
Delaware Register of Regulations

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Volume 24 - Issue 11, Pages 950 - 1020

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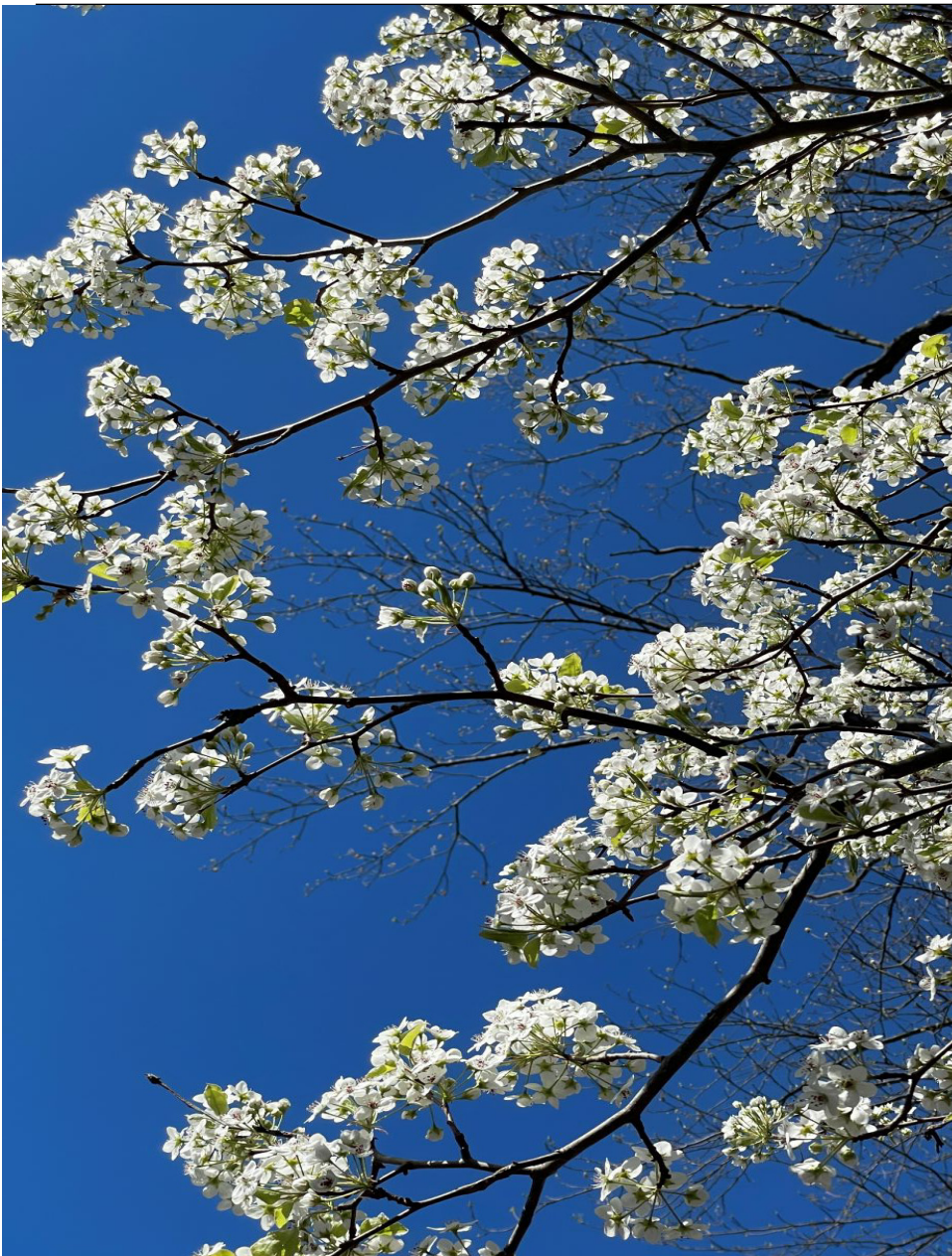
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Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before April 15, 2021.

Rehoboth Beach, Delaware



INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

CITATION TO THE DELAWARE REGISTER

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

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

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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

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

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

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

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

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

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
June 1	May 17	4:30 p.m.
July 1	June 15	4:30 p.m.
August 1	July 15	4:30 p.m.
September 1	August 16	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.

DIVISION OF RESEARCH STAFF

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DEPARTMENT OF AGRICULTURE THOROUGHBRED RACING COMMISSION

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

ERRATA

FINAL ORDER

1001 Thoroughbred Racing Rules and Regulations

* **Please Note:** The final regulation for 1001 Thoroughbred Racing Rules and Regulations was originally submitted for publication in the November 1, 2020 issue of the *Register of Regulations* but was inadvertently excluded from the final regulations that were published on November 1, 2020.

The final regulation is being published in this issue of the May 1, 2021 *Register of Regulations* with an effective date of May 11, 2021. See 24 **DE Reg.** 996 (05/01/2021) (Final).

The original submission is being published here as an Errata.

Date: October 14, 2020

Amendments to Regulations of the Thoroughbred Racing Commission

The Thoroughbred Racing Commission ("Commission") issues this Order to take effect ten (10) days after the publication of this Order in the Delaware *Register of Regulations*:

1. Pursuant to its statutory authority (3 **Del.C.** §10103(c)), the Commission proposed for adoption revisions to the Commission's Rule 15 by amending Rules 15.1.3.1.5 and 15.1.3.1.6 relating to phenylbutazone and oxphenbutazone and amending Rule 15.2.1.4 relating to Furosemide (Salix). Other regulations issued by the Thoroughbred Racing Commission are not affected by this Order.

2. A copy of the proposed regulations was published in the September 1, 2020 edition of the Delaware Register of Regulations and has been available for inspection in the office of the Commission at 777 Delaware Park Boulevard, Wilmington, Delaware 19804 during regular office hours.

3. The Commission did not receive any written comments on the proposed regulations during the 30 day period following publication of the proposed regulations on September 1, 2020.

4. THEREFORE, IT IS ORDERED, that the proposed regulations are adopted and shall become effective November 11, 2020, after publication of the final regulation in the November 1, 2020 edition of the Delaware *Register of Regulations*.

Delaware Thoroughbred Racing Commission

Sarah A. Crane, Acting Executive Director

Amendment to Thoroughbred Racing Commission Rules

15.1.3.1.5 The test level of phenylbutazone under this Rule shall not be in excess of ~~two (2.0)~~ 0.3 micrograms (mcg) per milliliter (ml) of plasma without penalties in the following format:

Micrograms per milliliter	Penalties
0 to 2.0 <u>0.3</u>	No action

Micrograms per milliliter	Penalties
<u>2.1 to 4.4 0.31 and Over</u>	<p>First Offense \$500.00 fine <u>First Offense (365 day period) in any jurisdiction</u></p> <p><u>Trainer: Minimum fine \$1,000.00 absent mitigating circumstances</u></p> <p><u>Owner: Loss of purse absent mitigating circumstances. Horse must pass commission-approved examination before being eligible to run.</u></p>
<u>2.1 to 4.4 0.31 and Over</u>	<p>Second Offense (365 day period) in any jurisdiction within 365 days \$1000.00 fine</p> <p><u>Trainer: Minimum fine \$1,500.00 and 15-day suspension absent mitigating circumstances</u></p> <p><u>Owner: Loss of purse. If same horse, placed on veterinarian's list for 45 days. Horse must pass commission-approved examination before being eligible to run.</u></p>
<u>2.1 to 4.4 0.31 and Over</u>	<p>Third Offense (365 day period) in any jurisdiction within 365 days \$1000.00 fine and/or Suspension and/or Loss of Purse</p> <p><u>Trainer: Minimum fine \$2,500.00 and 30-day suspension absent mitigating circumstances</u></p> <p><u>Owner: Loss of purse. Minimum fine \$1,500.00. If same horse, placed on veterinarian's list for 60 days. Horse must pass commission-approved examination before being eligible to run.</u></p>
<u>4.5 and Over</u>	Fine, Suspension, Loss of Purse

15.1.3.1.6 The test level for oxphenbutazone under this Rule shall not be in excess of ~~two (2)~~ 0.3 micrograms (mcg) per milliliter (ml) of plasma.

15.2.1.4 Horses must be on the grounds and the Furosemide (Salix) administered, not more than ~~three~~ four hours and 30 minutes (~~3 1/2~~ 4 1/2 hours) nor less than ~~three~~ four hours (~~3~~ 4 hours) prior to post time of their respective races. Failure to meet this time frame will result in scratching the horse, and the trainer may be fined. The Salix Veterinarian who administers Furosemide (Salix) to a horse scheduled to race shall prepare a written certification indicating the time, dosage and method of administration. The written certification shall be delivered to a Commission representative designated by the Stewards within one (1) hour of the last scheduled race for that day.

