher Standard Certificate as a Secondary Science Teacher in the individual secondary science curricular areas of Biology, Chemistry, Earth Science, Integrated Science, Physical Science, and Physics to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; ~~and, 2003~~ and meets the requirements set forth in Section 4.0 of this regulation; or
- 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto.~~ Has met the requirements for licensure and presents proof of a Valid and Current License or Certificate as a secondary science teacher in the secondary science curricular area sought.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for Secondary Science Teacher Standard Certificate if the applicant is under official investigation by any

national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

#### 4.0 **Testing Prescribed Education, Knowledge, and Skill Requirements**

~~Pursuant to 14 Del.C. §1220, where an examination of content knowledge such as a Praxis™ II examination is applicable and available in the individual secondary science curricular area, the applicant shall achieve a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board for each Standard Certificate issued.~~

- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have:
- 4.1.1.1 Obtained and currently maintain a Science certificate in the secondary science curricular area sought from the National Board for Professional Teaching Standards; or
- 4.1.1.2 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in secondary science education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
- 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach secondary science as provided in 14 Del.C. §§1260 – 1266; or
- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in secondary science education.
- 4.1.2 The applicant shall have achieved a Passing Score on the Praxis Subject Assessment as provided in subsections 4.1.2.1 through 4.1.2.5.
- 4.1.2.1 For a Secondary Science Teacher Standard Certificate – Biology, the applicant shall have achieved on the Praxis Subject Assessment – Biology: Content Knowledge (ETS Test Code #5235) a Passing Score of 150.
- 4.1.2.2 For a Secondary Science Teacher Standard Certificate – Chemistry, the applicant shall have achieved on the Praxis Subject Assessment – Chemistry: Content Knowledge (ETS Test Code #5245) a Passing Score of 151.
- 4.1.2.3 For a Secondary Science Teacher Standard Certificate – Physics, the applicant shall have achieved on the Praxis Subject Assessment – Physics: Content Knowledge (ETS Test Code #5265) a Passing Score of 140.
- 4.1.2.4 For a Secondary Science Teacher Standard Certificate – Earth Science, the applicant shall have achieved on the Praxis Subject Assessment – ~~[Astronomy, Earth, Earth]~~ and Space Sciences: Content Knowledge (ETS Test Code #5571) a Passing Score of 150.
- 4.1.2.5 For a Secondary Science Teacher Standard Certificate – Integrated or Physical Science, the applicant shall have achieved on the Praxis Subject Assessment – General Science: Content Knowledge (ETS Test Code #~~5235~~ 5435) a Passing Score of 151.
- 4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved a Passing Score on the Praxis Subject Assessment as provided in subsection 4.1.2.

#### 5.0 **Application Requirements**

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



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- 5.2 For applicants who are applying for a Secondary Science Teacher Standard Certificate under subsections 3.1.1 and 4.1, the following documentation is required:
- 5.2.1 Evidence of obtaining and maintaining a Science certificate from the National Board for Professional Teaching Standards, if applicable; and
  - 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
    - 5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
    - 5.2.2.2 Sealed paper transcripts may be submitted.
    - 5.2.2.3 The Department will not accept copies of transcripts; and
  - 5.2.3 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
  - 5.2.4 Additional documentation as required by the Department.
- 5.3 For applicants who are applying for a Secondary Science Teacher Standard Certificate under subsections 3.1.1 and 4.2, the following documentation is required:
- 5.3.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and
  - 5.3.2 Additional documentation as required by the Department.
- 5.4 For applicants who are applying for the Secondary Science Teacher Standard Certificate under 3.1.2, the following documentation is required:
- 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 Validity of a Standard Certificate**

- 6.1 A Secondary Science Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 6.2 A Secondary Science Teacher Standard Certificate is not subject to renewal.

## **7.0 Disciplinary Action**

- 7.1 An Educator's Secondary Science Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 7.2 An Educator's Secondary Science Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 **Del.C.** §1222.
- 7.3 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.

## **8.0 Secretary of Education Review**

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

## **9.0 Past Certificate Recognized**

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# FINAL REGULATIONS

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The Department shall recognize a Secondary Science Teacher Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach secondary science in the secondary science curricular area for which the certificate was issued.

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))  
14 **DE Admin. Code** 1561

### REGULATORY IMPLEMENTING ORDER

#### 1561 Bilingual Teacher

#### 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** 1561 Bilingual Teacher. The regulation concerns the requirements for a Bilingual Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include clarifying Section 1.0; adding defined terms to Section 2.0; clarifying the requirements for issuing a Bilingual Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Bilingual Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Bilingual Teacher Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2021. The Professional Standards Board did not receive any written submittals concerning the proposed amendments.

#### II. FINDINGS OF FACTS

On May 6, 2021, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1561 Bilingual Teacher, 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** 1561 Bilingual Teacher.

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1561 Bilingual Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1561 Bilingual Teacher, attached hereto as Exhibit A, is hereby amended.

#### IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1561 Bilingual Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1561 Bilingual Teacher 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 20th day of May, 2021.

### Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 20th day of May, 2021.

### State Board of Education

/s/ Whitney Sweeney, President

Wali W. Rushdan, II, Vice President (Absent)

/s/ Shawn Brittingham

/s/ Candace Fifer

/s/ Vincent Lofink

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

Provey Powell, Jr. (Absent)

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

## Exhibit A

### 1561 Bilingual Teacher

#### 1.0 Content

- 1.1 This regulation shall apply to the issuance of a ~~Standard Certificate~~, Bilingual Teacher Standard Certificate (Category) pursuant to 14 ~~Del.C. §1220(a)~~, for Bilingual Teacher (Category).
  - 1.1.1 This ~~certification~~ Standard Certificate is required for an ~~educator~~ Educator within charter school and district-identified bilingual classrooms or bilingual programs for grades K to 12 that are identified to serve students who are English ~~Language~~ Learners or immersion program students in Delaware public schools.
  - 1.1.2 ~~This certification~~ The Bilingual Teacher Standard Certificate is a category ~~certificate~~ Standard Certificate and does not certify an ~~educator~~ Educator to practice in a particular area or teach a particular subject. A category ~~certificate~~ Standard Certificate only establishes that an ~~educator~~ Educator has met the prescribed ~~knowledge, skill, or education~~ education, knowledge, or skill to instruct a particular category of students ~~specified~~. ~~This certification~~ The Bilingual Teacher Standard Certificate is limited to the ~~specific~~ category of ~~teaching~~ students who are English ~~Language~~ Learners or immersion program students.
  - 1.1.3 ~~This certification may not be issued alone and an educator shall hold at least one subject or area certification~~ An Educator shall hold at least one content area Standard Certificate.
- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

