
Delaware Register of Regulations

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Proposed
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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, 2022.

Cover Photo
Wilmington, Delaware

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

- Governor's Executive Orders
 - Governor's Appointments
 - Agency Hearing and Meeting Notices
 - Other documents considered to be in the public interest.
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CITATION TO THE DELAWARE REGISTER

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

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

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt, within the time allowed, of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

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

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

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

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

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

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
August 1	July 15	4:30 p.m.
September 1	August 15	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 17	4:30 p.m.
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.

DIVISION OF RESEARCH STAFF

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Symbol Key

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

Proposed Regulations

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

**DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM
DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM BOARD OF MANAGERS**

Statutory Authority: 11 Delaware Code, Section 8605 (11 **Del.C.** §8605)

1 **DE Admin. Code** 1301

PUBLIC NOTICE**1301 Delaware Criminal Justice Information System Rules and Regulations**

Purpose: In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 11 of the Delaware Code, Chapter 86, Section 8605, the Delaware Criminal Justice Information System (DELJIS) Board of Managers proposes to revise its regulations. These proposed regulations are applicable to all users of the Delaware Criminal Justice Information System (CJIS) and to any agency requesting access to CJIS from the Board. The proposed regulations will ensure that access to criminal justice information conforms to the statutory requirements outlined in Chapters 85 and 86 of Title 11 of the Delaware Code.

Written Comments: The DELJIS Board of Managers will receive written comments, suggestions briefs or other written material until the close of business, 4:30 p.m., August 5, 2022. Written comments shall be submitted via e-mail to jeffrey.horvath@cj.state.de.us, or via the USPS to Mr. Jeffrey Horvath, Chair, DELJIS Board of Managers, c/o Alyssa Huenke, 800 Silver Lake Blvd. Suite 101, Dover, DE 19904.

***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/july2022/proposed/26 DE Reg 6RFA 07-01-22.pdf>

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

1301 Delaware Criminal Justice Information System Rules and Regulations

DEPARTMENT OF AGRICULTURE PLANT INDUSTRIES SECTION

Statutory Authority: 3 Delaware Code, Section 2904(a) (3 **Del.C.** §2904(a))

PUBLIC NOTICE

806 Regulations for Invasive Plants

Summary

Pursuant to the authority granted by Title 3, Section 2904(a) of the Delaware Code, the Department of Agriculture proposes to amend its Regulations to adopt Invasive Plant Regulations at 3 **DE Admin. Code** 806. The purpose of the new regulation is to provide a process for the exemption of sterile and reduced fertility plant cultivars. The Department published the proposed regulation in the *Register of Regulation* on May 1, 2022 and received public comment on the proposed regulations during the public comment period that ended May 31, 2022, related to creeping Jenny, *Lysimachia nummularia* and the invasiveness of this plant. Because of public comments and the Department's understanding of the incomplete process by which creeping Jenny, *Lysimachia nummularia* was placed on the Invasive Plant List, the Department has moved creeping Jenny, *Lysimachia nummularia* from the Invasive Plant List to the Plant Watch List. The time limits of notification between the Department and Commission was changed in order to be concise and consistent. The date of July 1, 2022 was to be the date of adoption of the proposed regulation and is now on or after August 1, 2022. Other regulations issued by the Department of Agriculture are not affected by this proposal. The Department of Agriculture is issuing these re-proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the July 1, 2022, edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901 and is available for inspection during regular office hours. Copies are also published online at the Delaware Register of Regulations website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs, or other materials to the Department of Agriculture at the above address or Jessica.Inhof@delaware.gov as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** § 10118(a), public comments must be received on or before August 1, 2022. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after August 1, 2022, following review of the public comment, the Department of Agriculture will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

Effective Date of Amendments to Regulations

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

***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/july2022/proposed/26 DE Reg 7RFA 07-01-22.pdf>

PROPOSED REGULATIONS

806 Regulations for Invasive Plants

1.0 Purpose

- 1.1 The purpose of these regulations is to clarify how the Department will eradicate, repress, and prevent the spread of plant pests as authorized in Title 3, Chapter 11 of the Delaware Code.
- 1.2 The Department will work with the Delaware Native Species Commission for expertise and advice on maintaining the Invasive Plant List and Plant Watch list and review of sterility exemption.
- 1.3 The Department will be responsible for enforcement of the Invasive Plant Law during routine inspections of businesses or inspections resulting from a complaint. During inspections, the Department will survey for plants on the Invasive Plant List and ensure businesses' compliance with signage requirements for plants on the Plant Watch List.

2.0 Definitions

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

"Commission" means the Delaware Native Species Commission.

"Cultivar" means a plant variety that has been produced in cultivation by selective breeding.

"Department" means the Delaware Department of Agriculture.

"Invasive plant" means any living part, cultivar, variety, species or subspecies not native to Delaware identified by the Secretary having the potential to do all of the following:

- a. Result in widespread dispersal and establishment.
- b. Out-compete other species in the same area.
- c. Exhibit rapid growth or high seed or propagule productions.
- d. Become established in natural areas in the State.

"Invasive Plant List" means the list of invasive plants maintained by the Secretary.

"Plant Watch List" means the list of potentially invasive plants maintained by the Secretary.

"Secretary" means the Secretary of the Delaware Department of Agriculture.

"Sterility" means unable to produce reproductive structures.

3.0 The Invasive Plant List and Plant Watch List

3.1 The Invasive Plant List

- 3.1.1 Amur honeysuckle, *Lonicera maackii*
- 3.1.2 Autumn olive, *Elaeagnus umbellata*
- 3.1.3 Callery pear, *Pyrus calleryana*
- 3.1.4 Chinese wisteria, *Wisteria sinensis*
- 3.1.5 Creeping water primrose, *Ludwigia peploides subsp. glabrescens*
- 3.1.6 English ivy, *Hedera helix*
- 3.1.7 European privet, *Ligustrum vulgare*
- 3.1.8 European reed, *Phragmites australis subsp. australis*
- 3.1.9 European sweetflag, *Acorus calamus*
- 3.1.10 Garlic mustard, *Alliaria petiolata*
- 3.1.11 Hydrilla, *Hydrilla verticillata*
- 3.1.12 Japanese barberry, *Berberis thunbergii*
- 3.1.13 Japanese honeysuckle, *Lonicera japonica*
- 3.1.14 Japanese knotweed, *Fallopia japonica*
- 3.1.15 Japanese pachysandra, *Pachysandra terminalis*
- 3.1.16 Japanese stiltgrass, *Microstegium vimineum*
- 3.1.17 Lesser celandine, *Ficaria verna*

- 3.1.18 Lesser periwinkle, *Vinca minor*
- 3.1.19 Marsh dewflower, *Murdannia keisak*
- 3.1.20 Mile-a-minute weed, *Persicaria perfoliata*
- 3.1.21 Morrow's honeysuckle, *Lonicera morrowii*
- 3.1.22 Multiflora rose, *Rosa multiflora*
- 3.1.23 Norway maple, *Acer platanoides*
- 3.1.24 Orange daylily, *Hemerocallis fulva*
- 3.1.25 Oriental bittersweet, *Celastrus orbiculatus*
- 3.1.26 Parrot-feather, *Myriophyllum aquaticum*
- 3.1.27 Porcelain berry, *Ampelopsis glandulosa*
- 3.1.28 Purple loosestrife, *Lythrum salicaria*
- 3.1.29 Spotted knapweed, *Centaurea stoebe subsp. micranthos*
- 3.1.30 Tatarian honeysuckle, *Lonicera tatarica*
- 3.1.31 Tree of heaven, *Ailanthus altissima*
- 3.1.32 Water hyacinth, *Eichhornia crassipes*
- 3.1.33 Wineberry, *Rubus phoenicolasius*
- 3.1.34 Winged euonymus, *Euonymus alatus*
- 3.1.35 Yam-leaved clematis, *Clematis terniflora*
- 3.1.36 Yellow flag iris, *Iris pseudoacorus*

3.2 The Plant Watch List. Plants listed on the Plant Watch List must be identified with a tag, label, or sign on each plant or in the general vicinity of the plants for sale.

3.2.1 Creeping Jenny, *Lysimachia nummularia*

4.0 Maintenance of the Invasive Plant List and Plant Watch List

4.1 The Secretary shall maintain the Invasive Plant List and Plant Watch List with the advice of the Commission, so long as the Commission exists.

4.1.1 Should the Department receive requests for review of plants to be added or removed from the Invasive Plant List or Plant Watch List, the Department shall submit requests to the Commission for advice, within 30 days of the request for review.

4.1.2 The Department and the Commission shall review any plants recommended to be added to or removed from the Invasive Plant List and Plant Watch List. The Department shall seek the advice of the Commission, or any subcommittee as designated by the Commission, to add or remove plants from the Invasive Plant List or Plant Watch List.

4.1.3 Should the Commission receive requests for review of plants to add or remove from the Invasive Plant List or Plant Watch List, the Commission shall provide its recommendations via email to the Secretary or during a Commission meeting within 60 days of the initial request for review. Recommendations must include, at a minimum, a detailed methodology used by the Commission to make a determination about each plant under consideration to be added to or removed from the Invasive Plant List and Plant Watch List.

4.1.4 The Secretary shall respond to the Commission with a decision or a request for additional information within 60 days of the date of the recommendation.

4.1.5 The Secretary shall initiate any required regulatory changes to the Invasive Plant List and Plant Watch List within 30 days of the date that a determination has been made.

5.0 Allowance for Sterility

5.1 The Department recognizes that the level of sterility of a plant impacts its potential to:

5.1.1 Result in widespread dispersal and establishment.

5.1.2 Out-compete other species in the same area.

PROPOSED REGULATIONS

- 5.1.3 Exhibit rapid growth or high seed propagule productions.
- 5.1.4 Become established in natural areas in the State.
- 5.2 The Department reserves the right to consider cultivars of plants based on level of sterility at their point of sale or delivery into the State of Delaware. The Department may grant an exemption for cultivars of plants listed on the Invasive Plant List.
- 5.3 Persons requesting that a cultivar be exempted from the Invasive Plant List must petition the Department by submitting a Petition to Exempt a Specific Cultivar form. Persons may request that plant cultivars be exempted from the Invasive Plant List based on sterility level and seed viability and must provide an explanation and references to justify the request.
- 5.4 The Department, with advice of the Commission, will consider submitted cultivars for exemption when there is independent, peer reviewed, scientific research evaluating the invasiveness of the cultivar. Petitions require burden of proof to be held by the breeder or plant representative and leave no responsibility to the State of Delaware.
- 5.4.1 Any requests brought to the Department for a cultivar to be exempted from the Invasive Plant List shall be submitted to the Commission via email within 30 days of the request for advice.
- 5.4.2 The Commission shall provide recommendations via email to the Secretary within 60 days of receiving the Petition to Exempt a Specific Cultivar form. The recommendations must include, at a minimum, a detailed methodology used by the Commission to make a determination about each cultivar under consideration to be exempted from the Invasive Plant List.
- 5.4.3 The Secretary shall respond to the Commission with a decision or a request for additional information via email within 60 days of the date of the recommendations.
- 5.4.4 The Secretary shall initiate any required regulatory changes to the Invasive Plant List within 30 days of the date that a determination has been made, with the advice of the Commission, to exempt a cultivar from the Invasive Plant List.
- 5.5 Exemptions are conditional and subject to revocation by the Department.

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(27) (14 Del.C. §122(b)(27))
14 DE Admin. Code 286

PUBLIC NOTICE

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

286 Application Fee For Educator Licensure

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §122(b)(27), the Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 286 Application Fee For Educator Licensure. This regulation is being reviewed as required by 29 Del.C. §10407 which states regulations are to be reviewed every four years. This regulation is being amended to update the definition of "Charter School" so that it aligns with Regulation 255 Definitions of Types of Schools and to clarify that the reimbursement of the application fee for educator licensure occurs in April instead of March each year.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover,

Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before August 1, 2022. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation 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/july2022/proposed/26 DE Reg 10RFA 07-01-22.pdf>

286 Application Fee For Educator Licensure

1.0 Purpose

The purpose of this regulation is to comply with 14 Del.C. §122(b)(27) related to educator licensure. ~~This regulation sets forth the licensure, and to establish rules and guidelines related to fees the application fee for~~ educator licensure. Specifically, the Department of Education will implement a one-time, non-refundable fee of not more than \$100 for an educator's first application ~~for to obtain licensure and certification~~ in Delaware. However, the fee shall be reimbursed for any applicant who becomes employed as an educator in a Delaware Public School. This application may be for an ~~Initial, Continuing or Advanced License~~ initial, continuing or advanced license.

2.0 Definitions

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

“**Advanced License**” means a license issued as part of the three tiered licensure system set forth in 14 Del.C. §121(c) and 14 Del.C. Ch. 12, subchapter II.

"Charter School" means a ~~non-home-based public school including two or more of grade kindergarten through twelve, operating in an approved physical plant for the personal physical attendance of all students and is managed by a board of directors. It exists under a charter granted by a public school district or the State Department of Education, with the approval of the State Board of Education, that is operated under a charter granted by, or transferred to, the Delaware Department of Education or other authorizing body~~ pursuant to 14 **Del.C.** Ch. 5.

"Continuing License" means a license issued as part of the three tiered licensure system set forth in ~~and~~ 14 **Del.C.** §121(c) and 14 **Del.C.** Ch. 12, subchapter II.

"Department" means the Delaware Department of Education.

"Educator Licensure Application Fee" means the one-time, non-refundable fee of not more than \$100 an individual pays for a an application for their first educator license in Delaware.