***Please Note: For the full text of the published final amendments to 1001 Thoroughbred Racing Rules and Regulations, please see 24 DE Reg. 996. A copy of the final regulation is available at:**

<http://regulations.delaware.gov/register/may2021/final/24 DE Reg 996 05-01-21.htm>

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

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., June 1, 2021. Written comments shall be submitted via e-mail to Marianne.Kennedy@delaware.gov or via the USPS to Ms. Marianne Kennedy Chair, DELJIS Board of Managers, 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/may2021/proposed/24 DE Reg 963RFA 05-01-21.pdf>

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

[1301 Delaware Criminal Justice Information System Rules and Regulations](#)

PROPOSED REGULATIONS

DEPARTMENT OF AGRICULTURE FOOD PRODUCTS INSPECTION

Statutory Authority: 3 Delaware Code, Section 101(1), (3) and (6) (3 **Del.C.** §101(1), (3) & (6))
3 DE Admin. Code 302

PUBLIC NOTICE

302 Produce Safety Regulations

Notice of Proposed Amendments to Regulations of the Department of Agriculture

Summary

The Department of Agriculture proposes to amend its Regulations adopted in accordance with Title 3, Chapter 1 of the Delaware Code to revise the existing Produce Safety Regulations at 3 DE Admin. Code 302. The purpose of the amended regulations is to revise sections 3.1 and 3.4 to better address compliance of regulated farms with the federal regulations promulgated under the Food Safety Modernization Act (Title 21, Part 112 of the Code of Federal Regulations). Other regulations issued by the Department of Agriculture are not affected by this proposal. The Department of Agriculture is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. Statutory Authority: 3 Delaware Code, Section 101(1), (3) & (6) (3 *Del.C.* §101(1), (3) & (6)). 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 May 1, 2021 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 *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 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 June 1, 2021. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after June 1, 2021, 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*.

Delaware Department of Agriculture

Andrea Jackson
Food Products Inspection Administrator

***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/may2021/proposed/24 DE Reg 964RFA 05-01-21.pdf>

302 Produce Safety Regulations

1.0 Authority

These regulations related to the federal Food Safety Modernization Act's Produce Safety Rule are promulgated pursuant to the authority provided in 3 **Del.C.** § 101 (1), (3), and (6).

2.0 Purpose

The Department of Agriculture has enforcement responsibility for the Produce Safety Rule of the Food Safety Modernization Act (FSMA), Title 21, Part 112 of the Code of Federal Regulations. The purpose of these proposed regulations is to establish the procedures for farm registration, produce inspection, on-farm produce and environmental sampling, and addressing non-compliance of regulated farms as currently appear in the FSMA and as the FSMA may be amended from time to time.

3.0 Registration

- 3.1 In order to determine the farms subject to the Food Safety Modernization Act Produce Safety Rule, the Department of Agriculture will require that all farms within Delaware that grow, harvest, pack, or hold produce intended for human consumption and for sale, register with the Department of Agriculture.
- 3.2 The registration form, available from the Department of Agriculture, shall include at a minimum the following required fields:
 - 3.2.1 Name
 - 3.2.2 Address
 - 3.2.3 Farm Location(s)
 - 3.2.4 Telephone number and email address of owner/producer
 - 3.2.5 Approximate average annual income from produce sales
 - 3.2.6 Description of all produce grown
 - 3.2.7 Seasonal Growing Period
- 3.3 The registration form may include additional fields as determined by the Department of Agriculture.
- 3.4 Forms will be provided by the Department of Agriculture and must be returned to the Department of Agriculture, annually by April 30th upon completion. The Department of Agriculture may provide the registration forms in electronic format. Other timely information may also be sent to the registrants.

4.0 Inspections

- 4.1 Department of Agriculture personnel are authorized, at any time, to enter any farm or facility that grows, harvests, packs or holds produce for human consumption to:
 - 4.1.1 Inspect the farm or facility to determine whether the rules promulgated under these regulations are being violated.
 - 4.1.2 Request to review and copy the farm or facility's records pursuant to the federal regulations on recordkeeping.
 - 4.1.3 Secure and test samples as needed to verify compliance.
- 4.2 Inspection Results will be given in an Inspectional Report form.

5.0 Product Retention and Condemnation

- 5.1 In the event that the Department of Agriculture discovers produce that is contaminated, unfit for consumption, or otherwise in violation of these regulations, the Department of Agriculture is authorized at all times to seize, take possession of, condemn, destroy, or require the destruction of any covered produce that the Department of Agriculture believes to be in violation of 21 C.F.R Part 112. Enforcement actions may continue to be imposed until corrective actions are taken by the owner/producer in violation.

- 5.2 If objectionable conditions are found, the Inspector (working under federal authority) is obligated to report the findings to the Food and Drug Administration (FDA) and work in collaboration with FDA to control/rectify the situation.

6.0 Program Termination

These regulations shall remain in effect for the duration of the federal Food Safety Modernization Act's Produce Safety Rule. If the federal Produce Safety Rule is abolished, then the Department of Agriculture may also abolish these regulations.

7.0 Violations and Hearing Procedures

- 7.1 Failure to comply with this chapter shall result in the assessment of a civil penalty.
- 7.2 No civil penalty shall be imposed until an administrative hearing is held before the Secretary of Agriculture or the Secretary's designee. No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in accordance with Chapter 101 of Title 29 of the Delaware Code. The Secretary or the Secretary's designee shall mail a written decision to the alleged violator within 30 days after the conclusion of the administrative hearing. Failure to comply with the 30-day period shall have no effect on the Secretary's or designee's decision.
- 7.3 The person(s) charged with a violation of these regulations will be notified in writing of the date and time of the aforementioned administrative hearing. The aforementioned person(s) shall have the right to appear in person, to be represented by counsel and to provide witnesses in his or her behalf.
- 7.4 The Secretary or the Secretary's designee, for the purposes of investigation of a possible violation of these regulations and for its hearings, may issue subpoenas, compel the attendance of witnesses, administer oaths, take testimony and compel the production of documents. In case any person summoned to testify or to produce any relevant or material evidence refuses to do so without reasonable cause, the Department of Agriculture may compel compliance with the subpoena by filing a motion to compel in Superior Court which shall have jurisdiction over this matter.
- ~~7.4.4~~ The Department of Agriculture shall preserve a record of the proceedings and a transcript may be purchased by any interested person.

8.0 Appeal

A person who feels aggrieved by the Department of Agriculture as a result of the administrative hearing held under the authority of this chapter may file an appeal, within 30 days, with the Superior Court. Written notice of such appeal, together with the grounds therefor, shall be served upon the Secretary of the Department of Agriculture.

9.0 Civil Penalties

- 9.1 Any person who interferes with the Department of Agriculture in the enforcement of this chapter, as determined in an administrative hearing, shall be assessed a civil penalty of no less than \$1,000 nor more than \$5,000 on each count.
- 9.2 Any person who is not a Department of Agriculture employee or its authorized representative who removes markings placed by the Department of Agriculture for the purpose of identification is interfering with the Department of Agriculture's enforcement of these regulations, as determined in an administrative hearing, and shall be assessed a civil penalty of no less than \$1,000 nor more than \$5,000 on each count.
- 9.3 Any person(s) who willfully or knowingly ships contaminated produce, as determined in an administrative hearing, shall be assessed a civil penalty of no less than \$1,000 nor more than \$5,000 on each count.
- 9.4 Any person(s) who refuses to comply with these regulations shall be assessed a civil penalty of no less than \$1,000 nor more than \$5,000 for each violation.
- 9.5 The payment of penalties assessed under this chapter may be made on a payment schedule approved by the Secretary or the Secretary's designee.

PLANT INDUSTRIES SECTION

Statutory Authority: 3 Delaware Code, Section 101(2) and (3) (3 Del.C. §101(2) & (3))
3 DE Admin. Code 805

PUBLIC NOTICE

805 Rules and Regulations for Delaware Domestic Hemp Production Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 3 of the Delaware Code, Chapter 1, Sections 101(2) & (3), Delaware Department of Agriculture and Plant Industries Section is proposing regulations governing the Delaware Domestic Hemp Production Program.

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 to, the Plant Industries Section, 2320 South DuPont Highway, Camden DE 19901, by email to dda_hempprogram@delaware.gov by 4:30 p.m. on June 1, 2021. Please identify in the subject line: Regulations Governing Delaware Domestic Hemp Production Program.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Section 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 Department of Agriculture/Plant Industries Section is proposing regulations governing Delaware Domestic Hemp Production Program.