#### 2.0 Definitions

- 2-1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2-2 The following words and terms, when used in this regulation, shall have the following meaning ~~unless the context clearly indicates otherwise~~:
  - "Department" means the Delaware Department of Education.

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

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

"Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

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

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

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

"Standards Board" means the Professional Standards Board established pursuant to 14 Del.C. §1201.

"Target language Language" means, for the purpose of this regulation, the world language of the bilingual classroom or bilingual program.

"Valid and Current License or Certificate" means a current full or permanent certificate or license issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification 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 Bilingual Teacher Standard Certificate as a Bilingual Teacher to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; and, 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
  - 3.1.2 Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and Has met the requirements for licensure and holds a Valid and Current License or Certificate in bilingual education.
  - 3.1.3 Holds a Standard Certificate in a subject or area; and
  - 3.1.4 Has satisfied the additional requirements in this regulation.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Bilingual Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

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

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- 4.1 An educator shall also have satisfied each of the following requirements:
- 4.1.1 Demonstrated oral and written proficiency in English by:
    - 4.1.1.1 Completion of a bachelor's, master's, or doctoral degree from a regionally accredited college or university that is located in the United States or in a permanently inhabited territory of the United States in which the majority of courses were taught and assessed in the English language; or
    - 4.1.1.2 Achieving a minimum level of Advanced Mid based on the American Council on the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines on:
      - 4.1.1.2.1 the ACTFL Oral Proficiency Interview (OPI) in English, and
      - 4.1.1.2.2 the ACTFL Writing Proficiency Test (WPT) in English.
  - 4.1.2 Demonstrated oral and written proficiency in the target language of the bilingual classroom or bilingual program by:
    - 4.1.2.1 Achieving a minimum level of Advanced Mid based on the ACTFL Proficiency Guidelines on the ACTFL OPI in the target language, and
    - 4.1.2.2 Achieving a passing score on the ACTFL WPT in the target language.
      - 4.1.2.2.1 For the purposes of subsection 4.1.2.2 of this regulation, a passing score shall be:
        - 4.1.2.2.1.1 For tests using the Roman alphabet, achieving a minimum level of Advanced Mid based on the ACTFL Proficiency Guidelines.
        - 4.1.2.2.1.2 For tests using a non-Roman alphabet, achieving a minimum level of Advanced Low based on the ACTFL Proficiency Guidelines.
  - 4.1.3 Completion of either:
    - 4.1.3.1 A bachelor's, master's, or doctoral degree from a regionally accredited college or university with a major or its equivalent in bilingual education from an educator preparation program approved or recognized by National Council for the Accreditation of Teacher Education (NCATE), the Council for Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
    - 4.1.3.2 A minimum of fifteen (15) credits or the equivalent thereof in professional development as approved by the Department in the following content areas:
      - 4.1.3.2.1 Methods of Teaching English as a Second Language (3 credits);
      - 4.1.3.2.2 Second Language Acquisition (3 credits);
      - 4.1.3.2.3 Teaching Literacy for English Language Learners (3 credits);
      - 4.1.3.2.4 Second Language Testing (3 credits); and
      - 4.1.3.2.5 Structure of the English Language (3 credits).
- 4.1 An applicant shall have satisfied the requirements in subsections 4.1.1 through 4.1.3.
- 4.1.1 The applicant shall have satisfied one of the following education requirements:
    - 4.1.1.1 Obtained and currently maintain an English as a New Language certificate from the National Board for Professional Teaching Standards; or
    - 4.1.1.2 Earned a bachelor's, master's, or doctoral degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in bilingual education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
    - 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach English Learners as provided in 14 Del.C. §§1260 - 1266; or
    - 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in bilingual education; or
    - 4.1.1.5 Earned a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactorily completed 15 college credits or the equivalent number of

hours with one credit equating to 15 hours taken either as part of or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department in the following areas:

- 4.1.1.5.1 Methods of Teaching English as a Second Language (3 credits);
  - 4.1.1.5.2 Second Language Acquisition (3 credits);
  - 4.1.1.5.3 Teaching Literacy for English Learners (3 credits);
  - 4.1.1.5.4 Second Language Testing (3 credits); and
  - 4.1.1.5.5 Structure of the English Language (3 credits).
- 4.1.2 The applicant shall have demonstrated oral and written proficiency in English by satisfying one of the following requirements:
- 4.1.2.1 Earned a bachelor's, master's, or doctoral degree from a Regionally Accredited college or university that is located in the United States or in a permanently inhabited territory of the United States in which the majority of courses were taught and assessed in the English language; or
  - 4.1.2.2 Achieved a minimum level of Advanced Mid based on the American Council on the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines on:
    - 4.1.2.2.1 The ACTFL Oral Proficiency Interview (OPI) in English; and
    - 4.1.2.2.2 The ACTFL Writing Proficiency Test (WPT) in English.
- 4.1.3 The applicant shall have demonstrated oral and written proficiency in the Target Language of the bilingual classroom or bilingual program by satisfying both of the following requirements:
- 4.1.3.1 Achieved a minimum level of Advanced Mid based on the ACTFL Proficiency Guidelines on the ACTFL OPI in the Target Language; and
  - 4.1.3.2 Achieved a Passing Score on the ACTFL WPT in the Target Language.
    - 4.1.3.2.1 For the purposes of subsection 4.1.3.2 of this regulation, a Passing Score shall be:
      - 4.1.3.2.1.1 For tests using the Roman alphabet, achieving a minimum level of Advanced Mid based on the ACTFL Proficiency Guidelines.
      - 4.1.3.2.1.2 For tests using a non-Roman alphabet, achieving a minimum level of Advanced Low based on the ACTFL Proficiency Guidelines.