"Eligible Educator for Reimbursement" or **"Eligible Educator"** means an educator who has paid the one-time \$100 educator licensure fee and who has become employed as an educator in a Delaware public school.

"Initial License" means a license issued as part of the three tiered licensure system set forth in 14 **Del.C.** §121(c) and 14 **Del.C.** Ch. 12, subchapter II.

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

3.0 Application Process

- 3.1 Applicants seeking an educator licensure in Delaware shall:
 - 3.1.1 Establish an online account in the electronic licensure and certification system in Delaware;
 - 3.1.2 Submit official documents to the Department to support their application;
 - 3.1.3 Pay a one-time, non-refundable \$100 application fee via debit or credit card through the electronic licensure and certification system when applying for ~~an Initial, Continuing, or Advanced License~~ an initial, continuing, or advanced license; and
 - 3.1.4 Meet all statutory and regulatory requirements.
- 3.2 An application will not be processed until all conditions of subsection 3.1 are met.
- 3.3 Submission of an online fee and application does not entitle the applicant to the requested license.

4.0 Exemptions From Application Fee

An applicant who is already licensed and certified in Delaware shall be exempt from the application fee.

5.0 Fee Payment and Collection

- 5.1 No installment or partial payments of the fee will be accepted. Only full payment of the fee, to be made as part of the online electronic application, is permitted.
- 5.2 No appeals, exceptions, or waivers shall be granted for the fee.
- 5.3 All fees collected pursuant to this regulation shall be deposited in the General Fund, with the exception of \$90,000, which shall be retained annually by the Department in a special fund to be established for the sole purpose of reimbursing ~~Eligible Educators~~ eligible educators.

6.0 Reimbursement

- 6.1 An ~~Eligible Educator For Reimbursement~~ eligible educator shall receive a reimbursement of the one-time \$100 educator licensure fee. The reimbursement shall be processed by the Department of ~~Education~~ in coordination with the Division of Accounting for ~~these Eligible Educators for Reimbursement~~ eligible educators identified November 1 and ~~March~~ April 1 of each fiscal year.
- 6.2 ~~Eligible Educators for Reimbursement~~ educators shall receive their reimbursement check through either a direct deposit transaction or live check.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) and 29 Delaware Code, Section 7528
(14 Del.C. §122(b) & 29 Del.C. §7528)
14 DE Admin. Code 401

PUBLIC NOTICE

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

401 Major Capital Improvement Program

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §122(b) and 29 Del.C. §7528, the Secretary of Education intends to amend 14 DE Admin. Code 401 Major Capital Improvement Program. This amendment is needed due to changes in the threshold amount for Major Capital Improvement Program. Additionally, this regulation is being edited to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before August 1, 2022. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation 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/july2022/proposed/26 DE Reg 13RFA 07-01-22.pdf>

401 Major Capital Improvement Program

1.0 Purpose and Definitions

- 1.1 The Major Capital Improvement Program consists of one or more construction projects having a cost of ~~\$750,000~~ \$1,000,000 or more.
- 1.1.1 The Secretary of Education may annually review the current cost per square foot for construction and make necessary adjustments as required.
- 1.1.2 Multiple projects may be considered together to form a single Major Capital Improvement Program project. The consolidation of Major Capital Improvement Program projects should be for one location.
- 1.1.3 All Major Capital Improvement Program projects shall use standard bid and contract documents as developed by the Office of Management and Budget, Division of Facilities Management.
- 1.1.3.1 Local school districts may enhance the standard bid and contract documents with additional contractual or project specific requirements as long as the enhancements do not diminish and are not in conflict with the provisions of the standard documents.
- 1.1.3.2 The Department of Education, in consultation with the Office of Management and Budget, Division of Facilities Management shall approve any modifications or changes to the provisions of the standard bid and contract documents before a local school district may use or enhance the modified documents.

1.2 Definitions

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

“Certificate of Necessity” means a document issued by the Department of Education which certifies that a construction project is necessary and sets the scope and cost limits for that project. The Certificate of Necessity authorizes the local school district to hold a referendum for the Major Capital Improvement Program identified, if required.

“Certificate of Occupancy” means a document issued by a local code enforcement official or office attesting that a Facility meets building codes and is fit for human occupancy.

“Change Orders” means documents that change the construction contract and are negotiated between the owner and contractor to correct design omissions, address unforeseen circumstances which arise during the construction process, and improve upon designs based on project progress.

“Completion of Construction” means the local school district, with the concurrence of the architect, accepts the facility as complete, meaning that all punch list items are resolved, release of liens has been received, and funds held in retainage have been released.

“Design Development Plans” means documents that denote mechanical functions, placement of windows and doors, pedestrian traffic circulation both interior and exterior, utilities, service areas and structure. Design Development Plans are at a 40% to 60% completion stage.

“Educational Specifications” means documents which explain how the educational spaces relate to the educational programs as well as the requirements of an educational Facility to house and implement the educational philosophy and institutional program.

“Facility” means a long-lived capital asset including, but not limited to, school buildings; athletic buildings; athletic fields and appurtenances; playgrounds; maintenance, operations and storage structures; office buildings and all other buildings and capital assets associated with the operation and management of a local school district or school system.

“**Final Construction Plans**” means documents that show the complete Facility design including mechanical, electrical, water, sewer, site plans, storm water conveyance and structural systems, complete bid documents and specifications.

“**Schematic Design Plans**” means documents that present a proposed Facility in its earliest stages denoting the approximate size and relationship of areas to each other. Detailed utilities or mechanical functions are not typically shown at this stage.

“**Signed and Sealed Plans**” means design documents that have the architect’s or engineer’s professional seal and signature affixed.

2.0 Certificates of Necessity

- 2.1 Local school districts shall submit local school board approved projects to the Department of Education by August 31 of each fiscal year to be considered for a Certificate of Necessity and capital funding in the following fiscal year.
- 2.2 Local school district submissions for a Certificate of Necessity shall provide an equity statement that identifies the demographic information (e.g. race, Low Income, English Learner) of the students who are expected to attend the new school, use a new facility, or benefit from an approved Major Capital Project and how the Major Capital Project impacts equitable distributions of new and renovated buildings throughout the school district.
- 2.3 The Certificate of Necessity shall be quoted in the advertisement for the referendum.
- 2.4 Projects proposing the construction of a new Facility or for an addition to an existing Facility shall be issued a separate Certificate of Necessity. Funds issued for the construction of a new Facility or for an addition to an existing Facility shall not be transferred to projects in a separate Certificate of Necessity.
- 2.5 Additions and renovations to existing Facilities that are done in connection with other renovations may be issued a single Certificate of Necessity. However, when such a multiple project Certificate of Necessity is issued, it shall identify each Facility in the program and describe the work to be done at that Facility including the state and local share of the total cost for that work. Funds may be transferred between projects issued under the same Certificate of Necessity in accordance with Section 8.0 of this regulation.
- 2.6 The Department of Education will complete and forward the Certificate of Necessity to the local school district superintendent for that superintendent’s signature.
- 2.7 A copy of the final Certificate of Necessity will be returned to the local school district within ten ~~(10)~~ working days following final approval by the Department of Education.

3.0 Procedures for Approval of a Site for School Construction

- 3.1 The local school board shall forward all prospective sites to the Office of State Planning Coordination for consideration and comment through the Planning Land Use Service (PLUS) review process.
- 3.2 Local school districts shall notify the Department of Education in writing to schedule a site review when they propose to purchase a site for school purposes; when they propose to use a currently owned site for school purposes; or when they propose to obtain a site through donation, gift or condemnation. Depending on the outcome of the PLUS review process, the Department of Education may conduct a site review.
- 3.3 The acquisition of lands for school construction shall comply with 29 Del.C. §7525.

4.0 Approval of Educational Specifications, Schematic Design Plans, Design Development Plans, and Construction Drawings

- 4.1 Educational Specifications shall be approved by the local school board and forwarded to the Department of Education for informational purposes. The Department of Education may provide comments on Educational Specifications at its discretion.
- 4.2 All Schematic Design Plans, Design Development Plans and Final Construction Drawings shall be approved by the local school board and the Department of Education. The Department of Education

requires one ~~(4)~~ set of each, including a signed and sealed Final Construction Drawings and specifications.

- 4.3 The local school district must involve all applicable state, local and municipal regulatory agencies in reviewing Final Construction Drawings before the start of construction. Copies of all applicable state, local and municipal agency approvals shall be maintained in the local school district construction files. Required state agency approvals are noted in the *State of Delaware School Construction Technical Assistance Manual*, which is available on the Department of Education's website.
- 4.4 Major Capital Improvement Program projects that do not include structural changes or wall modifications such as, but not limited to, window replacement, HVAC, electrical or plumbing infrastructure upgrades do not require submission of construction specifications or plans to the Department of Education.

5.0 Notification, Start and Completion of Construction, and Certificate of Occupancy

- 5.1 The local school district shall submit to the Department of Education and the Office of Management and Budget a construction schedule, showing start dates, intermediate stages, and final completion dates.
- 5.2 The local school district shall notify the Department of Education, Office of Management and Budget and Insurance Coverage Office at the completion of construction.
- 5.3 The local school district shall record capital assets in accordance with the *State of Delaware Budget and Accounting Manual*.
- 5.4 The local school district shall notify the Department of Education, Division of Accounting, State Auditor, and Office of Management and Budget upon approval of occupancy.
- 5.5 Local school districts shall submit to the Department of Education a copy of the electronic files in a format approved by the Department of Education. Electronic files shall be submitted no later than thirty ~~(30)~~ calendar days after the completion of any major renovation, addition to an existing Facility, new school or replacement school.

6.0 Purchase Orders

All purchase orders for Major Capital Improvement Program projects shall be approved by the Department of Education and Office of Management and Budget before submission to the Division of Accounting.

7.0 Change Orders

- 7.1 All Change Orders must be agreed upon by the architect, local school district and contractor, and shall be forwarded to the Department of Education.
- 7.1.1 Submission of a Change Order must include the following documents:
- 7.1.1.1 A completed purchase order as applicable and following the local school board approved change order approval and authorization process and procedure;
 - 7.1.1.2 Local school board of education minutes identifying and approving the changes;
 - 7.1.1.3 American Institute of Architects (AIA) document G701-Change Order Form; and
 - 7.1.1.4 Correspondence which gives a breakdown in materials, mark-up, and other expenses.

8.0 Percentage of Funds Transferable Between Projects within a Certificate of Necessity

- 8.1 Local school districts may request the transfer of funds between projects during the bidding and construction process in writing to the Department of Education. Acceptability of the transfer of funds will meet the following criteria:
- 8.1.1 No project may have any portion of its funding moved to another project without the approval of the Secretary of the Department of Education, the Director of the Office of Management and Budget and the Controller General.

- 8.1.2 No project may have any funding added to its initial funding without the approval of the Secretary of the Department of Education, the Director of the Office of Management and Budget and the Controller General.
- 8.1.3 No transfer of funds shall be executed between projects authorized through and by separate Certificates of Necessity.

9.0 Educational Technology

All school facilities being constructed or renovated under the Major Capital Improvement Program shall include wiring for technology that meets the current Department of Technology and Information Wiring Standards, and is appropriate to the grade level and educational requirements of the Facility type, such as high school, administration, etc. The cost of such wiring shall be borne by project funds when no other technology funds are available.

10.0 Playground Construction

All playgrounds constructed or renovated pursuant to a Major Capital Improvement Program project shall comply with the most current editions of the American Society of Testing Materials (ASTM) Designation F-1487 and the Consumer Products Safety Commission (CPSC) Publication Number 325.

11.0 Administration of the New School

An administrator of a new school may be hired for up to one (1) year prior to student occupancy to organize and hire staff. The state portion of salary and benefits may be paid from Major Capital Improvement Program funding.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) and 29 Delaware Code, Section 7528
(14 Del.C. §122(b) & 29 Del.C. §7528)
14 DE Admin. Code 405

PUBLIC NOTICE

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

405 Minor Capital Improvement Program

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §122(b) and 29 Del.C. §7528, the Secretary of Education intends to amend 14 DE Admin. Code 405 Minor Capital Improvement Program. This amendment is needed due to changes in the threshold amount for Minor Capital Improvement Programs. This regulation is also being edited to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before August 1, 2022. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation 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 does not address students' health and safety.
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 necessary authority and flexibility of decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.
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/july2022/proposed/26 DE Reg 17RFA 07-01-22.pdf>

405 Minor Capital Improvement Program

1.0 Minor Capital Improvement Program Purpose

The Minor Capital Improvement Program's primary purpose is to keep real property assets in their original condition of completeness and efficiency on a scheduled basis. It is not for increasing the plant inventory or changing its composition. Minor Capital Improvement Program projects cost less than \$750,000 ~~unless the project is for roof repair~~ \$1,000,000 and the underlying assets should carry a life expectancy of 10 years or more. In addition, roof, window and door replacements, paving projects, generator replacements, floor replacements, HVAC replacements, and plumbing replacements will be considered minor capital improvements, however, this does not exempt capitalization of these projects in accordance with the Budget and Accounting Policy Manual, Chapter 13 Asset Management, Section 13.10.1 Construction Work in Process (CWIP). The Minor Capital Improvement Program shall be reviewed annually by the school district and should be comprised of work necessary for good maintenance practice.

2.0 Definitions

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

“Career Technical Program Equipment” means either a movable or fixed unit but not a built-in unit. In addition, the equipment shall retain its original shape and appearance with use, be nonexpendable, and represent an investment which makes it feasible and advisable to capitalize and not lose its

identity through incorporation into a different or more complex unit. Computers and computer peripheral equipment may be purchased using Minor Capital Improvement Vocational Education Equipment Replacement Funds provided such equipment purchased with such funds is used in a vocational education setting for the service life of said equipment.