Statutory Authority

3 Del.C. §101(2) & (3)

Background

The Delaware Department of Agriculture has been charged by the Delaware legislature pursuant to 3 Del. C. § 101(2) & (3) with the power to devise and execute measures necessary for the development of the agricultural interests of the State and to make and adopt rules for the government of the Department of Agriculture. The Department is developing proposed regulations to establish appropriate procedures, permitting process, and governing measures for the hemp agricultural program within the State of Delaware.

Summary of Proposal

Summary of Proposed Changes

The Plant Industries Section plans to publish the "proposed" amendments to the regulations governing the Delaware Domestic Hemp Production Program and hold them out for public comment per Delaware law. The amendments clearly define the procedures, permitting process, and governing measures for individuals looking to participate in the Delaware Domestic Hemp Production Program as a producer, processor, or handler. The amendments align with the USDA Final Rule for the Domestic Production of Hemp.

Public Notice

In accordance with the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Department of Agriculture/Plant Industries Section 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 June 1, 2021.

Fiscal Impact

Not applicable

PROPOSED REGULATIONS

***Please Note:**

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

<http://regulations.delaware.gov/register/may2021/proposed/24 DE Reg 967RFA 05-01-21.pdf>

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

[805 Rules and Regulations for Delaware Domestic Hemp Production Program](#)

THOROUGHBRED RACING COMMISSION

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

PUBLIC NOTICE

1001 Thoroughbred Racing Rules and Regulations

Summary

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend Rule 13.1.3 to change the existing open claiming rule. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the May 1, 2021 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 Del.C. § 10118(a), public comments must be received on or before June 1, 2021. Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after June 1, 2021, following review of the public comment, the Thoroughbred Racing Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

Effective Date of Amendments to Regulations

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

Delaware Thoroughbred Racing Commission
Sarah A. Crane, Executive Director

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

<http://regulations.delaware.gov/register/may2021/proposed/24 DE Reg 968RFA 05-01-21.pdf>

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

13.0 Claiming Races

13.1 Owners Entitled:

(Break in Continuity Within Section)

- 13.1.3 A new Owner, i.e., an individual, partnership, corporation or any other authorized racing interest who has not held an Owner's license ~~in any racing jurisdiction during the prior year, from the Commission or a previously licensed owner that has no current ownership~~ is eligible to claim by obtaining an "Open Claiming License" from the Commission.

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

[1001 Thoroughbred Racing Rules and Regulations](#)

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(15) and 303(a)-(d) (14 Del.C. §§122(b)(15) & 303(a)-(d))
14 DE Admin. Code 1009

PUBLIC NOTICE

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

1009 DIAA High School Interscholastic Athletics

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. Sections 122(b)(15) and 303(a)-(d), the Secretary of Education seeks the approval of the State Board of Education to amend 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics. The Delaware Interscholastic Athletic Association ("DIAA"), working in consultation and cooperation with the Delaware Department of Education, developed the amendments to 14 DE Admin. Code 1009. The proposed amendments include revising the definition "competition" and adding several defined terms to in subsection 1.1; adding that student athletes are required to have a current preparticipation physical evaluation in order to participate in a conditioning program in subsection 3.1.1.1; adding that student athletes without a current preparticipation physical evaluation are required to submit an up-to-date physical and medical history form in order to participate in interscholastic athletic activities in subsection 3.1.1.2; adding that individuals who oversee workouts, conditioning programs, open gym programs, and informal instruction are required to maintain current CPR, AED, and first aid certifications and complete the NFHS' "Concussions in Sports" course in subsection 3.5; revising the title of Section 4.0; specifying that student athletes may participate on a nonschool team or in a nonschool event during the season in subsection 4.3.5; adding Section 6.0, which concerns out-of-season and summer athletic activities and contact; and adding the requirement that all coaches maintain current certification in AED and first aid in Section 7.0.

The DIAA Board of Directors will hold a public hearing concerning the proposed amendments to this regulation on Thursday, June 17, 2021 at 9:00 a.m. The public hearing will be held virtually during the Board's regular meeting. The public hearing will not be held at a physical location. Information on how to attend the meeting during which the public hearing will be held will be posted on the Statewide Public Meeting Calendar at publicmeetings.delaware.gov.

In addition, persons wishing to present their views regarding this matter in writing may do so by the close of business on or before July 6, 2021 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOEregulations.comment@doe.k12.de.us.

A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation concerns interscholastic athletics at the high school level.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation concerns interscholastic athletics at the high school level.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation is intended, in part, to help ensure all student athletes' health and safety are adequately protected. The proposed amendments include adding the requirement that student athletes have a current preparticipation physical evaluation in order to participate in a conditioning program (subsection 3.1.1.1) and that student athletes without a current preparticipation physical evaluation submit an up-to-date physical and medical history form in order to participate in interscholastic athletic activities (subsection 3.1.1.2). In addition, the proposed amendments include adding the requirement that individuals who oversee workouts, conditioning programs, open gym programs, and informal instruction maintain current CPR, AED, and first aid certifications and complete the NFHS' "Concussions in Sports" course (subsection 3.5) and the requirement that all coaches maintain current certification in AED and first aid in Section 7.0.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation concerns interscholastic athletics at the high school level.

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.

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.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will be placed in the same entity. Pursuant to 14 **Del.C.** §304(4), the DIAA Board of Directors could investigate, conduct hearings, and impose penalties for member schools', coaches', and student athletes' failure to comply with the requirements of the proposed regulation.

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 concerns interscholastic athletics at the high school level.

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 the 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 compliance with the amended regulation.

***Please Note:**

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

<http://regulations.delaware.gov/register/may2021/proposed/24 DE Reg 969RFA 05-01-21.pdf>

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

1009 DIAA High School Interscholastic Athletics

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(15) and 303(a)-(c) (14 **Del.C.** §§122(b)(15) & 303(a)-(c))
14 **DE Admin. Code** 1011

PUBLIC NOTICE

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

1011 Interscholastic Athletics during the COVID-19 Pandemic

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to an Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** Sections 122(b)(15) and 303(a)-(c), the Secretary of Education seeks the approval of the State Board of Education to amend 14 **DE Admin. Code** 1011 Interscholastic Athletics during the COVID-19 Pandemic. The Delaware Interscholastic Athletic Association ("DIAA"), working in consultation and cooperation with the Delaware Department of Education, developed amendments to 14 **DE Admin. Code** 1011. The proposed amendments include adding informal instruction to defined terms in Section 2.0 and in the Return to Play Stages in Section 3.0; repealing the pre-participation physical examination requirements that applied to the 2020-2021 school year; revising the four Return to Play Stages to eliminate sports categorized as low, medium, and high risk for COVID-19 spread based on guidance from the American Medical Society for Sports Medicine and the National Federation of State High School Associations; repealing Section 5.0, which provided the dates for the fall, winter, and spring sport seasons during the 2020-2021 school year and set forth sport-specific requirements; revising the face covering requirements in subsection 3.5.3.3; and adding the previous requirements that the Board may mandate sport-specific requirements that are designed to protect the physical well-being of student athletes and that Member Schools follow any sport-specific plans approved by the Board to Section 3.0.

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

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation concerns interscholastic athletics during the COVID-19 pandemic.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation concerns interscholastic athletics during the COVID-19 pandemic.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation is intended, in part, to help ensure all student athletes' health and safety are adequately protected. The proposed amendments do not change the existing regulation, which suspends all interscholastic athletic activities if the State determines there is significant community spread of COVID-19. In addition, if the DIAA Board of Directors determines a DIAA Return to Play Stage applies, each DIAA Return to Play Stage sets forth specific health and safety requirements.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended

regulation concerns interscholastic athletics during the COVID-19 pandemic.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change the authority and flexibility of decision makers at the local board and school level. DIAA was established, in part, to protect the physical well-being of student athletes and promote healthy adolescent lifestyles. DIAA Member Schools may provide interscholastic athletics if the DIAA Board of Directors determines a DIAA Return to Play Stage applies. There are certain requirements designed to protect the physical well-being of student athletes and promote healthy adolescent lifestyles depending on the stage. Subsection 3.5.3.1 provides that Member Schools may establish and enforce stricter requirements than the requirements in this regulation.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The new regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The screening requirements for COVID-19 symptoms in subsection 3.5.3.2 are necessary to help prevent the spread of COVID-19 at DIAA Member Schools that offer interscholastic athletic activities during the pandemic and are proposed to be required only if the Delaware Division of Public Health mandates screenings.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will be placed in the same entity. The DIAA Board of Directors will determine movement from and between the DIAA Return to Play Stages in consultation with the Delaware Division of Public Health and subject to the State's orders. The DIAA Board of Directors may investigate, conduct hearings, and impose penalties for student athletes', coaches', administrators', officials', and spectators' failure to comply with the requirements of the proposed regulation.