## **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 For an applicant who is applying for a Bilingual Teacher Standard Certificate under subsection 3.1.1 of this regulation, the following documentation is required in the application:
- 5.2.1 Evidence of obtaining and maintaining an English as a New Language certificate from the National Board for Professional Teaching Standards, if applicable; and
  - 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
    - 5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
    - 5.2.2.2 Sealed paper transcripts may be submitted.
    - 5.2.2.3 The Department will not accept copies of transcripts; and
  - 5.2.3 Official scores on the ACTFL OPI and WPT in English as provided in subsection 4.1.2.2, if applicable; and
  - 5.2.4 Official scores on the ACTFL OPI and WPT in the Target Language as provided in subsection 4.1.3; and
  - 5.2.5 Additional documentation as required by the Department.
- 5.3 For an applicant who is applying for the Bilingual Teacher Standard Certificate under subsection 3.1.2, the following documentation is required in the application:

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

5.3.2 Additional documentation as required by the Department.

## **6.0 Validity of a Standard Certificate**

- 6.1 A Bilingual Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 6.2 A Bilingual Teacher Standard Certificate is not subject to renewal.

## **7.0 Disciplinary Action**

- 7.1 An Educator's Bilingual Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 7.2 An Educator's Bilingual Teacher Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 Del.C. §1222.
- 7.3 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.

## **8.0 Secretary of Education Review**

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

### **5-09.0 Past Certification Certificate Recognized**

~~The Department shall recognize a Bilingual Teacher Standard Certificate Bilingual Teacher issued before January 1, 2017 by the Department prior to the effective date of this regulation. A teacher holding such a Standard Certificate issued by the Department before January 1, 2017 shall be considered certified as a Bilingual Teacher An Educator holding such a Standard Certificate shall be considered certified to instruct English Learners or immersion program students.~~

### **6.0 Effective Date**

~~This regulation shall be effective on January 1, 2017.~~

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# FINAL REGULATIONS

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))  
14 **DE Admin. Code** 1562

### REGULATORY IMPLEMENTING ORDER

#### 1562 Teacher of English Learners

#### 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** 1562 Teacher of English Learners. The regulation concerns the requirements for a Teacher of English Learners Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include adding defined terms to Section 2.0; clarifying the requirements for issuing a Teacher of English Learners Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Teacher of English Learners Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Teacher of English Learners Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates that were issued by the Department.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2021. The Professional Standards Board received written submittals from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"), and Terri Hancharick, Chairperson of the State Council for Persons with Disabilities ("SCPD"). GACEC commented that it "supports the proposed amendments as it ensures transparency for an educator applying for the Teacher of English Learners Standard Certificate." SCPD commented regarding proposed Section 8.0, Secretary of Education Review, and stated that it is "concerned that the DOE Secretary may override the regulations in this context."

#### II. FINDINGS OF FACTS

On May 6, 2021, the Professional Standards Board considered the written submittals from GACEC and SCPD. The Professional Standards Board found that proposed Section 8.0 authorizes the Secretary of Education to review an applicant's credentials on an individual basis upon written request by a school district or charter school and grant a Teacher of English Learners Standard Certificate to an applicant who does not meet the requirements for the standard certificate but whose effectiveness is documented by the school district or charter school. The Professional Standards Board found that review by the Secretary of Education is an important tool that is available for all certifications by statute (14 **Del.C.** §1224).

The Professional Standards Board determined that further changes as a result of the written submittals were not necessary and voted to propose 14 **DE Admin. Code** 1562 Teacher of English Learners, 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** 1562 Teacher of English Learners.

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1562 Teacher of English Learners subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1562 Teacher of English Learners, attached hereto as Exhibit A, is hereby amended.



## IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1562 Teacher of English Learners adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1562 Teacher of English Learners 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 20th day of May, 2021.

### Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 20th day of May, 2021.

### State Board of Education

/s/ Whitney Sweeney, President

Wali W. Rushdan, II, Vice President (Absent)

/s/ Shawn Brittingham

/s/ Candace Fifer

/s/ Vincent Lofink

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

Provey Powell, Jr. (Absent)

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

## Exhibit A

### 1562 Teacher of English Learners

#### 1.0 Content

- 4-1 This regulation shall apply to the issuance of a ~~Standard Certificate, Teacher of English Learners~~ Standard Certificate pursuant to 14 Del.C. §1220(a), for Teacher of English Learners. This ~~certification~~ Standard Certificate is required for grades K to 12 in Delaware public schools.
- 4-2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

#### 2.0 Definitions

- 2-1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2-2 The following ~~word~~ words and ~~term~~ terms, when used in this regulation, shall have the following meaning ~~unless the context clearly indicates otherwise:~~
- "Department" means the Delaware Department of Education.
- "Educator" means a person licensed and certified by the State under 14 **Del.C.** Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

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

"Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

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

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

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

"Standards Board" means the Professional Standards Board established pursuant to 14 Del.C. §1201.