“**Minor Capital Improvement Program**” means a program which provides for the planned and programmed maintenance and repair of the school plant.

3.0 Use of Funds

- 3.1 The expenditure of Minor Capital Improvement Program funds are authorized for the following areas, including but not limited to: maintenance and maintenance equipment, repairs, inspections, testing, maintenance agreements and service contracts related to: roofs, heating systems, ventilation and air conditioning systems, plumbing and water systems, electrical systems, windows, doors, floors, ceilings, masonry, structural built-in equipment, painting, fire suppression and life safety systems, security systems installation and maintenance, school grounds, athletic facilities and playgrounds, as well as renovations, alterations and modernizations that do not require major structural changes. Maintenance equipment may include specialized vehicles for maintaining buildings and grounds and attachments or accessories for general purpose vehicles where the attachments or accessories are for maintenance of buildings and grounds.
- 3.2 Funds allocated for a specific project shall be used only for that project. Program funds may not be used for the following: motorized vehicles not identified in subsection 3.1, routine janitorial supplies, new construction that increases the area of a building or extends any of its component systems, site improvements that add to or extend the existing roadways or sidewalks, surfacing a non-surfaced area for parking, completing major construction projects or specific items omitted or deleted from major construction projects or floor space allocated according to formula and used otherwise.

4.0 Invoices

Invoices shall be approved by the Department of Education and the Office of Management and Budget before submission to the Division of Accounting for processing. Payments may be made as the project progresses or after work has been completed and accepted, as warranted by the nature and scope of the individual project or projects.

5.0 Career Technical Program Equipment Replacement Requests

- 5.1 Replacement of Career Technical Program Equipment may be accomplished using Minor Capital Improvement Vocational Education Replacement Funds.
- 5.2 To replace Career Technical Program Equipment, the equipment must have a unit cost of \$500 or more, be obsolete or more than five (~~5~~) years old, and be purchased with state or local funds.
- 5.3 Funds shall be allocated based on the percentage of a district's Vocational Division II Units to the total of such units of all participating districts. This percentage is applied to the total funds available in a given year for Career Technical Program Equipment. Allocations for technical school districts do not require a local match.

6.0 Purchase Orders

- 6.1 Minor Capital Improvement Program project purchase orders shall be reviewed and approved by the Department of Education and the Office of Management and Budget before submission to the Division of Accounting.
- 6.2 Funds may be expended as long as the appropriation is active and continuing as authorized through legislation, usually a three (~~3~~) year period. Appropriations may be accumulated over those three (~~3~~) years and expended for a major replacement when a sufficient balance is attained. Funds unexpended when the appropriation expires shall revert to the state unless properly continued through legislation and Office of Management and Budget requirements.

7.0 Temporary Employees

Workers may be hired under the Minor Capital Improvement Program provided they are temporary hires and directly involved in the planning, constructing, or record maintenance of the construction project.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1543

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del.C. §122(d)****1543 Secondary Science 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** 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 striking and revising defined terms in Section 2.0; clarifying subsection 3.1.2, which concerns applicants who hold an educator's license or certificate from another state or jurisdiction; adding new Praxis Subject Assessments as an option in subsection 4.1.2; adding subsection 5.2, which concerns an applicant's criminal conviction history; moving the section concerning Secretary of Education review up to Section 6.0 and renumbering the existing subsequent subsections; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before August 2, 2022. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The existing and proposed 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 existing and proposed 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 Science Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 6.0, which moves existing language up, 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 proposed and existing application requirements in Section 5.0 apply to individual applicants. In addition, the proposed requirements in Section 10.0 apply to individual applicants and Educators.

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

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

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

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

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

<http://regulations.delaware.gov/register/july2022/proposed/26 DE Reg 20RFA 07-01-22.pdf>

1543 Secondary Science Teacher

1.0 Content

- 1.1 This regulation shall apply to the issuance of a 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 shall hold a Standard Certificate in each secondary science curricular area the Educator teaches in grades nine to 12 in Delaware public schools unless subsection 1.2.1 or 1.2.2 applies.
 - 1.2.1 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 The Secondary Science Teacher Standard Certificate in any secondary science curricular area may be used for grades 6, 7, 8 in a middle level Delaware public school in lieu of the Middle Level Science Teacher Standard Certificate.

2.0 Definitions

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

PROPOSED REGULATIONS

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

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Secondary Science Teacher Standard Certificate in the individual secondary science curricular areas of Biology, Chemistry, Earth Science, Integrated Science, Physical Science, and Physics to an applicant who:
 - 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
 - 3.1.2 Has met the requirements for ~~licensure~~ an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a secondary science teacher in the secondary science curricular area sought issued by another state or jurisdiction.
- 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 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
 - 4.1.1 The applicant shall have satisfied one of the following education requirements:
 - 4.1.1.1 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), (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~~ minimum score on one of the applicable Praxis Subject ~~Assessment Assessments~~ 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 a minimum score of 150 on the Praxis Subject Assessment – Biology: Content Knowledge (ETS Test Code #5235) a Passing Score of 150 or a minimum score of 154 on the Praxis: Subject Assessment - Biology (ETS Test Code #5236).
 - 4.1.2.2 For a Secondary Science Teacher Standard Certificate – Chemistry, the applicant shall have achieved a minimum score of 151 on the Praxis Subject Assessment – Chemistry: Content Knowledge (ETS Test Code #5245) a Passing Score of 154 or a minimum score of 146 on the Praxis Subject Assessment - Chemistry (ETS Test Code #5246).
 - 4.1.2.3 For a Secondary Science Teacher Standard Certificate – Physics, the applicant shall have achieved a minimum score of 140 on the Praxis Subject Assessment – Physics: Content Knowledge (ETS Test Code #5265) a Passing Score of 140 or a minimum score of 145 on the Praxis Subject Assessment - Physics (ETS Test Code #5266).
 - 4.1.2.4 For a Secondary Science Teacher Standard Certificate – Earth Science, the applicant shall have achieved a minimum score of 150 on the Praxis Subject Assessment – Earth and Space Sciences: Content Knowledge (ETS Test Code #5571) a Passing Score of 150 or a minimum score of 154 on the Praxis Subject Assessment - Earth and Space Sciences (ETS Test Code #5572).
 - 4.1.2.5 For a Secondary Science Teacher Standard Certificate – Integrated or Physical Science, the applicant shall have achieved a minimum score of 151 on the Praxis Subject Assessment – General Science: Content Knowledge (ETS Test Code #5435) a Passing Score of 154 or a minimum score of 141 on the Praxis Subject Assessment - General Science (ETS Test Code #5436).
- 4.2 For an applicant who holds at least one content area Standard Certificate, the applicant shall have achieved a ~~Passing Score~~ minimum score on one of the applicable Praxis Subject ~~Assessment Assessments~~ 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.
- 5.2 An applicant must disclose the applicant's criminal conviction history upon application for a Secondary Science Teacher Standard Certificate. Failure to disclose a criminal conviction history is grounds for denial of a Secondary Science Teacher Standard Certificate as specified in 14 **Del.C.** §1219.
- 5.2 ~~5.3~~ For applicants who are applying for a Secondary Science Teacher Standard Certificate under subsections 3.1.1 and 4.4 For an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for a Secondary Science Teacher Standard Certificate:
 - ~~5.2.4~~ 5.3.1 Evidence of obtaining and maintaining a Science certificate from the National Board for Professional Teaching Standards, if applicable; and

PROPOSED REGULATIONS

~~5.2.2~~ 5.3.2 Official transcript from the applicant's Regionally Accredited college or university.

~~5.2.2.1~~ 5.3.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

~~5.2.2.2~~ 5.3.2.2 Sealed paper transcripts may be submitted.

~~5.2.2.3~~ 5.3.2.3 The Department will not accept copies of transcripts; and

~~5.2.3~~ 5.3.3 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and

~~5.2.4~~ 5.3.4 Additional documentation as required by the Department.

~~5.3~~ 5.4 ~~For applicants who are applying for a Secondary Science Teacher Standard Certificate under subsections 3.1.1 and 4.2~~ For an applicant who holds at least one content area Standard Certificate, the following documentation is required with the application for a Secondary Science Teacher Standard Certificate:

~~5.3.1~~ 5.4.1 Official score on the Praxis Subject Assessment as provided in subsection 4.2; and

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

~~5.4~~ 5.5 ~~For applicants who are applying for the Secondary Science Teacher Standard Certificate under 3.1.2~~ For an applicant who has met the requirements for licensure as an educator in Delaware and holds a Valid and Current License or Certificate as a secondary science teacher in the secondary science curricular area sought issued by another state or jurisdiction, the following documentation is required with the application for a Secondary Science Teacher Standard Certificate:

~~5.4.1~~ 5.5.1 An official copy of the Valid and Current License or Certificate; and

~~5.4.2~~ 5.5.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

~~6.1~~ 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a 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.

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

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

~~6.0~~ 7.0 Validity of a Standard Certificate

~~6.4~~ 7.1 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~~ 7.2 A Secondary Science Teacher Standard Certificate is not subject to renewal.

~~7.0~~ 8.0 Disciplinary Action

~~7.4~~ 8.1 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~~ 8.2 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~~ 8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

~~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

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.

10.0 Contact Information and Change of Name or Address

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

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))
14 DE Admin. Code 1554

PUBLIC NOTICE

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

1554 Family and Consumer Sciences 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 1554 Family and Consumer Sciences Teacher. The regulation concerns the requirements for a Family and Consumer Sciences Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include clarifying Section 1.0; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Family and Consumer Sciences Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Family and Consumer Sciences Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which

concerns requests for the Secretary of Education to review standard certificate applications; adding Section 7.0, which concerns the validity of a Family and Consumer Sciences Teacher Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns recognizing past certificates that were issued by the Department; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before August 2, 2022. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The 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 Family and Consumer Sciences Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 6.0 is consistent with the statute.

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

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

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

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

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

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

<http://regulations.delaware.gov/register/july2022/proposed/26 DE Reg 25RFA 07-01-22.pdf>

1554 Family and Consumer Sciences Teacher

1.0 Content

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

2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 The following word words and term terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:
- "Department"** means the Delaware Department of Education.
- "Educator"** means a person licensed and certified by the State under 14 Del.C. Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.
- "Employing Authority"** means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.
- "Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.
- "License"** means a credential which authorizes the holder to engage in the practice for which the license is issued.
- "Passing Score"** means a minimum score as established by the Professional Standards Board, in consultation with the Department and with the approval of the State Board of Education.
- "Regionally Accredited"** means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.
- "Standard Certificate"** means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.
- "Standards Board"** means the Professional Standards Board established pursuant to 14 Del.C. §1201.
- "Valid and Current License or Certificate"** means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

PROPOSED REGULATIONS

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 ~~Del.C.~~ §1220(a), the Department shall issue a Family and Consumer Sciences Teacher Standard Certificate as a Family and Consumer Sciences Teacher to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; 2003 and meets the requirements in Section 4.0 of this regulation; or
 - 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and~~ Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a family and consumer sciences 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 Family and Consumer Sciences 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—Family and Consumer Sciences (ETS Test # 5122) a Passing Score of 153.~~
- 4.1 For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have satisfied one of the following education requirements:
 - 4.1.1.1 Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in family and consumer sciences from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or
 - 4.1.1.2 Satisfactorily completed an alternative routes for licensure or certification program to teach family and consumer sciences as provided in 14 Del.C. §§1260 - 1266; or
 - 4.1.1.3 Satisfactorily completed a Department-approved educator preparation program in family and consumer sciences; or
 - 4.1.1.4 If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 DE Admin. Code 1510, earned a bachelor's degree from a Regionally Accredited college or university in any content area and also satisfactorily completed 15 college credits related to family and consumer sciences of which at least six credits focus on pedagogy or an equivalent number of hours in professional development with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department.
 - 4.1.1.4.1 The applicant, in consultation with the applicant's Employing Authority, shall select the 15 credits or the equivalent number of hours in professional development subject to the Department's approval.
 - 4.1.1.4.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional

development in consultation with the Department and subject to the Department's approval.

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

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

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

4.1.1.4.4.2 The activity is grounded in research and current best practices as judged by the Department's content specialist in family and consumer sciences; and

4.1.1.4.4.3 The activity is documented by the provider to provide knowledge and skills that are required for the family and consumer sciences certification; and

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

4.1.2 The applicant shall have achieved a minimum score of 153 on the Praxis Subject Assessment - Family and Consumer Sciences (ETS Test Code # 5122).

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

5.0 Application Requirements

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

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

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

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

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

5.3.1.2 Sealed paper transcripts may be submitted.

5.3.1.3 The Department will not accept copies of transcripts; and

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

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

5.3.4 Additional documentation as required by the Department.

5.4 For an applicant who holds at least one content area Standard Certificate, the following documentation is required with the application for a Family and Consumer Sciences Teacher Standard Certificate:

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

5.4.2 Additional documentation as required by the Department.

5.5 For an applicant who has met the requirements for licensure as an educator in Delaware and holds a Valid and Current License or Certificate as a family and consumer sciences teacher issued by another state or jurisdiction, the following documentation is required with the application for a Family and Consumer Sciences Teacher Standard Certificate:

PROPOSED REGULATIONS

- 5.5.1 An official copy of the Valid and Current License or Certificate; and
- 5.5.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

- 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Family and Consumer Sciences 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 Family and Consumer Sciences Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.
 - 6.1.1 For school districts, requests shall be approved by the superintendent of the school district.
 - 6.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

7.0 Validity of a Standard Certificate

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

8.0 Disciplinary Action

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

9.0 Past Certificate Recognized

The Department shall recognize a Family and Consumer Sciences Teacher Standard Certificate issued prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to teach family and consumer sciences.