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 concerns interscholastic athletics during the COVID-19 pandemic.

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 the 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 local school boards of compliance with the amended regulation. Requirements for which there may be a cost, such as cleaning and disinfecting surfaces and equipment and providing access to handwashing facilities and hand sanitizer, are based on the Twenty-Seventh Modification to the State of Emergency Order, which includes mandated terms for the operation of youth sports facilities, organizations, and leagues and has the force and effect of law.

***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/may2021/proposed/24 DE Reg 971RFA 05-01-21.pdf>

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

[1011 Interscholastic Athletics during the COVID-19 Pandemic](#)

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b) & 1210(f) (14 Del.C. §§1203, 1205(b) & 1210(f))
14 DE Admin. Code 1559

PUBLIC NOTICE

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

1559 Skilled and Technical 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, 1205(b), and 1210(f), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1559 Skilled and Technical Sciences Teacher. The regulation concerns the requirements for a Skilled and Technical Sciences Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include clarifying Section 1.0; in Section 2.0, adding defined terms, clarifying existing terms, and striking terms that are proposed to be removed from the body of the regulation; clarifying the requirements for issuing a Skilled and Technical Sciences Teacher Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Skilled and Technical Sciences 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 Skilled and Technical Sciences Teacher Standard Certificate; adding Section 7.0, which concerns the requirements related to retaining a Skilled and Technical Sciences Teacher Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 10.0, which concerns recognizing past certificates that were issued by the Department.

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

C. IMPACT CRITERIA

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

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

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 Del.C. § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Skilled and

Technical Sciences Teacher Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 9.0 is consistent with the statute.

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

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

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

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

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

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

<http://regulations.delaware.gov/register/may2021/proposed/24 DE Reg 973RFA 05-01-21.pdf>

1559 Skilled and Technical Sciences Teacher

1.0 Content

4.4 This regulation shall apply to the issuance and retention of a ~~Standard Certificate, Skilled and Technical Sciences Teacher of a Specific Career Area Standard Certificate~~ pursuant to 14 **Del.C.** §1220(a) for ~~Skilled and Technical Sciences Teacher in a specific career area. This certification~~ The Skilled and Technical Science Teacher Standard Certificate is required for ~~grades 9 to 12, and for grades 6 to 8 in a Middle Level school. Certificates issued are in the specific career area grades 5 to 12 in Delaware public schools. The Skilled and Technical Sciences Teacher Standard Certificate is issued in a Specific Career Area. A general Skilled and Technical Sciences certification~~ Teacher Standard Certificate does not exist. Educators may become certified ~~for in~~ more than one ~~specific career area~~ Specific Career Area by meeting the qualifications for each area.

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

2.0 Definitions

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

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

~~“Career and Technical Education” is also known as Vocational Education, Vocational Technical Education or Career Technical Education.~~

“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.

"~~Nine (9) Career-Related Credits~~" means nine (9) college credits or an equivalent number of hours in professional development, technical training or certification, with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to it, from a regionally accredited college or university, or a professional development provider approved by the employing school district or charter school. These credits may also be earned through a certified or licensed technical training provider or through specified technical training or verification of the equivalent knowledge and training by technical certification as specified in the Department's Specific Career Area Program Certification Requirements (See 14 ~~DE. Admin. Code~~ 525 Requirements for Career and Technical Education Programs).

"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.

"~~Six (6) Education Pedagogy Credits~~" means six (6) college credits taken either as part of a degree program or in addition to it, from a regionally accredited college or university.

"~~Skilled and Technical Sciences (STS)~~" is also known as Trade and Industrial Education, Career and Technical Education, Career Technical Education or Career Technical Education.

"Specific Career Area" means a specific career area approved by the Department as a Career Technical Education Program as defined in the Skilled and Technical Sciences Certification Inventory or included in the Department's Skilled and Technical Sciences Standards.

"~~Specific Career Area Program Certification Requirements~~" means educator requirements necessary to achieve Department approval of the Career Technical Education program. (See 14 ~~DE Admin. Code~~ 525 Requirements for Career and Technical Education Programs).

"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.

"~~Teacher of Trade and Industries~~" means a Skilled and Technical Sciences Teacher.

"~~Two Years of College or Technical Training~~" means a minimum of a high school diploma or its recognized equivalent and the satisfactory completion of any one of the following options in the specific career area of certification (1) an Associate's degree with a major in the specific career area; (2) two years of college majoring in the specific career area with at least 50% of the major courses required for a Bachelor's degree satisfactorily completed; (3) a state issued certificate indicating completion of apprenticeship hours and apprentice related training (e.g. journey papers) in the specific career area; (4) completion of four years of sequential Delaware Trade Extension courses in the specific career area; (5) completion of four years of National Center for Construction Education and Research's *Contron* documented training in the specific career area; (6) a 70% or above score on both the written and performance elements of a Delaware Apprentice related Education Provider's National Center for Construction Education and Research's *Contron* derived full Apprentice Equivalency test-out covering all Apprentice related Education years in the specific career area; (7) passage of a State of Delaware Licensing Test in the specific career area, offered through the Division of Professional Regulation; (8) 576 hours of military training in the specific career area; (9) 576 hours post-secondary trade school training in the specific career area; (10) an industry recognized certification of technical competence or journey person status in the specific career area, or (11) DOE approved equivalents.

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

"Vocational Trade and Industry Area" means Skilled and Technical Sciences Area.

"Work Experience" means full time employment or work training experience in the specific Skilled and Technical Sciences career area of certification Specific Career Area for which the Standard Certificate is sought. An educator may substitute an Associate's degree in the specific Skilled and Technical Sciences career area of certification for a maximum of two years of work experience or a Bachelor's degree in the specific Skilled and Technical Sciences career area of certification for a maximum of four years of work experience.

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a) the Department shall issue a Skilled and Technical Sciences Teacher of a Specific Career Area Standard Certificate as a ~~Skilled and Technical Sciences Teacher of a specific career area~~ to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; ~~or~~ or a Limited Standard or Standard Certificate issued by the Department prior to August 31, 2003; ~~and 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, with the exception of the requirement of a Bachelor's degree in 3.1.5, including any subsequent amendment or revision thereto; and~~ Has met the requirements for licensure, presents proof of a Valid and Current License or Certificate as a skilled and technical sciences teacher of the Specific Career Area for which the Standard Certificate is sought and, in Specific Career Areas where a State license or registration is required by law, the applicant shall hold an active, unencumbered license, registration, or privilege to practice through a compact state license in the Specific Career Area for which the Standard Certificate is sought that is issued by the applicable Stage agency.
- 3.1.3 ~~Has satisfied the additional requirements in this regulation including holding a Bachelor's degree or the completion of education and training equivalent to a Bachelor's degree as specified in this regulation.~~
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Skilled and Technical 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 Educational Prescribed Education, Knowledge, and Skill Requirements

An educator shall also have met the following:

- 4.1 Satisfactorily completed nine (9) Career Related Credits related to their area of certification and six (6) Education Pedagogy credits; and
- 4.2 **Bachelor's Degree:**
Holds a Bachelor's degree from a regionally accredited college or university in any content area or the equivalent of a Bachelor's Degree as specified in subsection 4.3.
- 4.3 **Equivalent of a Bachelor's Degree:**
Acquired the knowledge and training ~~equivalent~~ to a Bachelor's Degree by meeting one of the following:
- 4.3.1 **Associate's Degree and additional education:**
- 4.3.1.1 Holds an Associate's degree in any content area and has met the additional education requirements in 4.3.1.2.