"Valid and Current License or Certificate" means a current full or permanent certificate or license issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification 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 Teacher of English Learners Standard Certificate as Teacher of English Learners to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; and 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
- 3.1.2 Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and Has met the requirements for licensure and presents proof of a Valid and Current License or Certificate as a teacher of English Learners.
- 3.1.3 Has satisfied the additional requirements in this regulation.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Teacher of English Learners Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

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

- 4.1 An educator shall also have satisfied each of the following requirements:
- 4.1.1 Demonstrated oral and written proficiency in English by either:
- 4.1.1.1 Completion of a bachelor's, master's, or doctoral degree from a regionally accredited college or university that is located in the United States or in a permanently inhabited territory of the United States; or
- 4.1.1.2 Achieving a minimum level of Advanced Mid based on the American Council on the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines on the ACTFL Oral

~~Proficiency Interview (OPI) in English and the ACTFL Writing Proficiency Test (WPT) in English; and~~

~~4.1.2 Completion of either:~~

~~4.1.2.1 A bachelor's, master's, or doctoral degree from a regionally accredited college or university with a major or its equivalent in Teaching English Learners from an educator preparation program approved or recognized by National Council for the Accreditation of Teacher Education (NCATE), the Council for Accreditation of Educator Preparation (CAEP), or a state where a state approval body employed the appropriate standards; or~~

~~4.1.2.2 A minimum of fifteen (15) credits or the equivalent thereof in professional development as approved by the Department in the following content areas:~~

~~4.1.2.2.1 Methods of Teaching English as a Second Language (3 credits);~~

~~4.1.2.2.2 Second Language Acquisition (3 credits);~~

~~4.1.2.2.3 Teaching Literacy for English Learners (3 credits);~~

~~4.1.2.2.4 Second Language Testing (3 credits); and~~

~~4.1.2.2.5 Structure of the English Language (3 credits).~~

~~4.1.3 Achieved on the *Praxis* Subject Assessment – English to Speakers of Other Languages (ETS Test # 5362) a passing score of 149.~~

4.1 An applicant shall have satisfied the requirements in subsections 4.1.1 through 4.1.3.

4.1.1 The applicant shall have satisfied one of the following education requirements:

4.1.1.1 Obtained and currently maintain an English as a New Language certificate from the National Board for Professional Teaching Standards; or

4.1.1.2 Earned a bachelor's, master's, or doctoral degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in Teaching English Learners from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or

4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach English Learners as provided in 14 **Del.C.** §§1260 – 1266; or

4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in Teaching English Learners; or

4.1.1.5 Earned a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactorily completed 15 college credits or the equivalent number of hours with one credit equating to 15 hours taken either as part of or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department in the following areas:

4.1.1.5.1 Methods of Teaching English as a Second Language (3 credits);

4.1.1.5.2 Second Language Acquisition (3 credits);

4.1.1.5.3 Teaching Literacy for English Learners (3 credits);

4.1.1.5.4 Second Language Testing (3 credits); and

4.1.1.5.5 Structure of the English Language (3 credits).

4.1.2 The applicant shall have demonstrated oral and written proficiency in English by satisfying one of the following requirements:

4.1.2.1 Earned a bachelor's, master's, or doctoral degree from a Regionally Accredited college or university that is located in the United States or in a permanently inhabited territory of the United States in which the majority of courses were taught and assessed in the English language; or

4.1.2.2 Achieved a minimum level of Advanced Mid based on the American Council on the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines on the ACTFL Oral

Proficiency Interview (OPI) in English and the ACTFL Writing Proficiency Test (WPT) in English.

- 4.1.3 The applicant shall have achieved a Passing Score of 149 on the Praxis Subject Assessment – English to Speakers of Other Languages (ETS Test Code # 5362).

## **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 For an applicant who is applying for a Teacher of English Learners Standard Certificate under subsection 3.1.1 of this regulation, the following documentation is required in the application:
- 5.2.1 Evidence of obtaining and maintaining an English as a New Language certificate from the National Board for Professional Teaching Standards, if applicable; and
- 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
- 5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.2.2.2 Sealed paper transcripts may be submitted.
- 5.2.2.3 The Department will not accept copies of transcripts; and
- 5.2.3 Official scores on the ACTFL OPI and WPT in English, as provided in subsection 4.1.2.2, if applicable; and
- 5.2.4 Official score on the Praxis Subject Assessment as provided in subsection 4.1.3; and
- 5.2.5 Additional documentation as required by the Department.
- 5.3 For an applicant who is applying for the Teacher of English Learners Standard Certificate under subsection 3.1.2, the following documentation is required in the application:
- 5.3.1 An official copy of the Valid and Current License or Certificate; and
- 5.3.2 Additional documentation as required by the Department.

## **6.0 Validity of a Standard Certificate**

- 6.1 A Teacher of English Learners Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 6.2 A Teacher of English Learners Standard Certificate is not subject to renewal.

## **7.0 Disciplinary Action**

- 7.1 An Educator's Teacher of English Learners 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.
- 7.2 An Educator's Teacher of English Learners 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.
- 7.3 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.

## **8.0 Secretary of Education Review**

- 8.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Teacher of English Learners Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not

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meet the requirements for a Teacher of English Learners Standard Certificate but whose effectiveness is documented by the local school district or charter school district.

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

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

## **5-09.0 Past Certification Certificate Recognized**

The Department shall recognize a ~~Standard Certificate~~ English to Speakers of Other Languages (ESOL) Teacher ~~Standard Certificate~~ issued by the Department before January 1, 2017. The Department shall also recognize a Teacher of English Learners Standard Certificate issued by the Department prior to the effective date of this regulation. ~~A teacher holding such a Standard Certificate issued by the Department before January 1, 2017 shall be considered certified as a Teacher of English Learners~~ An Educator holding an ESOL Teacher Standard Certificate issued before January 1, 2017 or a Teacher of English Learners Standard Certificate issued prior to the effective date of this regulation shall be considered certified to instruct English learners.