10.0 Contact Information and Change of Name or Address

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

Statutory Authority: 16 Delaware Code, Section 122(3)p (16 Del.C. §122(3)p)
16 DE Admin. Code 3355

PUBLIC NOTICE

3355 Free Standing Surgical Centers

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

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Corinna.Getchell@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on August 1, 2022. Please identify in the subject line: Regulations Governing Free Standing Surgical Centers.

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services/Division of Health Care Quality is proposing regulations governing Free Standing Surgical Centers.

Statutory Authority
16 Del.C. §122(3)(p)

Background

As more services are being provided in the community setting, it is necessary to ensure outpatient surgical services are provided in accordance with recognized standards of practice.

Summary of Proposal

Summary of Proposed Changes

The Division of Health Care Quality plans to publish the "proposed" amendments to the regulations governing free standing surgical centers and hold them out for public comment per Delaware law. The purpose of this proposed amendment is to update the requirements to be consistent with federal requirements and nationally recognized standards of practice to ensure patients receive safe and quality care from a free standing surgical center.

Public Notice

In accordance with the state public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, Delaware Health and Social Services/Division of Health Care Quality gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on August 1, 2022.

Fiscal Impact
Not applicable

PROPOSED REGULATIONS

*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/july2022/proposed/26 DE Reg 31RFA 07-01-22.pdf>

3355 Free Standing Surgical Centers (Break in Continuity of Sections)

4.0 General Requirements

4.1 The FSSC shall be in compliance with federal, state and local laws and codes.

(Break in Continuity Within Section)

4.5 The provisions of the 2018 2022 Facility Guidelines Institute's Guidelines for Design and Construction of Health Care Facilities, are hereby adopted as the regulatory requirements for FSSCs in Delaware and are hereby referred to, and made part of this Regulation, as if fully set out herein.

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

3355 Free Standing Surgical Centers

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

PUBLIC NOTICE

Targeted Case Management Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Targeted Case Management (TCM).

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on August 1, 2022. Please identify in the subject line: Targeted Case Management Services.

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

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Targeted Case Management (TCM).

Statutory Authority

- 42 CFR §440.169(b), Targeted Case management services
- 42 CFR §441.18, Case management services, specific requirements
- 42 CFR §447.205, Public notice of changes in statewide methods and standards for setting payment rates
- §1915(g) of the Social Security Act, location and comparability of case management services

Background

In 2017, Delaware added Targeted Case Management as an optional Medicaid State Plan Service. Delaware

added two distinct Medicaid target groups comprised of individuals who meet the Delaware DDDS eligibility criteria and who live in specified settings:

- Individuals living in their own home or family home, and
- Individuals authorized to receive Residential Habilitation in a provider managed residential setting under the DDDS Lifespan Medicaid Home and Community Based Waiver.

The Division of Developmental Disabilities Services (DDDS) has managed the TCM service for both target groups since the creation of this program.

TCM Provider Qualifications: Under the current TCM program, case managers employed directly by DDDS provide TCM to the target group of individuals living in a provider managed residential setting. DDDS contracts with a private vendor to provide TCM for the target group of individuals living in their own home or their family home. The current provider qualifications for each target group are codified in Supplements 3 and 4 to Attachment 3.1-A of the Delaware Medicaid State Plan.

The changing dynamics of the labor market have made it difficult to find and retain qualified candidates for State positions in the face of increasing competition for these workers. This has resulted in unacceptable increases in caseload ratios for individuals living in a provider managed residential setting. DDDS desires to amend the TCM provider criteria to give the state the flexibility to provide TCM for both target groups using either DDDS State employees or contracted TCM providers.

TCM Reimbursement Methodology: The current approved reimbursement methodology computes a retrospective provider-specific cost-based rate that uses a carry forward adjustment to adjust for a provider's differences between estimated and actual costs from the prior period. During the five years since the program's inception, the carry forward adjustment, combined with changes to the TCM service delivery model that have been implemented over time, have resulted in wide swings in the annual TCM rates. These swings make the rates unpredictable and are likely to discourage current and prospective providers from wanting to provide TCM to these target groups. Because the current methodology uses prior year costs, it also limits the state's ability to incorporate demographic, programmatic and policy changes that impact program costs as they occur. These methodologies are currently codified as Attachment 4.19-B, pages 27 and 28 of the Delaware Medicaid State Plan.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to amend the provider qualifications and the reimbursement methodology to enable DDDS to increase provider capacity so that DDDS can maintain desired case load ratios for both target groups and to pay a rate for each target group that incorporates all program components and assures an adequate supply of TCM providers.

Summary of Proposed Changes

Effective for dates of service on or after July 1, 2022, DDDS proposes to amend the provider qualifications and the reimbursement methodology for both target groups.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on August 1, 2022.

Centers for Medicare and Medicaid Services Review and Approval

The provisions of this state plan amendment (SPA) are subject to approval by the Centers for Medicare and Medicaid Services (CMS). The draft SPA page(s) may undergo further revisions before and after submittal to CMS based upon public comment and/or CMS feedback. The final version may be subject to significant change.

PROPOSED REGULATIONS

Provider Manuals and Communications Update

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

Fiscal Impact

The fiscal note for the reimbursement change is based on historical data for the program trended forward to the rate period using the CPI because the new rate methodology will be a prospective fee schedule.

The following fiscal impact is projected because of the proposed change in reimbursement methodology:

	Federal Fiscal Year 2022	Federal Fiscal Year 2023
General (State) funds	\$ 27,086	\$ 124,651
Federal funds	\$ 47,988	\$ 175,641

***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/july2022/proposed/26 DE Reg 32RFA 07-01-22.pdf>

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

Targeted Case Management Services

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)t and Sections 2601-2606 (16 Del.C. §122(3)t & §§2601-2606)
16 DE Admin. Code 4459A

PUBLIC NOTICE

4459A Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months

Pursuant to 16 Del.C. §122(3)(t) and §§ 2601-2606, the Health Systems Protection Section of the Division of Public Health, Department of Health and Social Services, is proposing revisions to the Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months. On July 1, 2022, the Division of Public Health plans to publish as "proposed" revisions to the Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months regulations. The revisions include:

- Renamed regulation to remove outdated reference;
- Updated and added new definitions;
- Updated requirements for blood lead testing, including age requirements and documentation and reporting requirements; and
- Technical corrections.

These revisions are required by House Bill 222 as amended by House Amendment 1 (151st GA).

Copies of the proposed regulations are available for review in the July 1, 2022 edition of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

NOTICE OF PUBLIC HEARING

The Division of Public Health will hold a public hearing on Tuesday, July 26, 2022 at 5:00 p.m. The public hearing will be conducted remotely. Details about the remote platform and how to attend will be posted on the State Public Meeting Calendar at the following link:
<https://publicmeetings.delaware.gov/#/meeting/72319>.

Any person who wishes to make written suggestions, testimony, briefs, or other written materials concerning the proposed regulations must submit them by Wednesday, August 10, 2022, at:

Division of Public Health
417 Federal Street
Dover, DE 19901
Email: DHSS_DPH_regulations@delaware.gov
Phone: (302) 744-4951

***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/july2022/proposed/26 DE Reg 34RFA 07-01-22.pdf](http://regulations.delaware.gov/register/july2022/proposed/26%20DE%20Reg%2034RFA%2007-01-22.pdf)

4459A Regulations Governing the Childhood Lead Poisoning Prevention Act ~~for Children Between the Ages of 22 and 26 Months~~

1.0 ~~General Provisions.~~ Provisions

1.1 Preamble.

~~1.1.1~~ These regulations are adopted by the Secretary of Delaware Health and Social Services pursuant to 16 **Del.C.**, §122(3)(t) and ~~§ 2602 §§2601-2606~~. These regulations establish standards for blood lead testing of children between ~~22~~ 12 and ~~26~~ 24 months of age ~~who are at high risk of to test for~~ lead poisoning. These regulations also establish a record retention policy, enforcement ~~modalities~~ modalities, and penalties for violators.

2.0 ~~Definitions.~~ Definitions

For purposes of this chapter, the following definitions shall apply:

"Administer a blood test for lead" means to draw a blood specimen, by either venous or capillary methodology, and:

(a) Send the specimen to a medical laboratory for blood lead analysis; or

(b) Conduct a blood lead analysis at a health care provider's office; or

(c) Order a blood specimen to be drawn by a third-party health care provider, by either venous or capillary methodology, and sent to a medical laboratory for blood lead analysis.

"Blood lead analysis" means the analysis and determination by a medical laboratory of the blood lead level in a blood specimen.

"Blood lead registry" means the database maintained by the Department that includes the results of all blood lead testing reported to the Department.

~~**"Blood lead testing"** means taking a capillary or venous sample of blood for point of care testing using a Clinical Laboratory Improvement Act of 1988 (CLIA) licensed or waived test or sending it to a laboratory to determine the level of lead in the blood.~~

PROPOSED REGULATIONS

“**Capillary**” means a blood sample taken from the capillaries in the finger or heel for lead analysis.

“**Childhood Lead Poisoning**” means a medical condition confirmed by means of a venous blood lead level, measured in micrograms of lead per deciliter of whole blood, established by rule by the Delaware Division of Public Health based on the best available information about the effects of elevated blood lead levels.

“**Department**” means the Delaware Department of Health and Social Services.

“**Division**” means the Delaware Division of Public Health.

“**Health care provider**” means ~~the~~ an individual that generally provides medical care to a child including, ~~but not limited to,~~ a physician, a ~~physician’s assistant~~ physician assistant, or a nurse.

“**High risk**” means ~~a child between the ages of 22 and 26 months who meets any of the following conditions:~~

- ~~• Is suspected by a parent or a health care provider to be at risk for lead exposure or to exhibit the symptoms of lead poisoning.~~
- ~~• Has a sibling or frequent playmate with lead poisoning.~~
- ~~• Is a recent immigrant, refugee, or foreign adoptee.~~
- ~~• Has a household member who uses traditional, folk, or ethnic remedies or cosmetics or who routinely eats food imported informally (e.g., by a family member) from abroad.~~
- ~~• Lives in or regularly visits a house or day care center (including out buildings) built before 1978.~~
- ~~• Lives with an adult whose job or hobby involves exposure to lead (e.g. construction, welding, pottery, mechanic, jeweler, plumber, renovator, firing range enthusiast, stained glass maker).~~
- ~~• Lives near an active lead smelter, battery recycling plant, or other industry likely to release lead.~~
- ~~• Lives in, attends day care in, or visits any of the following zip code areas at least 6 hours a week or 60 hours a year:~~
 - ~~• **197XX:** 01, 02, 03, 06, 09, 11, 13, 20, 33~~
 - ~~• **198XX:** 01, 02, 03, 04, 05, 06, 08, 09, 10~~
 - ~~• **199XX:** 01, 04, 33, 34, 38, 39, 40, 41, 43, 45, 46, 47, 50, 52, 53, 56, 58, 60, 62, 63, 66, 68, 71, 73, 75, 77.~~

“**Laboratory**” means a laboratory certified to perform either waived or non-waived blood lead analysis according to the federal Clinical Laboratory Improvement Act of 1988 (CLIA).

“**Low Risk**” means ~~a child between the ages of 22 and 26 months who does not meet any of the conditions listed in the definition for “High Risk”.~~

“**Parent or guardian**” means an individual acting in a primary custodial capacity.

“**Reference level**” means the revised blood lead reference level as determined by the Centers for Disease Control and Prevention.

“**Venous**” means a blood sample taken from a vein ~~in the arm~~ for lead analysis.

3.0 ~~Requirement.~~ Requirement for Blood Tests for Lead Poisoning

3.1 The A primary health care provider of for a child between the ages of 22 and 26 months shall determine if said child is at high risk of lead poisoning. If the child is determined to be at high risk, the health care provider shall perform or cause to be performed a blood lead test. shall administer or order a blood test for lead when the child is at or around 12 months of age and again at or around 24 months of age.

3.2 A primary health care provider for a child who is 24 months old or older and younger than six years old shall administer a blood test for lead in the following circumstances:

3.2.1 If the child has not previously received a blood test for lead;

3.2.2 If the child’s parent or guardian fails to provide documentation that the child has previously received a blood test for lead;

3.2.3 If the health care provider is unable to obtain the results of a previous blood lead analysis; or

3.2.4 If the child's parent or guardian requests that the child receive a blood test for lead regardless of the child's age or area of residence.

3.3 A health care provider shall administer or order a blood test for lead, by venous methodology, if the results of a capillary blood test for lead poisoning indicate blood lead level result greater than or equal to the reference level in a child younger than six years old.

3.4 A health care provider giving non-primary care to a child may, but is not required to, administer a blood test for lead, even if a blood test for lead is not medically indicated.

3.5 If a child is insured under Delaware's Medicaid program, the child's primary health care provider shall administer a blood test for lead to the child at the 12-month visit and again at the 24-month visit in accordance with Early and Periodic Screening, Diagnosis and Treatment (EPSDT) requirements regardless of the child's area of residence.

4.0 ~~Applicability.~~ Applicability

4.1 The blood lead testing requirement specified in these regulations applies to all children 22 to 26 months of age except those determined not to be at high risk under six years of age (younger than 72 months of age).