~~4.3.1.2 Satisfactorily completed twenty one (21) college credits or their equivalent in professional development or technical training in non duplicated courses taken either as part of a degree program or in addition to it from a regionally accredited college or university or from a technical training or professional development provider in any combination of the following content areas with at least one (1) course in each of the required content areas:~~

~~4.3.1.2.1 Career and Technical Education Pedagogy (required)~~

~~4.3.1.2.2 Special Education (required)~~

~~4.3.1.2.3 Educational Psychology~~

~~4.3.1.2.4 Education Pedagogy~~

~~4.3.1.2.5 Science~~

~~4.3.1.2.6 Mathematics~~

~~4.3.1.2.7 English~~

~~4.3.1.2.8 Social Studies; or~~

~~4.3.1.2.9 Education in the specific career area of certification; or;~~

~~4.3.2- **Two Years of College or Technical Training and additional education:**~~

~~4.3.2.1 Satisfactorily completed Two Years of College or Technical Training and the additional education requirements in 4.3.1.2 and 4.3.2.2.~~

~~4.3.2.2 Satisfactorily completed fifteen (15) college credits in non duplicated courses taken either as part of a degree program or in addition to it from a regionally accredited college or university, with at least one (1) course in each of the following required content areas:~~

~~4.3.2.2.1 Science (3 credits)~~

~~4.3.2.2.2 Mathematics (3 credits)~~

~~4.3.2.2.3 English (3 credits)~~

~~4.3.2.2.4 Psychology (3 credits).~~

4.1 An applicant for a Skilled and Technical Sciences Teacher of a Specific Career Area Standard Certificate shall have satisfied the requirements in subsections 4.1.1 through 4.1.5 of this regulation.

4.1.1 The applicant shall have satisfied one of the education requirements in subsection 4.1.1.1, 4.1.1.2, or 4.1.1.3.

4.1.1.1 The applicant earned a bachelor's degree from a Regionally Accredited college or university in education or an area related to the Specific Career Area for which the Standard Certificate is sought that includes at least nine credits in the Specific Career Area and six credits in education pedagogy, taken either as part of the degree or in addition to it. Credits in the Specific Career Area may also be completed through an equivalent number of hours in professional development, technical training, or certification, with one credit equal to 15 hours of training.

4.1.1.2 The applicant earned an associate's degree in the Specific Career Area for which the Standard Certificate is sought that includes at least nine credits in the Specific Career Area and six credits in education pedagogy, taken either as part of the degree or in addition to it. In addition to earning the associate's degree, the applicant completed 21 credits from a Regionally Accredited college or university toward a degree in education. Credits in the Specific Career Area may also be completed through an equivalent number of hours in professional development, technical training, or certification, with one credit equal to 15 hours of training.

4.1.1.3 The applicant completed the requirements in subsections 4.1.1.3.1 and 4.1.1.3.2.

4.1.1.3.1 The applicant earned a minimum of a high school diploma or its equivalent and completed one of the following options in the Specific Career Area for which the Standard Certificate is sought:

4.1.1.3.1.1 Two years of college majoring in the Specific Career Area with at least 50% of the major courses required for a bachelor's degree completed;

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- 4.1.1.3.1.2 A state-issued certificate indicating completion of apprenticeship hours and apprentice-related training (e.g., journey papers) in the Specific Career Area;
- 4.1.1.3.1.3 Four years of sequential Delaware Trade Extension courses;
- 4.1.1.3.1.4 Four years of National Center for Construction Education and Research's Contren documented training;
- 4.1.1.3.1.5 A 70% or above score on both the written and performance elements of a Delaware Apprentice-related Education Provider's National Center for Construction Education and Research's Contren-derived full Apprentice Equivalency test-out covering all Apprentice-related Education years;
- 4.1.1.3.1.6 Passage of a State of Delaware Licensing Test in the Specific Career Area, offered through the Division of Professional Regulation;
- 4.1.1.3.1.7 576 hours of military training;
- 4.1.1.3.1.8 576 hours post-secondary trade school training;
- 4.1.1.3.1.9 An industry recognized certification of technical competence or journey person status in the specific career area; or
- 4.1.1.3.1.10 The equivalent of two years of college or technical training approved by the Department.
- 4.1.1.3.2 The applicant completed 36 credits from a Regionally Accredited college or university toward a degree in education, nine credits in the Specific Career Area, and six credits in education pedagogy. The nine credits in the Specific Career Area and six credits in education pedagogy may be taken as part of or in addition to that requirement in subsection 4.1.1.3.1.10. Credits in the Specific Career Area may also be completed through an equivalent number of hours in professional development, technical training, or certification, with one credit equal to 15 hours of training.
- 4.1.2 In Specific Career Areas where a State license or registration is required by law, the applicant shall hold an active, unencumbered license, registration, or privilege to practice through a compact state license in the Specific Career Area for which the Standard Certificate is sought that is issued or recognized by the applicable State agency.
- 4.1.3 In Specific Career Areas where a State license or registration is not required by law, the applicant shall hold one of the following:
 - 4.1.3.1 An active, unencumbered license, registration, or privilege to practice through a compact state license in the Specific Career Area for which the Standard Certificate is sought that is issued or recognized by the applicable State agency; or
 - 4.1.3.2 A valid and current certificate in the Specific Career Area for which the Standard Certificate is sought that is issued by a nationally-recognized professional organization.
- 4.1.4 In the Specific Career Areas where professional training is required, the applicant shall hold valid and current certifications as required by the Department.
- 4.1.5 The applicant shall have completed one of the following experience requirements:
 - 4.1.5.1 Six years of work experience in an area related to the Specific Career Area, at least two of which shall have been within the last five years prior to the date of the application; or
 - 4.1.5.2 Six years of work experience by teaching in or direct supervision of educators in an area related to the Specific Career Area, at least two of which shall have been within the last five years prior to the date of the application.

5.0 **Experience Requirements Application Requirements**

An educator shall also have met the following:

- ~~5.1~~ ~~Acquired a minimum of six (6) years of work experience in an area related to the Skilled and Technical Sciences specific career area, two (2) of which must be within the last five (5) years; or~~

-
- 5.2 ~~Acquired a minimum of six (6) years of work experience by teaching in or direct supervision of educators in an area related to the Skilled and Technical Sciences specific career area, two (2) of which must be within the last five (5) years.~~
- 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 Initial License.
- 5.2 For applicants who are applying for the Skilled and Technical Sciences Teacher Standard Certificate under subsection 3.1.1, the following documentation is required:
- 5.2.1 Official transcript from the applicant's Regionally Accredited college or university.
- 5.2.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 5.2.1.2 Sealed paper transcripts may be submitted.
- 5.2.1.3 The Department will not accept copies of transcripts; and
- 5.2.2 Documentation from technical training or professional development provider, if applicable; and
- 5.2.3 Documentation that the applicant holds an active, unencumbered license, registration, or privilege to practice through a compact state license in the Specific Career Area for which the Standard Certificate is sought issued or recognized by the applicable State agency, if applicable; and
- 5.2.4 Documentation that the applicant holds a valid and current certificate in the Specific Career Area for which the Standard Certificate is sought that is issued by a nationally-recognized professional organization, if applicable; and
- 5.2.5 Documentation that the applicant holds valid and current certifications if professional training is required for the Specific Career Area for which the Standard Certificate is sought; and
- 5.2.6 The Department-approved form verifying the applicant's completion of the experience requirement as provided in subsection 4.1.4; and
- 5.2.7 Additional documentation as required by the Department.
- 5.3 For applicants who are applying for the Skilled and Technical Sciences Teacher Standard Certificate under subsection 3.1.2, the following documentation is required:
- 5.3.1 An official copy of the Valid and Current License or Certificate; and
- 5.3.2 Documentation that the applicant holds an active, unencumbered license, registration, or privilege to practice through a compact state license in the Specific Career Area for which the Standard Certificate is sought that is issued by the applicable State agency, if applicable; and
- 5.3.3 Additional documentation as required by the Department.
- 6.0 ~~Professional and Occupational License Requirements~~ Validity of a Standard Certificate**
- ~~An educator shall also have met the following:~~
- 6.1 ~~In skilled or technical sciences occupations where a state license or registration is required by law, all applicants for Skilled and Technical Sciences certification shall present a valid and current Delaware license or registration upon application for teaching credentials, pursuant to 14 ~~Del.C.~~ Ch. 12; and~~
- 6.2 ~~The state license or registration shall be renewed as required by law.~~
- 6.1 A Skilled and Technical 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.
- 6.2 A Skilled and Technical Sciences Teacher Standard Certificate is not subject to renewal.
- 7.0 Requirements Related to the Retention of a Skilled and Technical Sciences Teacher Standard Certificate**
- 7.1 In order to retain a Skilled and Technical Sciences Teacher Standard Certificate, the Educator shall:
- 7.1.1 If a State license or registration in the Specific Career Area is required by law, hold an active, unencumbered license, registration, or privilege to practice through a compact state license that is

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issued or recognized by the applicable State agency in the Specific Career Area for which the Standard Certificate was issued; and

7.1.2 If a State license or registration in the Specific Career Area is not required by law, hold either an active, unencumbered license, registration, or privilege to practice through a compact state license that is issued or recognized by the applicable State agency or a valid and current certificate that is issued by a nationally-recognized professional organization in the Specific Career Area for which the Standard Certificate was issued; and

7.1.3 Hold valid and current certifications in professional training that are required by the Department for the Specific Career Area for which the Standard Certificate was issued; and

7.1.4 Prior to the expiration of the Educator's license, registration, privilege to practice through a compact state license, or certification in professional training, affirm and document to the Department that the Educator satisfies the applicable requirements in subsections 7.1.1, 7.1.2, and 7.1.3 of this regulation.