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## DEPARTMENT OF ELECTIONS

### OFFICE OF THE STATE ELECTION COMMISSIONER

Statutory Authority: 15 Delaware Code, Section 5012A(f) (15 Del.C. §5012A(f))

#### Order Adopting Department of Elections Regulation 101

#### 101 Procedures for Addressing Post-Election Voting Machine Audit Discrepancies

IT IS HEREBY ORDERED, this 14th day of June 2021, that Regulation 101 (Procedures for Addressing Post-Election Voting Machine Audit Discrepancies) is adopted as a Regulation of the Department of Elections. This Regulation was published in the May 1, 2021 edition of the *Delaware Register of Regulations* and is incorporated herein by reference. The effective date of this Regulation is July 11, 2021. This Regulation is adopted by the Department of Elections in accordance with Title 15 of the Delaware Code and pursuant to the requirements of Chapters 11 and 101 of Title 29 of the Delaware Code, as follows:

1. Notice of the proposed Regulation and its complete text were published in the May 1, 2021 issue of the *Delaware Register of Regulations*. The Notice included, among other things, a summary of the proposed Regulation and invited interested persons to submit written comments to the Office of the State Election Commissioner on or before June 4, 2021. The Notice further stated that the proposed Regulation was available for inspection during regular business hours at the Office of the State Election Commissioner, 905 S. Governors Avenue, Suite 170, Dover, DE 19904, and that copies were available upon request.

2. No written comments concerning the proposed Regulation were received by the Department of Elections on or before June 4, 2021.

3. No changes were made to the Regulation as proposed and published in the May 2021 issue of the *Register* at page 987 (24 DE Reg. 987).

4. After review and consideration, the State Election Commissioner hereby adopts Regulation 101 as proposed.

Anthony Albence  
State Election Commissioner

#### 101 Procedures for Addressing Post-Election Voting Machine Audit Discrepancies

### **1.0 Purpose**

This regulation is adopted by the Department of Elections pursuant to its authority under 15 Del.C. §5012(A)(f)

and outlines the procedures to be followed by the Department of Elections in the case of a discrepancy discovered during a post-election audit performed in accordance with the provisions of 15 **Del.C.** Ch. 50A.

## **2.0 Applicability**

This regulation applies to any post-election audit performed pursuant to 15 **Del.C.** §5012A by or on behalf of (and as authorized by) the Department of Elections, including any of its county offices through its appointed officials, merit employees, casual/seasonal employees, or temporary employees contracted via a third-party State-authorized vendor.

## **3.0 Definitions**

For purposes of this regulation, the following words or terms shall have the meaning indicated:

**"Audit"** or **"post-election audit"** means the definition of "audit" as set forth in 15 **Del.C.** §5012A.

**"Audit team"** means appointed officials, merit employees, casual/seasonal employees, or temporary employees contracted via a third-party State-authorized vendor assigned and authorized by the State Election Commissioner to conduct a post-election audit.

**"Certified election results"** means the official results of a primary or school election certified by the State Election Commissioner following post-election review by Department of Elections staff, and the official results of a general or special election certified by the Board of Canvass as convened by the Superior Court in each of the three counties of the State.

**"Department"** means Delaware Department of Elections, including each of its three county offices and the Office of the State Election Commissioner

**"Human-readable text"** means the printed names of candidates or answers to ballot questions that may be read and reviewed by individuals during an audit or recount.

**"Logic and accuracy test"** means the testing undertaken following programming an election on a voting device to ensure accurate ballot marking and tabulation of results.

**"Paper ballots"** means the ballots of record marked and tabulated by voting machines during an election.

**"Recount"** means a manual recompilation of election results by examining the human-readable text printed on the ballot.

**"State"** means the State of Delaware.

**"Voting device"** means the device which marks and tabulates paper ballots during an election, which can include voting machines and absentee ballot tabulation equipment.

**"Voting system"** means all components associated with the programming, preparation, and testing of voting devices, the voting devices, and media used to store unofficial voting results tabulated by these devices.

## **4.0 Threshold for Specific Action**

4.1 In the event that audit results from a component of the voting system does not agree with certified election results, and such discrepancy is greater than one half of one percent (0.5%) from the certified results totals, the following provisions shall be triggered:

4.1.1 Additional audits of the voting system exhibiting the discrepancy.

4.1.2 Additional testing and analysis of the voting system exhibiting the discrepancy.

## **5.0 Specific Actions to be Taken Once Threshold is Triggered**

5.1 An additional audit of the ballots shall be conducted by an audit team distinct from the audit team that conducted the initial audit.

5.2 If a discrepancy of more than one half of one percent (0.5%) is unresolved following the action prescribed in subsection 5.1, the following additional actions shall be undertaken:

5.2.1 All documentation related to the voting system in question shall be gathered and reviewed by the audit team distinct from the audit team that conducted the initial audit and shall be preserved. These records include logic and accuracy testing, certification, and all other documentation.

- 5.2.2 A subsequent manual logic and accuracy test of the impacted voting device or voting devices shall be conducted, and the results shall be examined by a team of Department staff not involved in the conduct of the initial logic and accuracy test of the impacted voting device or voting devices.
- 5.2.3 An additional audit shall be initiated on another randomly selected voting device or voting devices used in the same election, to identify any similar discrepancies.

## **6.0 Corrective Actions by Department to Avoid Discrepancy in the Future**

- 6.1 If an identified discrepancy is unresolved following the activities detailed in Section 5.0, the following shall occur:
- 6.1.1 The Department shall enlist the assistance of the State's voting system vendor to undertake additional testing and analysis.
- 6.1.2 The Department shall enlist the assistance of federal voting equipment certifying authorities to undertake additional testing and analysis that may entail the engagement of independent testing laboratories authorized by federal voting equipment certifying authorities to also undertake additional testing and analysis.
- 6.1.3 Any corrective actions identified must be certified by the federal voting equipment certifying authorities before being implemented by the Department.
- 6.1.4 Any corrective actions identified shall be implemented as soon as practical on all voting devices maintained by the Department.
- 6.1.5 Any voting devices and all associated components of the voting system used to prepare voting devices on which corrective actions have been undertaken shall undergo a complete logic and accuracy test before the voting devices are used in any subsequent election.
- 6.1.6 The results of the logic and accuracy test must demonstrate no discrepancy in vote tabulation before the voting device may be used in any subsequent elections.