4.2 Blood lead testing is not required on a child between the ages of 22 and 26 months when said child is determined by the health care provider to be at low risk for elevated blood lead levels. If a health care provider determines that a child is low risk, the health care provider will keep the completed risk assessment questionnaire (with all "NO" responses) in the child's chart for at least three years.

5.0 ~~Religious exemption.~~ Exemption

A religious exemption may be granted to a child if the blood lead testing conflicts with a genuine and sincere religious belief and not a belief based merely on philosophical, scientific, moral, personal, or medical opposition to blood lead testing. A certificate of blood lead testing exemption for religious reasons beliefs shall be signed and dated by the child's parent or guardian, notarized, and kept in the child's medical chart.

6.0 ~~Time-line~~ Timeline for valid blood lead testing. Valid Blood Lead Testing

To be valid, a blood lead test shall be performed, as required by these regulations, on a child after completion of a risk assessment questionnaire when the child is between the ages of 22 and 26 months when the child is at or around 12 months of age and again when the child is at or around 24 months of age. Children that test with blood lead levels above the level of concern established by the Centers for Disease Control ("CDC"), which is currently 10 µg/dl, will Division must have a venous confirmation by a laboratory prior to intervention blood test.

7.0 ~~Documentation.~~ Blood Lead Testing Documentation and Reporting Requirements

7.1 A health care provider and a laboratory performing a blood lead test required by these regulations shall ensure that the results of the blood lead test are reported to the Division.

7.2 Proof of blood lead testing will be verified through the Blood Lead Registry and by auditing a child's medical charts. The laboratory, health care provider's office, or other facility that draws a blood specimen from a child 18 years old or younger for a blood lead level test shall obtain the information required by this regulation at the time of drawing the blood specimen.

7.3 A laboratory that performs blood lead analysis shall provide a referral form of paper or electronic requisition that specifies the required information for use by a laboratory, a health care provider's office, or another facility that draws a blood specimen.

7.3.1 The facility that draws a blood specimen shall:

7.3.1.1 Record the information required under this regulation on the laboratory's referral form or similar form; and

PROPOSED REGULATIONS

7.3.1.2 Forward the required information concurrently with the blood specimen to the laboratory that performs blood lead analysis.

7.4 A laboratory required to report a blood lead level test under this regulation shall report the blood lead level test in the format approved by the Division and shall include the following information:

7.4.1 The child's demographic information, including:

7.4.1.1 First name, middle initial, and last name;

7.4.1.2 Date of birth;

7.4.1.3 Country of birth;

7.4.1.4 Sex;

7.4.1.5 Race and ethnicity;

7.4.1.6 Master Client Index (MCI) number if the child is enrolled in Medicaid or a Delaware children's health program;

7.4.1.7 Complete home address at the time the blood specimen was drawn, including house or apartment number, street, city or town, county, zip code, and state;

7.4.1.8 Telephone number; and

7.4.1.9 Parent's or guardian's name.

7.4.2 Type of blood specimen, venous or capillary, and the blood draw date;

7.4.3 The health care provider's name, office name, address, telephone number, and national provider identifier (NPI);

7.4.4 If the draw site is different from the health care provider's office, the laboratory's or other facility's name, address, telephone number, and NPI;

7.4.5 All of the following information about the laboratory performing the blood lead analysis:

7.4.5.1 Laboratory name, address, telephone number, and clinical laboratory improvement amendment number (CLIA);

7.4.5.2 Laboratory method used to analyze the blood specimen;

7.4.5.3 The limit of detection for the method used to analyze the blood specimen; and

7.4.5.4 If reporting a "no result" test results, the limit of detection for the laboratory.

7.4.6 Blood lead level in micrograms per deciliter expressed with a numeric results comparator of:

7.4.6.1 Equal, if the blood lead level is an exact measurement; or

7.4.6.2 Less than or greater than, if a blood lead level reading is below or above a certain level that a device used to analyze a blood specimen can accurately record.

7.4.7 Additional information as may be required by the Division.

8.0 Records.

~~A completed risk assessment questionnaire, including the determination of the child's risk of lead poisoning, shall be maintained in a child's medical chart for at least three years. The Division will conduct scheduled and impromptu chart audits to monitor compliance.~~

8.0 Missing Information

8.1 A laboratory that receives a blood specimen from a laboratory, a health care provider's office, or another facility without all of the required information listed in Section 7.0 included on the referral form required under subsection 7.3 shall:

8.1.1 Within three business days of receipt of the blood specimen, send to the facility that provided the blood specimen a written or electronic message citing the requirements of this regulation, requesting that all the required missing information be forwarded to the laboratory; and

8.1.2 Upon receipt of the required information, collate and transmit the information to the Division within the time frames set forth in this regulation.

- 8.2 When the laboratory reports a blood lead level test result to the Division with one or more of the requirements listed in Section 7.0 omitted, the laboratory shall concurrently provide the name and address of the facility that:
- 8.2.1 Drew the blood specimen; and
 - 8.2.2 Failed upon request to forward the required information to the laboratory.
- 8.3 The facility that drew the blood specimen shall respond to a written or electronic message from a laboratory that did not receive all of the required information listed in Section 7.0 by providing the information to the laboratory within:
- 8.3.1 One business day of receiving the message regarding a blood lead level test result of greater than or equal to the reference level;
 - 8.3.2 Five business days of receiving the message for a blood lead level test result of less than the reference level.
- 8.4 A laboratory not permitted to perform a blood lead analysis that accepts a blood specimen from a health care provider for referral to another laboratory for blood lead analysis shall ensure that:
- 8.4.1 The requisition record includes all of the information that is required under this regulation; and
 - 8.4.2 The required information is transmitted to the laboratory performing the blood lead analysis along with the blood specimen.
- 8.5 Reporting a Blood Lead Level test result with missing information:
- 8.5.1 A laboratory shall collate information required under Section 7.0 that is collected to complete a previously incomplete requisition record for a blood lead level test before submitting the information to the Division in accordance with this regulation.
 - 8.5.2 A laboratory shall report to the Division the missing information collated pursuant to this regulation:
 - 8.5.2.1 Concurrently with the blood lead level test result, if the reporting time frame for a blood lead level test result established in subsection 8.3 has not concluded; or
 - 8.5.2.2 In a manner indicating that there has been a change in the blood lead level test record, if reporting the missing information after the initial blood lead level test result was reported to the Division.

9.0 Additional Reporting Requirements

- 9.1 In addition to the reporting requirements set forth in Section 7.0, a laboratory shall report the result of a blood lead level test to:
- 9.1.1 The health care provider that ordered the blood lead level test; and
 - 9.1.2 Another entity as required by State, federal, or local statutes or regulations, or in accordance with accepted standards of practice.
- 9.2 A laboratory shall report the result of a blood lead level test to the Division by electronic system, facsimile or other manner required by the Division within the following time frames:
- 9.2.1 By the close of business of the next business day following a final blood lead level test result of greater than or equal to the reference level; and
 - 9.2.2 Within two weeks of a final blood lead level test result of less than the reference level.
- 9.3 A laboratory that uses an electronic system for tracking blood lead level test results shall report a result to the Division electronically in a manner consistent with the technical specifications established by the Division.

10.0 Proof of Documentation Requirements Prior to Child Care or School Enrollment

- 10.1 Upon first admission or continued enrollment, the parent or guardian of a child 12 months of age or older shall provide to the administrator of a child care facility, public or private nursery school, preschool, or kindergarten proof from their child's primary health care provider that the child received a blood test for lead poisoning.

PROPOSED REGULATIONS

- 10.2 Except in the case of enrollment in kindergarten, the blood test may be done within 30 calendar days of the date of enrollment.
- 10.3 A child's parent or guardian must provide one of the following to the administrator of a child care facility, public or private nursery school, preschool, or kindergarten:
- 10.3.1 A statement from the child's primary health care provider that the child has received a blood test for lead poisoning;
- 10.3.2 A certificate signed by the parent or guardian stating that the blood test is contrary to the parent's or guardian's religious beliefs; or
- 10.3.3 Certified documentation of the child's blood lead analysis, as specified in this regulation, administered in connection with the 12-month visit and 24-month visit to the child's health care provider not later than:
- 10.3.3.1 30 calendar days from the 12-month visit or 24-month visit; or
- 10.3.3.2 30 calendar days from first entry into the program or system.
- 10.4 If the child's first blood test for lead poisoning was administered after the child is 24 months old, then only certified documentation of the most recent blood lead analysis is required to be reported.
- 10.5 If a child has more than two blood tests for lead poisoning done between the ages of 12 months and 24 months, then only certified documentation of the two most recent blood lead analyses shall be reported.
- 10.6 The information sent to or received by a program or school shall be recorded and certified by a health care provider's signature on a form that includes the following:
- 10.6.1 Name of the child;
- 10.6.2 Date of the blood lead analysis; and
- 10.6.3 The signature of the child's primary health care provider or designee.

~~9.0~~ 11.0 Severability. Severability

If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect the validity of other provisions or applications of these regulations.

~~40.0~~ 12.0 Penalty. Penalty

Violators are subject to sanctions pursuant to 16 ~~Del.C.~~, Del.C. §107 for each violation of the requirements established in these regulations.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY OFFICE OF HIGHWAY SAFETY

Statutory Authority: 21 Delaware Code, Section 4177G (21 ~~Del.C.~~ §4177G)
2 ~~DE Admin. Code~~ 1203

PUBLIC NOTICE

1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees

Purpose: In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 21 of the Delaware Code, Chapter 41, Section 4177G, the Delaware Department of Safety and Homeland Security (DSHS) is proposing to repeal 1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees to be consistent with changes in basic law. In August 2014, 21 ~~Del.C.~~ §4177F was repealed and 21 ~~Del.C.~~ §4177G was modified to include an Ignition Interlock Device (IID) Program through the Department of Transportation. The Office of Highway Safety no longer possesses the appropriate statutory authority under which 2 ~~DE Admin. Code~~ 1203 was promulgated and it has since been replaced by 2 ~~DE Admin. Code~~ 2223 Ignition Interlock Device Installation, Removal and Monthly

Monitoring and Calibration Fees by the Department of Transportation on March 1, 2022.

Written Comments: The Delaware Department of Safety and Homeland Security will receive written comments, suggestions briefs or other written material until the close of business, 4:30 p.m., August 5, 2022. Written comments shall be submitted via e-mail to Kimberly.Chesser@delaware.gov or via the USPS to Kimberly A. Chesser, Director, Delaware Office of Highway Safety, 800 Bay Road, Suite 2, Dover, DE 19901.

***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/july2022/proposed/26 DE Reg 40RFA 07-01-22.pdf>

1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees

* Please Note: Jurisdiction was transferred to the Division of Motor Vehicle, July 2010. Please see: 2 DE Admin. Code 2223

1.0 Authority

The authority to promulgate this regulation is 21 ~~Del.C.~~ §4177F(e).

2.0 Purpose

~~Title 21 Del.C. §4177F established a program utilizing the Ignition Interlock device for those individuals with an alcohol related violation or offense. After surveying the fees charged by surrounding jurisdictions for similar services, this policy regulation will establish a fee schedule for all expenses related to installation and lease of the device.~~

3.0 Applicability

~~This policy regulation concerns Title 21 Del.C. §4177F.~~

4.0 Substance of Policy

4.1 Installation of Device

4.1.1 ~~All persons who voluntarily or as a result of a court order, install an Ignition Interlock device in a motor vehicle monitored in conjunction with the Division of Motor Vehicles, will be charged a fee by the provider for that service, and this fee will include the cost of removing the device at the termination of the program.~~

4.1.2 ~~The service providers shall charge a fee not to exceed \$100.00 for installation of the Interlock device, but this amount includes a rebate of \$30.00 which will be returned to the client at the time of removal. This fee shall be the responsibility of the clients.~~

4.2 Monthly Monitoring & Calibration

4.2.1 ~~All persons with an Ignition Interlock device installed in a vehicle monitored in conjunction with the Division of Motor Vehicles, shall be charged a fee for the monthly electronic monitoring and regular calibration of the device.~~

4.2.2 ~~The service providers shall charge a fee not to exceed \$75.00 for monthly monitoring and calibration. This fee shall be the responsibility of the clients.~~

4.3 Initial down Payment

4.3.1 ~~The initial payment will include the installation fee and the first month's monitoring and calibration. The initial payment, therefore, shall not exceed \$175.00 and the bi-monthly payment shall not exceed \$150.00~~

4.4 Other Fees

4.4.1 ~~The Division of Motor Vehicles recognizes that Service providers may charge fees for other services outside the scope of this policy regulation, including but not limited to fees for missed~~

PROPOSED REGULATIONS

~~appointments, device resets, and optional insurance programs relating to damage or loss of the device.~~

~~4.5 Definition of Alcohol Related Violations and Offenses~~

~~4.5.1 For purposes of this policy regulation, alcohol-related violations and offenses shall mean violations of Sections 2740, 2742, 4177, 4177B, 4175 of Title 21, conforming statutes of other states or the District of Columbia, or local ordinances in conformity therewith.~~

5.0 Severability

If any part of this Regulation is held to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, said portion shall be severed and the remaining portions of this Regulation shall remain in full force and effect under Delaware law.

6.0 Effective Date

The following regulation shall be effective 10 days from the date the order is signed and it is published in its final form in the Register of Regulations in accordance with 29 Del.C. §10118(e).

DIVISION OF STATE POLICE

Statutory Authority: 21 Delaware Code, Section 6901(c) (21 Del.C. §6901(c))
2 DE Admin. Code 1301

PUBLIC NOTICE

1301 Nonconsensual Towing

Purpose: In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 21 of the Delaware Code, Chapter 69, Section 6901(c), the Delaware Department of Safety and Homeland Security proposes to revise its regulations. The proposed regulations are to promote public safety for non-consensual towing initiated by the Delaware State Police.