7.2 If an Educator fails to meet any of the requirements related to retaining a Skilled and Technical Sciences Teacher Standard Certificate, the Educator shall immediately notify the Department in writing.

7.3 The requirements set forth in subsection 7.1 apply to all Educators regardless of the date the Skilled and Technical Sciences Teacher Standard Certificate was issued to them.

8.0 Disciplinary Action

8.1 An Educator's Skilled and Technical 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 or for the Educator's failure to comply with the requirements related to the retention of a Skilled and Technical Sciences Teacher Standard Certificate as provided in Section 7.0.

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

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

9.0 Secretary of Education Review

9.1 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 Skilled and Technical 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 Skilled and Technical Sciences Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.

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

9.1.2 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.

10.0 Past Certificate Recognized

The Department shall recognize a Skilled and Technical Sciences 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 in the Specific Career Area for which the Skilled and Technical Science Teacher Standard Certificate was issued.

PROFESSIONAL STANDARDS BOARD

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

14 DE Admin. Code 1581

PUBLIC NOTICE

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

1581 School Reading Specialist

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education, developed amendments to 14 DE Admin. Code 1581 School Reading Specialist. The regulation concerns the requirements for a School Reading Specialist Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include adding defined terms to Section 2.0; clarifying the requirements for issuing a School Reading Specialist Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a School Reading Specialist Standard Certificate in Section 4.0; adding reciprocity requirements in Section 5.0; specifying the application requirements in Section 6.0; adding Section 7.0, which concerns the validity of a School Reading Specialist Standard Certificate; adding Section 8.0, which concerns disciplinary actions; adding Section 9.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 10.0, which concerns recognizing past certificates that were issued by the Department.

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

On April 1, 2021, the Board had presentations regarding school reading specialists, ILA standards for reading/literacy specialists, and IDA standards. The Board decided to republish the proposed amendments that were published on November 1, 2020 and republished on January 1, 2021 without any additional amendments. The Board is not proposing any additional amendments at this time.

Persons wishing to present their views regarding this matter in writing may do so by the close of business on or before June 2, 2021 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOEregulations.comment@doe.k12.de.us. Persons who timely submitted written comments concerning the proposed amendments that were published on November 1, 2020 and on January 1, 2021 are not required to resubmit their written comments. Persons who made public comment at the February 4, 2021 public hearing are not required to resubmit their comments from that hearing in writing.

A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Section 4.0 and the requirements for reciprocity in

Section 5.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Section 4.0 and the requirements for reciprocity in Section 5.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a School Reading Specialist Standard Certificate but whose effectiveness is documented by the district or school. Proposed Section 9.0 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 6.0 apply to individual applicants.

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

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

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

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

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

<http://regulations.delaware.gov/register/may2021/proposed/24 DE Reg 981RFA 05-01-21.pdf>

1581 School Reading Specialist

1.0 Content

4.4 This regulation shall apply to the ~~requirements for a issuance of a School Reading Specialist Standard Certificate, Certificate~~ pursuant to 14 **Del.C.** §1220(a), ~~for School Reading Specialist. This certification~~ The School Reading Specialist Standard Certificate is required for all ~~School Reading Specialists~~ in Delaware public schools.

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

2.0 Definitions

2-1 The definitions set forth in 14 ~~DE Admin. Code~~ 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.

2-2 The following words and terms, when used in this regulation, shall have the following meaning ~~unless the context clearly indicates otherwise~~:

"Department" means the Delaware Department of Education.

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

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

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

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

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

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

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

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

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

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

3.0 Issuance of a Standard Certificate

3.1 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a School Reading Specialist Standard Certificate as ~~a School Reading Specialist~~ to an educator applicant who ~~has met the following~~:

PROPOSED REGULATIONS

- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; ~~and, 2003 and meets the requirements set forth in Section 4.0 of this regulation; or~~
 - 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and, Has met the requirements for licensure in Delaware and presents proof of a Valid and Current License or Certificate as a Reading Specialist from another state or jurisdiction whose requirements are substantially similar to the requirements in Section 4.0 of this regulation; or~~
 - 3.1.3 ~~Has satisfied the additional requirements in this regulation. Has met the requirements for licensure in Delaware and meets the requirements set forth in Section 5.0 of this regulation.~~
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a School Reading Specialist Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

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

An educator must also have met the following additional requirements:

4.1 Education requirements:

- 4.1.1 An educator shall also have satisfied at least one (1) of the following additional education requirements:
 - 4.1.1.1 ~~A Master's degree or its equivalent from a regionally accredited college or university in Reading offered by an NCATE specialty organization recognized educator preparation program or state approved educator preparation program where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards; or~~
 - 4.1.1.2 ~~Completion of either a Bachelor's degree plus (30) graduate level credit hours or a Master's degree, from a regionally accredited college or university in any content area; and~~
 - 4.1.1.2.1 ~~The successful completion of twenty four (24) graduate level credit hours in the following content areas:~~
 - 4.1.1.2.1.1 ~~Assessment and Instruction in Writing (3 credits);~~
 - 4.1.1.2.1.2 ~~Assessment and Instruction in Reading (6 credits);~~
 - 4.1.1.2.1.3 ~~Practicum in Reading to include application of strategies in assessment, instruction and parent involvement (6 credits);~~
 - 4.1.1.2.1.4 ~~Literacy in the Content Areas (3 credits);~~
 - 4.1.1.2.1.5 ~~Teaching English as a Second Language (3 credits); and either~~
 - 4.1.1.2.1.6 ~~Literacy Acquisition (3 credits); or~~
 - 4.1.1.2.1.7 ~~Coaching Adult Learners (3 credits).~~

4.2 Experience requirements:

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

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

- 4.1.1 An applicant shall have satisfied one of the following education requirements:
 - 4.1.1.1 Earned a master's degree or its equivalent from a Regionally Accredited college or university in reading or literacy from a program that is aligned to the International Literacy Association (ILA) Standards for a Reading/Literacy Specialist or a state-approved educator preparation program where the state approval body employed the ILA Standards for a Reading/Literacy Specialist; or

- 4.1.1.2 Earned a bachelor's degree and completed 30 graduate-level credit hours or earned a master's degree from a Regionally Accredited college or university in any content area and satisfactorily completed 24 graduate-level credit hours that are guided by current ILA standards for a Reading/Literacy Specialist in the following areas:
 - 4.1.1.2.1 Assessment and instruction in writing (three credits);
 - 4.1.1.2.2 Assessment and instruction in reading (six credits);
 - 4.1.1.2.3 Practicum in reading to include application of strategies in assessment, instruction, and parent involvement (six credits);
 - 4.1.1.2.4 Literacy in the content areas (three credits);
 - 4.1.1.2.5 Teaching English as a Second Language (three credits); and
 - 4.1.1.2.6 Either literacy acquisition (three credits) or coaching adult learners (three credits).
- 4.1.2 The applicant shall have achieved a Passing Score on one of the following examinations:
 - 4.1.2.1 A Passing Score of 164 on the Praxis Subject Assessment – Reading Specialist (ETS Test Code # 5301); or
 - 4.1.2.2 A Passing Score of 165 on the Praxis Subject Assessment – Reading Specialist (ETS Test Code #5302).
- 4.1.3 The applicant shall have completed a minimum of three years of teaching experience, including meeting students on a regularly scheduled basis, planning and delivering instruction, developing or preparing instructional materials, and evaluating student performance, with satisfactory annual summative evaluations on the State's current evaluation system or the equivalent thereof on a state-approved alternative educator evaluation system under a state credential in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department.

5.0 **Reciprocity**

If an applicant is already licensed or certified as a Reading Specialist in a state or jurisdiction whose requirements are not substantially similar to the requirements in Section 4.0, the applicant shall have earned a master's degree or its equivalent from a Regionally Accredited college or university in reading or literacy from a program that is aligned to the International Literacy Association (ILA) Standards for a Reading/Literacy Specialist or a state-approved educator preparation program where the state approval body employed the ILA Standards for a Reading/Literacy Specialist in order for the Department to issue a School Reading Specialist Standard Certificate.