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## **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

### **DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 7 Delaware Code, Sections 901(c) and (d) and 903(e)(2)a.1 (7 Del.C. §§901(c) & (d) and 903(e)(2)a.1)  
7 DE Admin. Code 3503

Secretary's Order No: 2021-F-0016

**RE: Approving Final Regulation, pursuant to 7 Del. C. §903(e)(2)a.1, to Amend 7 DE Admin. Code 3503:**  
*Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit*

**Date of Issuance: June 10, 2021**

**Effective Date of the Amendment:** 48 hours following publication of this Secretary's Order and regulation on the Department's website

### **3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 Del. C. §903(e)(2)a.1, and all other relevant statutory authority, the following findings of fact based on the reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory amendment.

Notwithstanding 29 Del.C. Ch. 101 (which sets forth the standardized procedures whereby a state agency shall promulgate regulations), the Department also has the statutory authority under 7 Del. C. §903(e)(2)a.1 to

promulgate certain regulations in order to adopt a specified management measure for finfish, subject to 7 *Del.C. Ch. 9, Finfishing in Tidal Waters*, by the issuance of a Secretary's Order. The Department is allowed to follow this abbreviated regulatory promulgation process only in instances where the management measures are specified by, and ensures compliance or maintains consistency with, a fisheries management plan or rule established by the *Atlantic States Marine Fisheries Commission, the Atlantic Coastal Fisheries Cooperative Management Act*, the Mid-Atlantic Fishery Management Council, or the National Marine Fisheries Service.

Whenever the Department promulgates a regulation pursuant to 7 Del. C. §903(e)(2)a.1, it shall also (1) publish on its website a public notice with a copy of the Secretary's Order and final regulation that implements the specific management measure; and (2) file the Secretary's Order and regulation that implements the specified management measure in the next available issue of the *Delaware Register of Regulations*. The final regulation becomes effective 48 hours after the Department has published the aforementioned public notice on its website, as mandated by 7 Del. C. §903(e)(2)a.2.

### Background, Procedural History and Findings of Fact

This order amends 7 DE Admin. Code 3503: *Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit* as part of an effort to reduce Striped Bass catch and release mortality in the recreational fishery by adopting a specified management measure approved by the Atlantic States Marine Fisheries Commission's ("ASMFC") Atlantic Striped Bass Management Board ("Board"). Specifically, this amendment defines the term "bait" and that bait will require the use of non-offset circle hooks and exempts certain fishing tackle from requiring non-offset circle hooks when fishing recreationally for Striped Bass. This order is required for Delaware to remain compliant with ASMFC Addendum VI to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass ("Addendum VI").

The 2018 benchmark Striped Bass stock assessment and peer review conducted by the Northeast Regional Stock Assessment Workshop found that Striped Bass are overfished and overfishing is occurring. Approximately 90% of Striped Bass removals were attributed to the recreational fishery and recreational removals attributed to catch and release mortality were estimated to be as high as 50% of the total recreational removals in recent years. Non-offset circle hooks have been shown to reduce release mortality of recreationally caught Striped Bass. Delaware adopted a circle hook requirement for anglers fishing with bait and targeting Striped Bass as of January 1, 2021 in accordance with Addendum VI. However, the Board subsequently realized that the circle hook requirement as written in Addendum VI was too broad, which led the Board to require that states adopt the ASMFC definition of bait and exempt lures with bait from the circle hooks requirement.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendments to 7 DE Admin. Code 3503: *Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit*, pursuant to 7 *Del. C. §§901 (c & d) and 903(e)(2)a.1*.

### ORDER

In accordance with 7 *Del. C. § 903(e)(2)a.1*, it is hereby ordered, this 10th day of June, 2021, that the above referenced amendments to 7 DE Admin. Code 3503: *Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit*, a copy of which is hereby attached, are supported by the evidence contained herein and are hereby adopted. The above referenced amendment shall take effect 48 hours following publication of this Secretary's order and regulation on the Department's website in accordance with 7 *Del. C. § 903(e)(2)a.2*.

Shawn M. Garvin  
Secretary

### 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.

(Penalty Section 7 *Del.C. §936(b)(2)*)

#### 1.0 Definitions

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

**"Bait"** means any marine or aquatic organism live or dead, whole or parts thereof.



“**Circle hook**” means a hook where the point is pointed perpendicularly back towards the shank.

“**Non-offset**” means the hook point and barb being in the same plane as the hook shank.

- 2.0 It is lawful for any person to take and reduce to possession striped bass from the tidal waters of this State at any time except as otherwise set forth in this regulation or in Tidal Finfish Regulations 3502 and 3504.
- 3.0 It is unlawful for any recreational fisherman to take or attempt to take any striped bass from the tidal waters of this State with any fishing equipment other than a hook and line or a spear while said recreational fisherman using the spear is underwater. Recreational gill net permittees are not authorized to take and reduce to possession any striped bass in gill nets.
- 4.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to take and reduce to possession more than one striped bass per day (a day being 24 hours) from the tidal waters of this State. Any striped bass taken from the tidal waters of this State that is not immediately returned, without unnecessary injury, to the same waters from which it was taken, is deemed taken and reduced to possession for purposes of this subsection.
- 5.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to have in possession more than one striped bass at or between the place said striped bass was taken and said fisherman's personal abode or temporary or transient place of lodging.
- 6.0 Notwithstanding 7 **Del.C.** §943, which only relates to commercial fishermen, it is lawful for a recreational fisherman to possess striped bass that have not been tagged, unless otherwise prohibited.
- 7.0 It is unlawful for any recreational fisherman to fish for striped bass with ~~natural~~ bait using any hook other than a non-offset circle hook. This shall not apply to any artificial lure with bait attached.
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**DEPARTMENT OF EDUCATION****PUBLIC NOTICE**

On March 12, 2020, Governor Carney issued a declaration of a state of emergency for the state of Delaware due to a public health threat. The State of Emergency allows all public meetings of executive branch public bodies, including the SBE, to be conducted electronically, either by means of telephone conference call or video-conference call.

In accordance with the State of Emergency, the State Board of Education is currently holding meetings electronically. The meeting information can be accessed via the public meeting calendar (<https://publicmeetings.delaware.gov/Search?q=&AnyAll=Any&AgencyID=22&StartDateInclusive=2020-08-01>). Members of the public can join the meeting via the web or telephone.