Written Comments: The Delaware Department of Safety and Homeland Security will receive written comments, suggestions, briefs or other written material until the close of business, 4:30 p.m., August 5, 2022. Written comments shall be submitted via e-mail to Mark.Windsor@delaware.gov or via the USPS to Captain Mark D. Windsor #158, Delaware State Police, Director of Traffic Operations, P.O. Box 430, Dover, DE 19901.

***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/july2022/proposed/26 DE Reg 42RFA 07-01-22.pdf>

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

1301 Nonconsensual Towing

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

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

PUBLIC NOTICE

1400 Board of Electrical Examiners

Pursuant to 24 Del.C. §1406(a)(1), the Delaware Board of Electrical Examiners has proposed revisions to its rules and regulations. The rules are designed to address modifications to the processing of homeowner's permits. A public hearing will be held on September 7, 2022 at 8:30 a.m. (on the second floor in conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904) where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Electrical Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. Written comments will be accepted until September 22, 2022 in accordance with 29 Del.C. §10118(a).

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

<http://regulations.delaware.gov/register/july2022/proposed/26 DE Reg 43RFA 07-01-22.pdf>

1400 Board of Electrical Examiners
(Break in Continuity of Sections)

14.0 Homeowners Permits

- 14.1 The Division of Professional Regulation is authorized to issue homeowners' permits pursuant to an application process approved by the Board. Only owner-occupants who perform the work themselves qualify for homeowners' permits. The homeowner is required submit their plan for the work to be completed to one of the Board-approved Electrical Inspection Agencies for review and approval. The homeowner will then submit the approved plan to the Division of Professional Regulation with the homeowner's application for the Board's consideration.
- 14.2 Homeowners' permits are required for new construction, renovation, and any work that requires a building permit. Generally, homeowners' permits are not required for replacement in kind.
- 14.3 A homeowner shall not be permitted to install his or her own internal wiring, electrical work or equipment associated with a hot tub or a swimming pool.
- 14.4 A homeowner's permit issued for a mobile home on a leased lot authorizes feeder installation for the mobile home itself and it does not include the installation or repair of service equipment.
- 14.5 A homeowner's permit is not authorized until a dwelling is on the site or under construction.
- 14.6 For the purposes of this section, evidence of homeownership can be a:
 - 14.6.1 deed to the property;
 - 14.6.2 a long term lease, e.g. 99 years, if the site of the dwelling is part of a community where title to the land is not conveyed by deed to the homeowner.
 - 14.6.3 the title to a mobile home;
 - 14.6.4 a written contract of sale, signed by the parties, for a mobile home that includes the names of the buyer, seller, contract price, date of sale, and identification number of the mobile home.
- 14.7 If a homeowner's permit is approved for a one-family dwelling unit on a lot, other non-commercial structures on the same lot, such as a non-commercial garage, are also covered unless otherwise prohibited under this section.

PROPOSED REGULATIONS

- 14.8 Homeowner permits may only be issued for free standing non-commercial structures and ~~single-family dwellings~~ one family dwelling units.

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

1400 Board of Electrical Examiners

Symbol Key

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. **[Bracketed Bold language]** indicates text added at the time the final order was issued. ~~**[Bracketed bold-stricken through]**~~ indicates language deleted at the time the final order was issued.

Final Regulations

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt within the time allowed of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

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

DEPARTMENT OF AGRICULTURE THOROUGHBRED RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10103(c) (3 **Del.C.** §10103(c))
3 **DE Admin. Code** 1001

ORDER

1001 Thoroughbred Racing Rules and Regulations

I. NATURE OF PROCEEDINGS

Pursuant to its authority under 3 *Del.C.* §10103(c) the State of Delaware, Department of Agriculture proposed to amend its regulations to amend Rule 13.1.3 to change the existing open rule regarding who must obtain an "Open Claiming License."

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

II. FINDINGS AND CONCLUSIONS

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

2. There were no public comments provided to the Thoroughbred Racing Commission during the written public Comment period.

3. Pursuant to 3 *Del. C.* §10103(c) and 3 DE Admin. Code 1001, the Thoroughbred Racing Commission has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. The proposed changes clarify who must obtain an "Open Claiming License" in order to be eligible to make a claim. Those owners who have never held an Owner's license from the Commission and those who were previously licensed by the Commission must obtain an "Open Claiming Process."

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

III. DECISION AND ORDER CONCERNING THE REGULATIONS

AND NOW on this 18th day of May 2022, it is hereby ordered that:

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

Delaware Thoroughbred Racing Commission
Sarah A. Crane, Executive Director

***Please note that no changes were made to the regulation as originally proposed and published in the March 2022 issue of the *Register* at page 806 (25 DE Reg. 806). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1001 Thoroughbred Racing Rules and Regulations

THOROUGHBRED RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10103(c) (3 **Del.C.** §10103(c))
3 **DE Admin. Code** 1001

ORDER

1001 Thoroughbred Racing Rules and Regulations

I. NATURE OF PROCEEDINGS

Pursuant to its authority under 3 **Del.C.** §10103(c) the State of Delaware, Department of Agriculture proposed to amend its regulations to amend Rule 15.0 to update references to the current version of ARCI Controlled Therapeutic Medical Schedules and 18.1 to increase flexibility in scheduling of steward's hearings by increasing the time to schedule the hearing from three racing days to five calendar days.

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

II. FINDINGS AND CONCLUSIONS

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

2. There were no public comments provided to the Thoroughbred Racing Commission during the written public Comment period.

3. Pursuant to 3 *Del. C.* §10103(c) and 3 DE Admin. Code 1001, the Thoroughbred Racing Commission has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. The proposed changes amend Rule 15.0 to update references to the current version of ARCI Controlled Therapeutic Medical Schedules and 18.1 to increase flexibility in scheduling of steward's hearings by increasing the time to schedule the hearing from three racing days to five calendar days.

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

III. DECISION AND ORDER CONCERNING THE REGULATIONS

AND NOW on this 10th day of June 2022, it is hereby ordered that:

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

Delaware Thoroughbred Racing Commission
Sarah A. Crane, Executive Director

***Please note that no changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 900 (25 DE Reg. 900). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1001 Thoroughbred Racing Rules and Regulations

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122 and 29 Delaware Code, Section 10407 (14 *Del.C.* §122 & 29 *Del.C.* §10407)
14 *DE Admin. Code* 255

REGULATORY IMPLEMENTING ORDER

255 Definitions of Types of Schools

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

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

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on April 1, 2022. In addition, notice was published in *The News Journal* and the *Delaware State News* on April 1, 2022, in the form hereto attached as *Exhibit "A"*. A comment was received which was pertinent to the proposed amendments suggested the Department consider the following:

- (1) The need to change the definition of "Charter School" to allow for remote programs, including remote

synchronous or asynchronous days. This change should be made in order to align with other definitions in which attendance is not included.

Response: The Department agrees that the definition of "Charter School" needs to be clarified to remove the "personal physical attendance" given that charter schools are able to operate virtually. Therefore, the definition of "Charter School" will be updated to read "means a public school that is operated under a charter granted by, or transferred to, the Department of Education or other authorizing body pursuant to 14 **Del.C.** Ch. 5."

The Department believes additional clarification is needed to further streamlined the definitions by either referencing the applicable Delaware Code citation or removing duplicative and unnecessary descriptions as required by the *Delaware Administrative Code Drafting and Style Manual*. Therefore, these changes were made to the regulation as well.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 255 Definitions of Types of Schools in order to include magnet schools, provide general clarification and to comply with the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 255 Definitions of Types of Schools. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 255 Definitions of Types of Schools attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 255 Definitions of Types of Schools hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 255 Definitions of Types of Schools amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 255 Definitions of Types of Schools in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on June 13, 2022. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 13th day of June 2022.

Department of Education

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

Approved this 13th day of June 2022

255 Definitions of Types of Schools

1.0 Purpose

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

2.0 Definitions

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

"**Charter School**" means a ~~[non-home-based]~~ public school ~~[including two or more of grade kindergarten through twelve, operating in an approved physical plant for the personal physical attendance of all students and is managed by a board of directors. It exists that is operated]~~ under a charter granted ~~[by a public school district or by, or transferred to,]~~ the Delaware Department of ~~[Education, with the approval of the State Board of Education, Education or other authorizing body]~~ pursuant to 14 Del.C. Ch. 5.

"**Homeschool**" means a nonpublic school ~~[as defined in pursuant to]~~ 14 Del.C. §2703A.

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

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

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

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

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

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

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

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

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122 (14 Del.C. §122)
14 DE Admin. Code 736

REGULATORY IMPLEMENTING ORDER**736 Local School District and Charter School Citizen Budget Oversight Committees****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 Del.C. §122, the Secretary of Education intends to amend 14 DE Admin. Code 736 Local School District and Charter School Citizen Budget Oversight Committees. The Department has reviewed the regulation in order to comply with 29 Del.C. §10407 which requires regulations to be reviewed on a recurring basis every four years and concluded that the regulation only needs grammatical correction in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on April 1, 2022. In addition, notice was published in *The News Journal* and the *Delaware State News* on April 1, 2022, in the form hereto attached as *Exhibit "A"*. Comments received which were pertinent to the proposed amendments suggested the Department consider the following:

- (1) The need to change the definition of "Charter School" to allow for remote programs, including remote synchro-nous or asynchronous days. This change should be made in order to align with other definitions in which attend-ance is not included. Additionally, this definition would make more sense if it mirrored the definition for "Local School District" by removing the words "non-home based full-time."

Response: The Department agrees that the definition of "Charter School" needs to be clarified to remove the "personal physical attendance" given that charter schools are able to operate virtually. Additionally, the Department agrees that removing the words "non-home based full-time" so that it mirrors the definition of "Local School District" further clarifies the definition. Therefore, the definition of "Charter School" will be updated to read "means a public school that is operated under a charter granted by, or transferred to, the Department of Education or other authorizing body pursuant to 14 **Del.C.** Ch. 5."

II. FINDINGS OF FACTS

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

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 736 Local School District and Charter School Citizen Budget Oversight Committees. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 736 Local School District and Charter School Citizen Budget Oversight Committees attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 736 Local School District and Charter School Citizen Budget Oversight Committees hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 736 Local School District and Charter School Citizen Budget Oversight Committees amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 736 Local School District and Charter School Citizen Budget Oversight Committees in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on June 13, 2022. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 13th day of June 2022.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education
Approved this 13th day of June 2022

736 Local School District and Charter School Citizen Budget Oversight Committees (Break in Continuity of Sections)

2.0 Definitions

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

"Charter School" means a ~~[non-home based full-time]~~ public school that is operated ~~[in an approved physical plant]~~ under a charter granted by, or transferred to, the ~~[Delaware]~~ Department of Education or other authorizing body ~~[for the personal physical attendance of all students pursuant to 14 Del.C. Ch. 5]~~.

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

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

*Please note that no additional changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 907 (25 DE Reg. 907). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

736 Local School District and Charter School Citizen Budget Oversight Committees

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 885

REGULATORY IMPLEMENTING ORDER

885 Safe Management and Disposal of Chemicals in the Delaware Public School System

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del. C. §122 (b), the Secretary of Education intends to amend 14 DE Admin. Code 885 Safe Management and Disposal of Chemicals in the Delaware Public School System. This regulation is being amended pursuant to 29 Del.C. §10407 which requires regulations to be reviewed on a recurring basis every four years. This regulation is being amended to shorten the title of the regulation, update titles of programming where necessary, provide clarification, and ensure alignment with existing practice. It also is being amended to correct typographical and grammatical errors in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on May 1, 2022. In addition, notice was published in *The News Journal* and the *Delaware State News* on May 1, 2022, in the form hereto attached as *Exhibit "A"*. No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 885 Safe Management and Disposal of Chemicals in the Delaware Public School System in order to shorten the title of the regulation, update titles of programming where necessary, provide clarification, and ensure alignment with existing practice. It also is being amended to correct typographical and grammatical errors in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 885 Safe Management and Disposal of Chemicals in the Delaware Public School System. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 885 Safe Management and Disposal of Chemicals in the Delaware Public School System attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 885 Safe Management and Disposal of Chemicals in the Delaware Public School System hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 885 Safe Management and Disposal of Chemicals in the Delaware Public School System amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 885 Safe Management and Disposal of Chemicals in the Delaware Public School System in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on June 13, 2022. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 13th day of June 2022.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education
Approved this 13th day of June 2022

***Please note that no changes were made to the regulation as originally proposed and published in the May 2022 issue of the *Register* at page 987 (25 DE Reg. 987). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

885 Safe Management and Disposal of Chemicals in the Delaware Public School System

PROFESSIONAL STANDARDS BOARD

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

ORDER

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

The proposed amendments were initially published in the *Register of Regulations* on October 1, 2021. The Professional Standards Board received one written submittal from Sam Golder, Senior Director of Teaching and Learning, and Christine Smith, Director of Human Resources, for the Red Clay Consolidated School District. They commented that the proposed regulation "would force LEAs that offer courses above Algebra 1 in the middle school to ensure that at least one high school certified teacher is on staff to teach all courses above Algebra 1" and

that the Praxis Subject Assessment - Middle School Mathematics (ETS Test Code #5169) includes 38% Geometry content whereas the Praxis Subject Assessment for high school math contains 20% Geometry content and almost half of the test covers Calculus and other advanced math concepts. On November 4, 2021, the Professional Standards Board considered the written submittal, withdrew the proposed regulation, and requested further information regarding Geometry courses taught at the middle school level.