6.0 **Application Requirements**

- 6.1 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.
- 6.2 For applicants who are applying for the School Reading Specialist Standard Certificate under subsection 3.1.1, the following documentation is required:
 - 6.2.1 Official transcript from the applicant's Regionally Accredited college or university.
 - 6.2.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
 - 6.2.1.2 Sealed paper transcripts may be submitted.
 - 6.2.1.3 The Department will not accept copies of transcripts; and
 - 6.2.2 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
 - 6.2.3 The Department-approved form verifying the applicant's completion of the experience requirement as provided in subsection 4.1.3; and
 - 6.2.4 Additional documentation as required by the Department.
- 6.3 For applicants who are applying for the School Reading Specialist Standard Certificate under subsection 3.1.2, the following documentation is required:
 - 6.3.1 An official copy of the Valid and Current License or Certificate; and

PROPOSED REGULATIONS

6.3.2 Additional documentation as required by the Department.

6.4 For applicants who are applying for the School Reading Specialist Standard Certificate under subsection 3.1.3, the following documentation is required:

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

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

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

6.4.2.2 Sealed paper transcripts may be submitted.

6.4.2.3 The Department will not accept copies of transcripts; and

6.4.3 Additional documentation as required by the Department.

7.0 Validity of a Standard Certificate

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

7.2 A School Reading Specialist Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

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

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

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

9.0 Secretary of Education Review

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

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

9.1.2 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.

10.0 Past Certificate Recognized

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

DEPARTMENT OF ELECTIONS

OFFICE OF THE STATE ELECTION COMMISSIONER

Statutory Authority: 15 Delaware Code, Section 5012A(f) (15 Del.C. §5012A(f))

PUBLIC NOTICE

101 Procedures for Addressing Post-Election Voting Machine Audit Discrepancies

The Department of Elections, pursuant to 15 Del.C. § 5012A(f), proposes to enact a new regulation. The proposed regulation outlines the procedures to be followed by the Department of Elections in the case of a discrepancy discovered during a post-election audit performed in accordance with the provisions of 15 Del.C. § 5012A. The proposed regulation is not substantially likely to impose additional costs or burdens upon individuals and/or small businesses. Other regulations issued by the Department of Elections or the State Election Commissioner are not affected by this proposal. This Notice is issued pursuant to the requirements of 29 Del.C., Ch. 11, Subchapter III, 29 Del.C., Ch. 101, Subchapter II, and 29 Del.C., Ch. 104, §§ 10404A(b)(1) and 10404B(b)(1).

This proposed regulation is being published in the May 2021 edition of the *Delaware Register of Regulations*. Copies are also on file in the Office of the State Election Commissioner, 905 S. Governors Avenue, Suite 170, Dover, DE 19904 and are available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed regulation or submit written suggestions, compilations of data, briefs, or other materials to State Election Commissioner Anthony Albence at the above address as to whether the proposed regulation should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before June 4, 2021. Written materials submitted will be available for inspection at the above address.

On or after June 4, 2021, following review of the public comments received, the Department of Elections will determine whether to adopt the proposed regulation, or make additional changes because of the public comments received.

***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/may2021/proposed/24 DE Reg 987RFA 05-01-21.pdf>

101 Procedures for Addressing Post-Election Voting Machine Audit Discrepancies

1.0 Purpose

This regulation is adopted by the Department of Elections pursuant to its authority under 15 Del.C. §5012(A)(f) and outlines the procedures to be followed by the Department of Elections in the case of a discrepancy discovered during a post-election audit performed in accordance with the provisions of 15 Del.C. Ch. 50A.

2.0 Applicability

This regulation applies to any post-election audit performed pursuant to 15 Del.C. §5012A by or on behalf of (and as authorized by) the Department of Elections, including any of its county offices through its appointed officials, merit employees, casual/seasonal employees, or temporary employees contracted via a third-party State-authorized vendor.

3.0 Definitions

For purposes of this regulation, the following words or terms shall have the meaning indicated:

"Audit" or "post-election audit" means the definition of "audit" as set forth in 15 Del.C. §5012A.

"Audit team" means appointed officials, merit employees, casual/seasonal employees, or temporary employees contracted via a third-party State-authorized vendor assigned and authorized by the State Election Commissioner to conduct a post-election audit.

PROPOSED REGULATIONS

"Certified election results" means the official results of a primary or school election certified by the State Election Commissioner following post-election review by Department of Elections staff, and the official results of a general or special election certified by the Board of Canvass as convened by the Superior Court in each of the three counties of the State.

"Department" means Delaware Department of Elections, including each of its three county offices and the Office of the State Election Commissioner

"Human-readable text" means the printed names of candidates or answers to ballot questions that may be read and reviewed by individuals during an audit or recount.

"Logic and accuracy test" means the testing undertaken following programming an election on a voting device to ensure accurate ballot marking and tabulation of results.

"Paper ballots" means the ballots of record marked and tabulated by voting machines during an election.

"Recount" means a manual recompilation of election results by examining the human-readable text printed on the ballot.

"State" means the State of Delaware.

"Voting device" means the device which marks and tabulates paper ballots during an election, which can include voting machines and absentee ballot tabulation equipment.

"Voting system" means all components associated with the programming, preparation, and testing of voting devices, the voting devices, and media used to store unofficial voting results tabulated by these devices.

4.0 Threshold for Specific Action

4.1 In the event that audit results from a component of the voting system does not agree with certified election results, and such discrepancy is greater than one half of one percent (0.5%) from the certified results totals, the following provisions shall be triggered:

4.1.1 Additional audits of the voting system exhibiting the discrepancy.

4.1.2 Additional testing and analysis of the voting system exhibiting the discrepancy.

5.0 Specific Actions to be Taken Once Threshold is Triggered

5.1 An additional audit of the ballots shall be conducted by an audit team distinct from the audit team that conducted the initial audit.

5.2 If a discrepancy of more than one half of one percent (0.5%) is unresolved following the action prescribed in subsection 5.1, the following additional actions shall be undertaken:

5.2.1 All documentation related to the voting system in question shall be gathered and reviewed by the audit team distinct from the audit team that conducted the initial audit and shall be preserved. These records include logic and accuracy testing, certification, and all other documentation.

5.2.2 A subsequent manual logic and accuracy test of the impacted voting device or voting devices shall be conducted, and the results shall be examined by a team of Department staff not involved in the conduct of the initial logic and accuracy test of the impacted voting device or voting devices.

5.2.3 An additional audit shall be initiated on another randomly selected voting device or voting devices used in the same election, to identify any similar discrepancies.

6.0 Corrective Actions by Department to Avoid Discrepancy in the Future

6.1 If an identified discrepancy is unresolved following the activities detailed in Section 5.0, the following shall occur:

6.1.1 The Department shall enlist the assistance of the State's voting system vendor to undertake additional testing and analysis.

6.1.2 The Department shall enlist the assistance of federal voting equipment certifying authorities to undertake additional testing and analysis that may entail the engagement of independent testing laboratories authorized by federal voting equipment certifying authorities to also undertake additional testing and analysis.

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- 6.1.3 Any corrective actions identified must be certified by the federal voting equipment certifying authorities before being implemented by the Department.
- 6.1.4 Any corrective actions identified shall be implemented as soon as practical on all voting devices maintained by the Department.
- 6.1.5 Any voting devices and all associated components of the voting system used to prepare voting devices on which corrective actions have been undertaken shall undergo a complete logic and accuracy test before the voting devices are used in any subsequent election.
- 6.1.6 The results of the logic and accuracy test must demonstrate no discrepancy in vote tabulation before the voting device may be used in any subsequent elections.
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DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

PUBLIC NOTICE

Drug Utilization Review (DUR) - Opioid Provisions

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of 31 *Del. C.* § 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding the Drug Utilization Review (DUR), specifically, to update policy to comply with the published Final Rule.

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, Policy and Quality 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 June 1, 2021. Please identify in the subject line: Drug Utilization Review (DUR) - Opioid Provisions.

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 the Drug Utilization Review (DUR), specifically, to update policy to comply with the published Final Rule.

Statutory Authority

- 42 CFR. § 456.703
- 42 U.S. Code § 1396a(a)(85)

Background

On December 21, 2020, Centers for Medicare & Medicaid Services (CMS) published the final rule Establishing Minimum Standards in Medicaid Drug Utilization Review (DUR) and Supporting Value-Based Purchasing for Drugs Covered in Medicaid, Revising Medicaid Drug Rebate And Third Party Liability Requirements (Rule). This Rule contains opioid-related DUR provisions with which a state must comply and a state must include its compliance plan in the State Plan.

Summary of Proposal*Purpose*

The purpose of this proposed regulation is to update policy to comply with the published Final Rule.