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

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**DEPARTMENT OF INSURANCE****OFFICE OF THE COMMISSIONER****PUBLIC NOTICE****1404 Long-Term Care Insurance**

Regulation 1404 implements 18 **Del.C.** Ch. 71 by setting forth regulations that apply to long term care insurance coverage in Delaware. The purpose of the proposed amendments is to add three additional disclosure requirements upon a rate increase at proposed new subsections 8.2.5.1.4 through 8.2.5.1.7 and to ensure that agents of record are made aware of any rate increases that insurers are imposing on their policy holders by adding proposed new subsection 8.6.

The Department is also updating formatting and internal cross-references and adding an effective date of these proposed amendments at Section 33.0.

The proposed amendments appear below and may also be viewed on the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>. The Department will not be holding a public hearing on the proposed amendments.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 31st day of August 2021 and should be directed to:

Leslie W. Ledogar, Regulatory Specialist  
Delaware Department of Insurance  
1351 West North Street, Suite 101  
Dover, DE 19904  
(302) 674-7379  
Email: [Leslie.Ledogar@delaware.gov](mailto:Leslie.Ledogar@delaware.gov)

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**DEPARTMENT OF LABOR****DIVISION OF INDUSTRIAL AFFAIRS****PUBLIC NOTICE****1326 Workplace Fraud Act Regulations**

The State of Delaware, Department of Labor's Division of Industrial Affairs ("the Division") hereby gives notice of its intention to adopt amended regulations pursuant to the General Assembly's delegation of authority to do so found at 29 *Del. C.* §10111(1).

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The Department solicits, and will consider, timely filed written comments from interested individuals and groups concerning these proposed amended regulations. The proposed regulations will be considered at a public hearing scheduled for Monday, July 26, 2021 from 4:00 p.m. to 6:00 p.m. The deadline for the filing of such written comments will be August 10, 2021.

Delaware Department of Labor/Fox Valley Annex  
Harold Stafford Training Center  
19 E. Lea Blvd  
Wilmington, DE 19802

Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing or calling Mr. Francis Chudzik, Division of Industrial Affairs, Delaware Department of Labor, 4425 North Market Street, Wilmington Delaware 19802, telephone number (302) 761-8174. Members of the public may present written comments on the proposed regulation by submitting such written comments to Mr. Francis Chudzik at the address of the Delaware Department of Labor as set forth above. The deadline for the filing written comments will be fifteen (15) after the public hearing, which in this case, is August 10, 2021.

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**DIVISION OF INDUSTRIAL AFFAIRS**  
**PUBLIC NOTICE**

**1329 Delaware Contractor Registration Act Regulations**

The State of Delaware, Department of Labor's Division of Industrial Affairs ("the Division") hereby gives notice of its intention to adopt amended regulations pursuant to the General Assembly's delegation of authority to do so found at 29 **Del.C** §10111(1).

The Department solicits, and will consider, timely filed written comments from interested individuals and groups concerning these proposed amended regulations. The proposed regulations will be considered at a public hearing scheduled for Monday, July 26, 2021 from 4:00 p.m. to 6:00 p.m. The deadline for the filing of such written comments will be August 10, 2021.

Delaware Department of Labor/Fox Valley Annex  
Harold Stafford Training Center  
19 E. Lea Blvd  
Wilmington, DE 19802

Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing or calling Mr. Francis Chudzik, Division of Industrial Affairs, Delaware Department of Labor, 4425 North Market Street, Wilmington Delaware 19802, telephone number (302) 761-8174. Members of the public may present written comments on the proposed regulation by submitting such written comments to Mr. Francis Chudzik at the address of the Delaware Department of Labor as set forth above. The deadline for the filing written comments will be fifteen (15) after the public hearing, which in this case, is August 10, 2021.

In accordance with procedures set forth in 29 **Del.C.**, Ch. 11, Subch. III and 29 **Del.C.** § 10111(1), the Department of Labor is proposing to promulgate regulations for the Delaware Contractor Registration Act as described in 19 **Del.C.** §§ 3601 et seq. The proposed regulations will provide guidance to entities seeking to register under the Delaware Contractor Registration Act. The proposed regulations will also provide guidance on enforcement procedures of the Delaware Department of Labor and outline the administrative process for entities found by the Department to be in violation of the Delaware Contractor Registration Act.

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****DIVISION OF CLIMATE, COASTAL AND ENERGY****PUBLIC NOTICE****2103 Regulations for the Green Energy Program**

The State of Delaware Green Energy Fund was created by House Bill 10 in 1999 as part of the deregulation of Delaware's electric utilities. The existing program regulations need to be revised due to changes to the program required by the legislative updates to 29 *Del. C.* §8057 enacted by S.B. 266 in 2010. Additionally, the proposed revisions to the Green Energy Program regulations will streamline the Green Energy Program application process and requirements to the benefit of Green Energy Program participants, renewable energy installers, and program staff.

A virtual public hearing (Docket #2019-R-CCE-0019) will be held on Wednesday, July 28, 2021 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 password, please use GEFRegAmend. To access the audio portion of the virtual hearing, dial 1-408-418-9388 and enter event code 173 899 9390. Closed-captioning is available by request if made at least 7 days before the event.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon 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 July 1, 2021 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or in-person, by appointment only, by contacting Brett Swan by phone at 302-735-3491 or by email at [brett.swan@delaware.gov](mailto:brett.swan@delaware.gov).