On December 2, 2021, the Professional Standards Board considered information on the development of the amendments to the regulation, data on the number of teachers who currently teach Geometry or Integrated Math II at the middle school level, and data on the Praxis Subject Assessment - Middle School Mathematics. The Professional Standards Board also heard from the Department's Mathematics Education Associates. The Professional Standards Board voted to publish the amendments that were originally published on October 1, 2021 and did not propose any further changes at that time.

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

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

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

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

II. FINDINGS OF FACTS

On May 5, 2022, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1532 Middle Level Mathematics 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** 1532 Middle Level Mathematics Teacher.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1532 Middle Level Mathematics Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1532 Middle Level Mathematics Teacher, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1532 Middle Level Mathematics Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1532 Middle Level Mathematics Teacher in the *Administrative Code of Regulations* for the Department.

FINAL REGULATIONS

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 19th day of May, 2022.

Department of Education

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

Approved this 19th day of May, 2022.

State Board of Education:

/s/ Whitney Sweeney, President

Audrey J. Noble, Ph.D. (absent)

/s/ Shawn Brittingham, Vice President

Provey Powell, Jr. (absent)

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Vincent Lofink

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

***Please note that no changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 916 (25 DE Reg. 916). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1532 Middle Level Mathematics Teacher

PROFESSIONAL STANDARDS BOARD

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

14 DE Admin. Code 1557

ORDER

1557 Technology Education 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 1557 Technology Education Teacher. The regulation concerns the requirements for a Technology and Engineering Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising the title of the regulation; adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a Technology and Engineering Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Technology and Engineering Teacher Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns requests for the Secretary of Education to review standard certificate applications; adding Section 7.0, which concerns the validity of a Technology and Engineering Teacher Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns recognizing past certificates that were issued by the Department; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

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

II. FINDINGS OF FACTS

On May 5, 2022, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1557 Technology Education 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** 1557 Technology Education Teacher.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1557 Technology Education Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1557 Technology Education Teacher, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1557 Technology Education Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1557 Technology and Engineering Education 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 19th day of May, 2022.

Department of Education

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

Approved this 19th day of May, 2022.

State Board of Education:

/s/ Whitney Sweeney, President

Audrey J. Noble, Ph.D. (absent)

/s/ Shawn Brittingham, Vice President

Provey Powell, Jr. (absent)

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Vincent Lofink

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

***Please note that no changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 921 (25 DE Reg. 921). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1557 Technology Education Teacher

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1565

ORDER**1565 World Language Teacher****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

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

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

In addition, the Professional Standards Board developed proposed amendments to align the regulation with other regulations concerning Standard Certificates for Educators, including adding and striking defined terms in Section 2.0; clarifying the requirements for issuing a World Language Teacher Standard Certificate in Section 3.0; clarifying the education, knowledge, and skill requirements for obtaining a World Language Teacher Standard Certificate in Section 4.0, the application requirements in Section 5.0, Secretary of Education review in Section 6.0, the validity of a World Language Teacher Standard Certificate in Section 7.0, disciplinary actions in Section 8.0, and recognizing past certificates that were issued by the Department in Section 9.0; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address. The aforementioned proposed changes are not a result of the written correspondence to the Professional Standards Board.

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

II. FINDINGS OF FACTS

On May 5, 2022, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1565 World Language 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** 1565 World Language Teacher.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1565 World Language Teacher subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1565 World Language Teacher, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1565 World Language Teacher adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1565 World Language 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 19th day of May, 2022.

Department of Education

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

Approved this 19th day of May, 2022.

State Board of Education:

/s/ Whitney Sweeney, President

Audrey J. Noble, Ph.D. (absent)

/s/ Shawn Brittingham, Vice President

Provey Powell, Jr. (absent)

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Vincent Lofink

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

***Please note that no changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 927 (25 DE Reg. 927). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1565 World Language Teacher

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

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

ORDER

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

SUMMARY OF THE EVIDENCE

1. Title 4, Section 304 of the Delaware Code authorizes the Alcoholic Beverage Control Commissioner to

establish regulations in relation to all powers, duties and functions vested pursuant to the regulation of alcoholic beverages in Delaware.

2. Pursuant to 4 Del. C. § 304, the Alcoholic Beverage Control Commissioner intends to amend the Delaware Liquor Control Act by adding a new Rule 705. The regulations are being amended to provide for expansion of outdoor seating, to include procedures, standards and fees for such licensure.

3. Notice of the proposed regulation change was published in the April 1, 2022 edition of the *Delaware Register of Regulations*.

4. The Commissioner invited a period of thirty (30) days, until May 2, 2022, for written comment from the public.

5. Two written comments were received for the proposed regulation, both dated April 29, 2022 and received from the Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD). The written comments focused on the concern and vital need to ensure liquor licensed establishments are compliant with the Americans with Disabilities Act (ADA).

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

FINDINGS OF FACT

1. The Commissioner finds that it is necessary to adopt the proposed amended regulations to establish procedures, standards and fees for outdoor extension of premises, in order for the regulations to be consistent with the Delaware Liquor Control Act.

2. Public places, including restaurants and other specific licensees that may be able to obtain a license for expansion of outdoor seating, have been and are required to comply with federal and state laws and regulations. 4 Del. C. §§ 543, 561. Such compliance includes adherence with the ADA.

DECISION AND ORDER TO AMEND THE REGULATION

For the foregoing reasons, the Commissioner concludes that it is appropriate to amend the Delaware Liquor Control Act by adding a new Rule 705, and therefore the regulation shall be adopted in accordance with this Order. The regulation changes will be effective on July 11, 2022 following publication of this Order in the *Delaware Register of Regulations* on July 1, 2022.

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

The Honorable Jacqueline Paradee Mette, Esq.
Commissioner

***Please note that no changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 940 (25 DE Reg. 940). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

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

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

ORDER

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

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

2. Pursuant to 4 Del. C. § 304, the Alcoholic Beverage Control Commissioner intends to amend 4 DE Admin. C. 910. The regulations are being amended to provide guidelines for curbside service by package stores to provide assistance to its customers and for take-out, curbside or drive through service by an on-premise licensee.

3. Notice of the proposed regulation change was published in the April 1, 2022 edition of the *Delaware Register of Regulations*.

4. The Commissioner invited a period of thirty (30) days, until May 2, 2022, for written comment from the public.

5. No public comments were received for this proposed regulation.

6. On further review of the published proposed regulation, it was noticed that minor non-substantive oversights occurred in the proposed rule to Subsections 2.1.1 and 2.2.2. The minor changes from the proposed rule are in bold bracketed text:

2.1.1 "Mixed cocktail" means a beverage created by combining ~~[ingredients alcoholic in nature spirits, as that term is defined in Title 4], [whether brewed, fermented, or distilled, with other] ingredients [non-alcoholic in nature], which is made in the restaurant, brewpub, [tavern] or taproom or other entity with a valid on-premise license [that includes serving spirits].~~

2.2.2 The order is limited to one 750 ML bottle of wine, 6 servings of beer, and/or mixed cocktails ~~[except that taverns shall not include mixed cocktails,]~~ sold in a container securely closed. The licensee shall not provide straws with the order.

7. A copy of the published rule with the above minor, non-substantive changes is attached hereto.

8. Having solicited and requested public comment on the proposed regulations in accordance with the Delaware Administrative Procedures Act, 29 Del.C. Ch. 101, et. seq., this is the Commissioner's Order adopting the proposed regulation with the proposed non-substantive edits set forth herein and with the rest of the proposed rule as published remaining unchanged.

FINDINGS OF FACT

1. The Commissioner finds that it is necessary to adopt the proposed amended regulations in order for the regulations to be consistent with the Delaware Liquor Control Act, that the amendments are non-substantive, and to provide guidelines that clarify the manner in which a restaurant, tavern, or other licensees with valid on-premises licenses, may provide takeout orders of alcoholic beverages.

DECISION AND ORDER TO AMEND THE REGULATION

For the foregoing reasons, the Commissioner concludes that it is appropriate to amend 4 DE Admin. Code 910 and therefore the regulation shall be adopted in accordance with this Order. The regulation changes will be effective on July 11, 2022 following publication of this Order in the Delaware Register of Regulations on July 1, 2022.

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

The Honorable Jacqueline Paradee Mette, Esq.
Commissioner

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

1.0 Sales and Deliveries

- 1.1 The holder of a license for the sale of retail of alcoholic liquor, not for consumption on the premises where sold, other than a licensed Importer, may sell alcoholic liquors of the variety and quantity and to the persons permitted by the Liquor Control Act, as presently in force and as hereafter amended, and the merchandise so sold shall be delivered to the purchaser or his agent on the premises and removed by such purchaser or agent from the premises with the seals of the bottles unbroken. For the purpose of this sub-section only, the "premises" of a holder of a license for sale at retail shall be deemed to extend to the street or curb line of the public street, road or highway nearest to the front entrance of his establishment, or if there be no established street or curb line, then to the nearest edge of the street, road or highway nearest to the front entrance of his establishment, to a distance, however, of not more than 100 feet from such front entrance. Notwithstanding anything in this Rule to the contrary, for purposes of curbside service, the "premises" of a holder of a license for sale at retail may extend to include a parking spot along the curb of a public street or along the curb of the parking lot if the retail license premises is located in a shopping center or strip mall that is closest to the licensee's front entrance if that licensee does not have access to parking spaces for use by purchasers in accordance with subsection 1.6 of this Rule.
- 1.2 An Importer may sell the variety of alcoholic liquor authorized by his license, to a person who is the holder of a license to purchase the same for resale, in such quantities as may be ordered by the purchaser, and shall transport the merchandise so sold from the Importer's establishment to the establishment of the purchaser.
- 1.3 An Importer licensed for the sale of beer is permitted under 4 **Del.C.** §101 to sell beer in half-barrel or quarter-barrel containers to the holder of a personal license. Such Importer shall transport the beer so sold from his warehouse to the residence of the purchaser.
- 1.4 4 **Del.C.** §101 permits an Importer to sell alcoholic liquor to an active owner of a wholesale liquor business for the latter's personal use. Importers may sell to the active owners of their respective companies only the variety of alcoholic liquor authorized by the Importer's license. Importers must sell only to those active owners who are holders of a license to purchase for personal stock even though the purchase may not exceed the quantities permitted to be purchased without a license. An Importer shall not deliver the merchandise as sold, except beer in half-barrel or quarter-barrel containers.
- 1.5 Delivery of alcoholic liquor shall not be made by an Importer to any place licensed for the sale of alcoholic liquor outside of the hours during which such place is authorized to do business. Sale and delivery by an Importer to a person who is the holder of a license to purchase for personal stock shall not be made after 10:00 P. M. of any day and before nine o'clock A. M. of the day following.
- 1.6 Curbside service of alcoholic beverages is permitted under the following conditions:
- 1.6.1 Delivery of the order shall be permitted to a purchaser's vehicle in parking spaces designated by the licensee for curbside service. Under no circumstances may service be provided off premises, as that term is defined in subsection 1.1 of this Rule, except when the licensee has no parking lot spaces for purchasers, curbside service may include a parking space on a public street or roadway or along the curb of the parking lot if the retail license premises is located in a shopping center or strip mall that is closest to the licensee's front entrance.
- 1.6.2 Curbside delivery shall be completed only by an employee who has completed the State's server training certification at the time the sale occurs.
- 1.6.3 The employee carrying the curbside delivery order outside the store is at least 21 years of age.
- 1.6.4 Before placing alcoholic beverages in a vehicle for curbside service, the purchaser shall exit the vehicle to complete the sale transaction (either through the exchange of payment information or to sign a sales receipt) and the employee shall verify: 1) the purchaser's identification, legal age and

sobriety; and 2) that the purchaser's identification and credit card match the information provided as part of an order placed by telephone or online. If the employee is unable to verify the information above, the employee shall return the alcoholic beverage order to the store and cancel the purchase.

- 1.6.5 The order is placed in the vehicle's trunk, and if there is no trunk, in the vehicle's rear compartment or back seat that is not readily accessible to the driver of the vehicle.

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

2.1 As used in this Rule:

2.1.1 "Mixed cocktail" means a beverage created by combining ~~[ingredients alcoholic in nature spirits, as that term is defined in Title 4]. [whether brewed, fermented, or distilled, with with other]~~ ingredients ~~[non-alcoholic in nature]~~, which is made in the restaurant, brewpub, ~~[tavern]~~ or taproom or other entity with a valid on-premise license ~~[that includes serving spirits].~~

2.1.2 "Container securely closed" means a container with a tamper-evident secured lid or cap that is designed to prevent consumption without removal of the lid or cap. The container shall include a label affixed to it, in a conspicuous place, legibly indicating: 1) the name of the licensee; and 2) the words "CONTAINS ALCOHOL." Container securely closed does not include a container with a lid with sipping holes or openings for straws or a container made of paper or polystyrene foam.

2.1.3 "Tamper evident" means a seal or tape that, if breached or missing, will indicate the lid or cap has been removed.

2.1.4 "Drive through service" means providing a take-out order to a customer who is not required to enter the premises to complete the sale, but it does not include providing a take-out order through a drive-through window pursuant to Section 4.0 of 4 DE Admin. Code 703.

2.2 A restaurant, brewpub, tavern, or taproom, or other entity with a valid on-premise license issued pursuant to chapter 5, subchapter II of Title 4 of the Delaware Code may sell alcoholic beverages for take-out, curbside or drive through service if the following requirements are met:

2.2.1 The containers are securely closed.

2.2.2 The order is limited to one 750 ML bottle of wine, 6 servings of beer, and/or mixed cocktails ~~[except that taverns shall not include mixed cocktails,]~~ sold in a container securely closed. The licensee shall not provide straws with the order.

2.2.3 The order is sold and served by an employee certified as a responsible alcoholic beverage server pursuant to 4 Del.C. §1205.

2.2.4 If sold by a restaurant, be sold with the customer's purchase of food that costs at least \$10.

2.2.5 Upon delivery, the employee shall verify the age and level of intoxication of the person to whom the wine, beer and/or mixed cocktails is being delivered, and if the employee is not able to safely verify a person's age or level of intoxication upon delivery, the employee shall cancel the sale of alcoholic beverages.

FINAL REGULATIONS

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

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

4 DE Admin. Code 1202

ORDER

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

SUMMARY OF THE EVIDENCE

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

2. Pursuant to 4 Del. C. § 304, the Alcoholic Beverage Control Commissioner intends to amend 4 DE Admin. C. 1202. The regulations are being amended to provide guidelines for those who are 18 years old working in package stores and curbside service by package stores to provide assistance to its customers.

3. Notice of the proposed regulation change was published in the April 1, 2022 edition of the *Delaware Register of Regulations*.

4. The Commissioner invited a period of thirty (30) days, until May 2, 2022, for written comment from the public.

5. No public comments were received for this proposed regulation.

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

FINDINGS OF FACT

1. The Commissioner finds that it is necessary to adopt the proposed amended regulation as published previously in order to provide guidelines for curbside service by package stores in accordance with the Delaware Liquor Control Act.

DECISION AND ORDER TO AMEND THE REGULATION

For the foregoing reasons, the Commissioner concludes that it is appropriate to amend 4 DE Admin. Code 1202 as set forth herein and therefore the regulation shall be adopted in accordance with this Order. The regulation changes will be effective on July 11, 2022 following publication of this Order in the *Delaware Register of Regulations* on July 1, 2022.

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

The Honorable Jacqueline Paradee Mette, Esq.
Commissioner

***Please note that no changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 949 (25 DE Reg. 949). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

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

OFFICE OF HIGHWAY SAFETY

Statutory Authority: 21 Delaware Code, Section 4101(d) (21 **Del.C.** §4101(d))
2 DE Admin. Code 1205

ORDER

1205 Electronic Red Light Safety Program (ERLSP)

NATURE OF THE PROCEEDINGS

At **25 DE Reg. 1041** (May 1, 2022), the Delaware Department of Safety and Homeland Security (DSHS), Office of Highway Safety, pursuant to 21 **Del. C.** §4101(d), and in accordance with 29 **Del. C.** §10115, published notice of intent to revise its regulations to enhance judicial efficiency. At the same time, DSHS submitted a Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation, as required by 29 **Del. C.** Ch. 104. DSHS solicited written comments from the public for thirty (30) days as mandated by 29 **Del. C.** §10118(a).

SUMMARY OF EVIDENCE

In accordance with law, public notice regarding the proposed revised regulation was published in the *Delaware Register of Regulations*. The public comment period was open from May 1, 2022 through June 3, 2022. During this period, DSHS did not receive any written responses.

FINDINGS OF FACT

The public was given the required notice of DSHS's intention to adopt the proposed revised regulation and was given opportunity to submit comments. The required Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation was submitted. No written responses were received during the comment period. Thus, DSHS finds that the proposed revised regulations should be adopted as submitted by DSHS.

EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by DSHS pursuant to 21 **Del. C.** §4101(d). The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

ORDER

NOW THEREFORE, under the statutory authority and for the reasons set forth above, DSHS does hereby ORDER this 15th day of June 2022 that the regulations be, and that they hereby are, adopted to be enacted as set forth below.

IT IS SO ORDERED, this 15th day of June 2022.

Delaware Department of Safety and Homeland Security

Nathaniel McQueen Jr., Secretary

***Please note that no changes were made to the regulation as originally proposed and published in the May 2022 issue of the *Register* at page 1014 (25 DE Reg. 1014). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1205 Electronic Red Light Safety Program (ERLSP)

FINAL REGULATIONS

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

2500 BOARD OF PHARMACY

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

ORDER

2500 Board of Pharmacy

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on May 18, 2022 at a scheduled meeting of the Delaware Board of Pharmacy ("Board") to receive comments regarding proposed amendments to the Board's rules and regulations. The proposed amendments authorize certified pharmacy technicians to administer adult immunizations but only where the training and administration requirements set forth in subsection 19.2.3 have been met.

The proposed changes to the rules and regulations were published in the *Delaware Register of Regulations*, Volume 25, Issue 10, on April 1, 2022. Notice of the May 18, 2022 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 **Del.C.** § 10118(a), the date to receive final written comments was June 2, 2022, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on June 15, 2022.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

Board Exhibit 1: *News Journal* Affidavit of Publication.

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

At the hearing on May 18, 2022, Alicia Palumbo addressed the Board to express her support for the proposed revisions. No written comments were received by the Board.

Findings of Fact and Conclusions

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on the proposed amendments to the Board's rules and regulations. One witness, Alicia Palumbo, voiced support for the proposed revisions. There were no other public comments provided to the Board either in writing or during the public hearing.

Pursuant to 24 **Del.C.** § 2506(a)(1), the Board has the statutory authority to promulgate rules and regulations. Having received one comment in support of the proposed revisions, and no other public comments, the Board finds no reason to amend the regulations as proposed.

Decision and Effective Date

The Board hereby adopts the changes to the rules and regulations as proposed, to be effective 10 days following publication of this Order in the *Register of Regulations*. The new rules and regulations are attached hereto as Exhibit A.

IT IS SO ORDERED this 15th day of June 2022.

DELAWARE BOARD OF PHARMACY

/s/ Ruth Dixon, R.Ph.
President

Solomon Ezembakwe, PharmD (absent)

/s/ Mark Freebery, PharmD
Vice President

/s/ Joshua Coffield, PharmD

/s/ Lisa Flaherty, PharmD

/s/ Nicholas Juliano, PharmD

/s/ Gayle MacAfee

Lakeisha Cunningham (absent)

/s/ Emery Jackson

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

***Please note that no changes were made to the regulation as originally proposed and published in the April 2022 issue of the *Register* at page 952 (25 DE Reg. 952). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

2500 Board of Pharmacy

GENERAL NOTICES

DEPARTMENT OF TRANSPORTATION BRIDGE AND STRUCTURES SECTION

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

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Bridge 1688 029

May 19, 2022

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

Ms. Smallwood,

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

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

§4505. Traffic control devices.

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

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

Bridge 1688 029 that carries South Market Street over the Christina River in Wilmington for the following permanent load restrictions:

- S335: 3 Axle Single Unit Vehicle at 28 tons
- S437: 4 Axle Single Unit Vehicle at 26 tons
- SU7: 7 Axle Single Unit Vehicle at 36 tons

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

Thank you,
Jason Hastings
Chief of Bridge & Structures

TRAFFIC ENGINEERING SECTION

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

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - McKennas Church Road (N276)

May 17, 2022

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

Ms. Smallwood,

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

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

§4505. Traffic control devices.

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

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

"No Trucks Over 2 Axles Except Local Services" on the local roadways on McKennas Church Road (N276)

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

Thank you,
Peter Haag
Chief of Traffic Engineering

CALENDAR OF EVENTS/HEARING NOTICES

DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM BOARD OF MANAGERS

PUBLIC NOTICE

1301 Delaware Criminal Justice Information System Rules and Regulations

Purpose: In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 11 of the Delaware Code, Chapter 86, Section 8605, the Delaware Criminal Justice Information System (DELJIS) Board of Managers proposes to revise its regulations. These proposed regulations are applicable to all users of the Delaware Criminal Justice Information System (CJIS) and to any agency requesting access to CJIS from the Board. The proposed regulations will ensure that access to criminal justice information conforms to the statutory requirements outlined in Chapters 85 and 86 of Title 11 of the Delaware Code.

Written Comments: The DELJIS Board of Managers will receive written comments, suggestions briefs or other written material until the close of business, 4:30 p.m., August 5, 2022. Written comments shall be submitted via e-mail to jeffrey.horvath@cj.state.de.us, or via the USPS to Mr. Jeffrey Horvath, Chair, DELJIS Board of Managers, c/o Alyssa Huenke, 800 Silver Lake Blvd. Suite 101, Dover, DE 19904.

DEPARTMENT OF AGRICULTURE PLANT INDUSTRIES SECTION

PUBLIC NOTICE

806 Regulations for Invasive Plants

A copy of the proposed regulations is being published in the July 1, 2022, edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901 and is available for inspection during regular office hours. Copies are also published online at the Delaware Register of Regulations website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs, or other materials to the Department of Agriculture at the above address or Jessica.Inhof@delaware.gov as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 Del.C. § 10118(a), public comments must be received on or before August 1, 2022. Written materials submitted will be available for inspection at the above address.

DEPARTMENT OF EDUCATION PUBLIC NOTICE

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

Meeting information can be accessed via the public meeting calendar.

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

The next meeting is scheduled for **July 21, 2022**.

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

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

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

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

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF HEALTH CARE QUALITY****PUBLIC NOTICE****3355 Free Standing Surgical Centers**

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

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same by email to Corinna.Getchell@Delaware.gov or by fax to 302-292-3931 by 4:30 p.m. on August 1, 2022. Please identify in the subject line: Regulations Governing Free Standing Surgical Centers.

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

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**PUBLIC NOTICE****Targeted Case Management Services**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Targeted Case Management (TCM).

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on August 1, 2022. Please identify in the subject line: Targeted Case Management Services.

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

DIVISION OF PUBLIC HEALTH**PUBLIC NOTICE****4459A Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months**

Pursuant to 16 **Del.C.** §122(3)(t) and §§ 2601-2606, the Health Systems Protection Section of the Division of Public Health, Department of Health and Social Services, is proposing revisions to the Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months. On July 1, 2022, the Division of Public Health plans to publish as "proposed" revisions to the Regulations Governing the Childhood Lead Poisoning Prevention Act for Children Between the Ages of 22 and 26 Months regulations. The revisions include:

- Renamed regulation to remove outdated reference;
- Updated and added new definitions;
- Updated requirements for blood lead testing, including age requirements and documentation and reporting requirements; and

- Technical corrections.

These revisions are required by House Bill 222 as amended by House Amendment 1 (151st GA).

Copies of the proposed regulations are available for review in the July 1, 2022 edition of the Delaware Register of Regulations, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

NOTICE OF PUBLIC HEARING

The Division of Public Health will hold a public hearing on Tuesday, July 26, 2022 at 5:00 p.m. The public hearing will be conducted remotely. Details about the remote platform and how to attend will be posted on the State Public Meeting Calendar at the following link:

<https://publicmeetings.delaware.gov/#/meeting/72319>.

Any person who wishes to make written suggestions, testimony, briefs, or other written materials concerning the proposed regulations must submit them by Wednesday, August 10, 2022, at:

Division of Public Health
417 Federal Street
Dover, DE 19901
Email: DHSS_DPH_regulations@delaware.gov
Phone: (302) 744-4951

DEPARTMENT OF SAFETY AND HOMELAND SECURITY OFFICE OF HIGHWAY SAFETY

PUBLIC NOTICE

1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees

Purpose: In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 21 of the Delaware Code, Chapter 41, Section 4177G, the Delaware Department of Safety and Homeland Security (DSHS) is proposing to repeal 1203 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees to be consistent with changes in basic law. In August 2014, 21 **Del.C.** §4177F was repealed and 21 **Del.C.** §4177G was modified to include an Ignition Interlock Device (IID) Program through the Department of Transportation. The Office of Highway Safety no longer possesses the appropriate statutory authority under which 2 **DE Admin. Code** 1203 was promulgated and it has since been replaced by 2 **DE Admin. Code** 2223 Ignition Interlock Device Installation, Removal and Monthly Monitoring and Calibration Fees by the Department of Transportation on March 1, 2022.

Written Comments: The Delaware Department of Safety and Homeland Security will receive written comments, suggestions briefs or other written material until the close of business, 4:30 p.m., August 5, 2022. Written comments shall be submitted via e-mail to Kimberly.Chesser@delaware.gov or via the USPS to Kimberly A. Chesser, Director, Delaware Office of Highway Safety, 800 Bay Road, Suite 2, Dover, DE 19901.

DIVISION OF STATE POLICE

PUBLIC NOTICE

1301 Nonconsensual Towing

Purpose: In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 21 of the Delaware Code, Chapter 69, Section 6901(c), the Delaware Department of Safety and Homeland Security proposes to revise its regulations. The proposed regulations are to

promote public safety for non-consensual towing initiated by the Delaware State Police.

Written Comments: The Delaware Department of Safety and Homeland Security will receive written comments, suggestions, briefs or other written material until the close of business, 4:30 p.m., August 5, 2022. Written comments shall be submitted via e-mail to Mark.Windsor@delaware.gov or via the USPS to Captain Mark D. Windsor #158, Delaware State Police, Director of Traffic Operations, P.O. Box 430, Dover, DE 19901.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
1400 Board of Electrical Examiners

Pursuant to 24 Del.C. §1406(a)(1), the Delaware Board of Electrical Examiners has proposed revisions to its rules and regulations. The rules are designed to address modifications to the processing of homeowner's permits. A public hearing will be held on September 7, 2022 at 8:30 a.m. (on the second floor in conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904) where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Electrical Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address. Written comments will be accepted until September 22, 2022 in accordance with 29 Del.C. §10118(a).