The Department will accept public comment through the close of business on Thursday, August 12, 2021. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnreccomments>, or by U.S. mail to the following address:

Lisa Vest, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

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**DIVISION OF FISH AND WILDLIFE****PUBLIC NOTICE****3542 Tilefish**

The Mid-Atlantic Marine Fisheries Council (MAFMC) approved Tilefish management actions that resulted in a significant increase to the 2020 and 2021 recreational possession limits for Golden and Blueline Tilefish in federal waters, imposed a recreational closed season for Blueline Tilefish and increased the daily landings limit for the commercial Tilefish fishery. Delaware's Tilefish regulation, in effect since 2016, has lower recreational possession limits than the new federal waters limits, no closed recreational season for Blueline Tilefish and a lower daily commercial landings limit. While states may maintain more conservative regulations for state waters than those approved by MAFMC for federal waters, Delaware's current recreational possession limits differing from the federal water possession limits (see the table below) has proven confusing to the angling public, which may lead to inadvertent violations by anglers harvesting Tilefish. For example, a recreational angler harvesting the federal waters possession limit of Golden Tilefish would be in violation of Delaware's regulation. Conversely, a private boat recreational angler harvesting the Delaware possession limit of Tilefish, but only keeping Blueline Tilefish would be in violation of the federal waters Blueline Tilefish possession limit. In addition, Delaware's regulation allows Blueline Tilefish harvest during the federal waters closed season. Finally, Delaware's commercial Tilefish fishery will benefit by increasing the daily landings limit for state waters from 300 pounds to the federal waters limit of 500 pounds. Delaware's Advisory Council on Tidal Finfisheries voted unanimously recommending that Delaware's Tilefish management measures be revised to match the federal waters recreational management measures.

## Current Tilefish Recreational Possession Limits and Fishing Seasons

Jurisdiction	Golden Tilefish	Blueline Tilefish
<b>Federal Waters</b>	8  No Closed Season	3 Private vessel; 5 United States Coast Guard uninspected for-hire vessel; 7 United States Coast Guard inspected for-hire vessel  Closed Season - November 1 through April 30
<b>Delaware Waters</b>	7 Tilefish – Any combination of Golden and Blueline No Closed Season	

The proposed amendments may be inspected online starting July 1, 2021 at [http://regulations.delaware.gov/services/current\\_issue.shtm](http://regulations.delaware.gov/services/current_issue.shtm) or in-person, by appointment only, by contacting John H. Clark, by phone at (302)739-9914 or by email at [John.Clark@delaware.gov](mailto:John.Clark@delaware.gov).

A virtual public hearing will be held following the adjournment of the public hearing on proposed amendments to 7 DE Admin. Code 3550 Cobia (SAN # 2021-02; Hearing Docket No. 2021-R-F-0007) on **Thursday, July 22, 2021, beginning at 6 p.m.** The web link to the virtual meeting is found on the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: Fish. To access the audio-only portion of the virtual hearing, dial 1-408-418-9388 and enter event code 173 319 0455. Closed-captioning is available by request if made at least 7 days before the event.

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

The Department will accept public comment through the close of business on **Friday, August 6, 2021**. Comments pertaining to the above matter will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), 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.

### DIVISION OF FISH AND WILDLIFE PUBLIC NOTICE

#### 3550 Cobia (*Rachycentron canadum*)

The Atlantic States Marine Fisheries Commission adopted Addendum I to the Interstate Fishery Management Plan (FMP) for Atlantic Migratory Group Cobia (FMP) in October 2020, which mandated changes to recreational *de minimis* measures.

Cobia presence in Delaware waters is sporadic, but they are targeted by anglers when known to be present. Delaware had no reported commercial or recreational Cobia landings in the three years preceding adoption of the FMP. Therefore, Delaware qualified for *de minimis* status under the 2017 FMP criteria and adopted compliant *de minimis* measures in 2020. However, Addendum I redefined the recreational *de minimis* measures, so Delaware must adopt either of the following two *de minimis* options to remain in compliance with the plan:

Delaware's proposed Cobia management options (**Bolded items** are changes to current measures)

	Option 1 <i>De Minimis</i>	Option 2 Nearest Non- <i>De Minimis</i> State
	Recreational	Recreational
Min. Length	<b>37"</b>	40" ( <b>only 1/vessel &gt; 50"</b> )
Possession Limit	1	1
Vessel Limit	<b>1</b>	<b>2</b>
Open Season	<b>All Year</b>	<b>June 15 - Sept. 15</b>

Option 1 reflects the *de minimis* management measures outlined in Addendum I to the FMP and Option 2 reflects the management measures in place for the nearest non-*de minimis* jurisdiction (Virginia). Addendum I does not require any changes to the commercial Cobia management measures that Delaware adopted in 2020. Adoption of either option will ensure compliance with Addendum I to the FMP, as required by the Atlantic Coastal Fisheries Cooperative Management Act (16 USC §§5101, *et seq.*). The proposed action is expected to complement federal management in a consistent manner throughout the management unit and provide for the long-term stability of the stock. Given the sporadic occurrence of Cobia in Delaware waters, it is unlikely that the proposed action will have significant, measurable, or predictable costs to the affected Delaware fisheries or their dependent businesses.

The proposed amendments may be inspected online starting July 1, 2021 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or in-person, by appointment only, by contacting John H. Clark, by phone at (302)739-9914 or by email at [John.Clark@delaware.gov](mailto:John.Clark@delaware.gov).

A virtual public hearing will be held on **Thursday, July 22, 2021, beginning at 6 p.m.** The web link to the virtual meeting is found on the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: Fish. To access the audio-only portion of the virtual hearing, dial 1-408-418-9388 and enter event code 173 319 0455. Closed-captioning is available by request if made at least 7 days before the event.

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

The Department will accept public comment through the close of business on **Friday, August 6, 2021**. Comments pertaining to the above matter will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), 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.

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**2700 BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS**  
**PUBLIC NOTICE**

The Delaware Board of Professional Land Surveyors, in accordance with 24 **Del.C.** §2706(a)(1), has proposed revisions to its rules and regulations. The proposed revisions to the Rules and Regulations are intended to memorialize the passing score for the Delaware Drainage exam. The Board will hold a public hearing on the proposed rule changes on September 16, 2021 at 8:30 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or telephonically (call in number will be provided on the Public Meeting calendar: <https://publicmeetings.delaware.gov/#/>). Written comments should be sent to Jennifer Witte, Administrator of the Delaware Board of Professional Land Surveyors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904, no later than October 1, 2021.