Summary of Proposed Changes

Effective for services provided on and after July 11, 2021 DHSS/ DMMA proposes to amend section 4.26 of Title XIX Medicaid State Plan regarding the DUR, specifically, to update policy to comply with the published Final Rule.

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 447.205 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 June 1, 2021.

Centers for Medicare and Medicaid Services Review and Approval

The provisions of this state plan amendment (SPA) are subject to approval by 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.

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

There is no anticipated fiscal impact.

***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/may2021/proposed/24 DE Reg 989RFA 05-01-21.pdf>

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

[Drug Utilization Review \(DUR\) - Opioid Provisions](#)

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 11003

PUBLIC NOTICE

Child Care for Families Receiving Temporary Assistance for Needy Families (TANF)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of 31 *Del. C.* § 512, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) is proposing to amend the Division of Social Services Manual (DSSM) regarding Child Care for Families Receiving TANF, specifically to explain the child care eligibility requirements for parents, caretakers, and minor parents participating in the Temporary Assistance for Needy Families (TANF) program.

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, Division of Social Services (DSS), 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 June 1, 2021. Please identify in the subject line: Child Care for Families Receiving TANF.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of DHSS 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 Social Services (DHSS/DSS) is proposing to amend Division of Social Services Manual (DSSM) regarding Child Care for Families Receiving Temporary Assistance for Needy Families (TANF), specifically to explain the child care eligibility requirements for parents, caretakers, and minor parents participating in the TANF program.

Statutory Authority

- 45 CFR 98.20 (a)(3)(i);
- 45 CFR 98.21 (a)(2);
- 45 CFR 98.21 (d)

Background

DSS amended DSSM 11003.2 Processing Child Care for Parents and Caretakers Participating in TANF to update the formatting and text so that the policy is easier for DSS staff, stakeholders, and the public to understand. DSSM 11003.2.1 Sanctioning TANF and Transitional Work Program Recipients will be struck out and the sanction rules are being added to DSSM 11003.2.

DSS amended DSSM 11003.9.4.1 Determining Child Care for Minor Parents Participating in TANF E&T to update the formatting and text so that the policy is easier for DSS staff, stakeholders, and the public to understand.

Summary of Proposal

Purpose

To explain the child care eligibility requirements for parents, caretakers, and minor parents participating in the TANF program. Parents and caretakers must either participate in TANF Employment and Training, TANF Transitional Work Program, be employed, or have an offer of employment to receive TANF child care.

Summary of Proposed Changes

Effective for services provided on and after July 11, 2021 DHSS/DSS proposes to amend the DSSM regarding Child Care for Families Receiving TANF, specifically to explain the child care eligibility requirements for parents,

caretakers, and minor parents participating in the TANF program.

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 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, DHSS/DSS 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 June 1, 2021.

Fiscal Impact

DSS amended these regulations to provide clear and accurate directions on child care for families receiving TANF. These regulations are currently in place and there are no new financial responsibilities associated with the amendments.

***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/may2021/proposed/24 DE Reg 991RFA 05-01-21.pdf>

POLICY AMENDMENT

Delaware Health and Social Services
Division of Social Services
Policy and Program Development Unit

11003.2 ~~Parent/Caretaker in~~ Processing Child Care for Parents and Caretakers Participating in TANF

~~45 CFR 98.20 (a)(3)(i); 45 CFR 98.21 (a)(2); 45 CFR 98.21 (d)~~

~~DSS guarantees child care for a dependent child, or a child who would be dependent except for the receipt of benefits under SSI, when the parent/caretaker receives TANF benefits and it is necessary for the parent/caretaker to:~~

- ~~A. accept employment or remain employed (Category 12);~~
- ~~B. participate in TANF (Category 11), or~~

~~Child care is available to a caretaker in the above instance only if the caretaker is part of the TANF assistance unit. The child also needs to be a dependent child.~~

~~EXAMPLE 1: A child receiving TANF lives with her grandmother. The grandmother works and needs child care during her hours of employment. Grandmother is not on the TANF grant and is considered a payee only. In this case, Grandmother cannot get TANF Child Care. Because Grandmother has a need, however, she could be eligible for another category of care.~~

~~EXAMPLE 2: Grandmother is needy also, and is included on the TANF grant. Grandmother can get TANF Child Care as long as she is working or participating in TANF.~~

~~EXAMPLE 3: An TANF recipient with a dependent child is also a foster parent. In order for this recipient to participate in TANF, she needs child care. She can receive care for her dependent child, but because the foster child is not considered a dependent, she is not entitled to TANF Child Care (or other forms of IV-A child care) for her foster child. DSS could provide another category of child care under a Block Grant.~~

This policy applies to parents and caretakers who need child care assistance while participating in the Temporary Assistance for Needy Families (TANF) program.

1. DSS guarantees child care for an eligible child when the child's parent or caretaker:
 - Participates in the TANF Employment and Training (E&T) program;
 - Participates in the TANF Transitional Work Program (TWP); or
 - Is employed or accepts an offer of employment.

2. DSS case workers must open child care for an eligible child and authorize care for twelve months when the parent or caretaker applies for TANF.

3. A parent or caretaker who loses eligibility for child care due to a TANF E&T or TWP sanction or loss of employment will receive three months of continued child care before their child care case is closed.
 - A. DSS case workers must authorize three months of child care beginning the month after the TANF sanction request or job loss in accordance with DSSM 11004.12.1 to:
 - Provide continuity of care for the child; and
 - Give the parent or caretaker the opportunity to re-engage with the TANF E&T or TWP program or obtain employment.

 - B. If the parent or caretaker cures the TANF E&T or TWP sanction or obtains employment during the three months of continued child care, DSS will authorize care until the family's next eligibility review date.

POLICY AMENDMENT

Delaware Health and Social Services
Division of Social Services
Policy and Program Development Unit

~~11003.2.1 Sanctioning TANF and Transitional Work Program Recipients~~

~~Recipients who fail without good cause to meet requirements for the TANF Employment and Training or Transitional Work Program are sanctioned.~~

~~When TANF recipients receive a full family sanction or fail without good cause to comply with the Transitional Work Program (TWP), they lose their TANF Child Care. This means their child care case will close. In order to regain TANF Child Care, recipients must work to cure the sanction by cooperating with their TANF or TWP requirements.~~

~~Clients curing their TANF sanction may be eligible for child care under Presumptive Child Care Services (DSSM 11004.8).~~

POLICY AMENDMENT

Delaware Health and Social Services
Division of Social Services
Policy and Program Development Unit

11003.9.4.1 Determining Child Care for Minor Parents and Participating in TANF E&T

PROPOSED REGULATIONS

~~45 CFR 98.20 (a)(3)(i); 45 CFR 98.21 (a)(2); 45 CFR 98.21 (d)~~

~~In the case of a minor parent who is a mandatory TANF participant, the minor parent will have to comply with TANF requirements for DSS to maintain child care services. Requirements for TANF are satisfactory participation in the assigned activity and making good progress toward the completion of the activity.~~

~~Satisfactory participation is defined in each participant's Employability Plan. Making good progress is defined as meeting certain qualitative and quantitative measures of performance, such as reviewing test results to determine if students are able to do passing work.~~

~~The Food Stamp Employment & Training TANF requirements are to be part of the minor parent's Employability Development Plan.~~

~~If minor parents receive a sanction because they fail to comply with their Food Stamp Employment & Training TANF requirements, they cannot get child care as long as their TANF case is open and they need to cure their sanction.~~

~~NOTE: A TANF minor parent is either emancipated, or their parent must sign the TANF application. In this case, do not require the minor parent's parents to sign the child care application.~~

This policy applies to minor parents (ages 16 through 17) who need child care assistance while participating in the Temporary Assistance for Needy Families (TANF) Employment and Training (E&T) program.

1. DSS guarantees child care for an eligible child when the child's minor parent:
 - Participates in the TANF E&T program;
 - Participates in the TANF Transitional Work Program (TWP); or
 - Is employed or accepts an offer of employment.

2. DSS case workers must open child care for an eligible child and authorize care for twelve months when the minor parent applies for TANF.

3. A minor parent who loses eligibility for child care due to a TANF E&T or TWP sanction or loss of employment will receive three months of continued child care before their child care case is closed.
 - A. DSS case workers must authorize three months of child care beginning the month after the TANF sanction request or job loss in accordance with DSSM 11004.12.1 to:
 - Provide continuity of care for the child; and
 - Give the minor parent the opportunity to re-engage with the TANF E&T or TWP program, obtain employment, or attend an educational setting.

 - B. If the minor parent cures the TANF E&T or TWP sanction, obtains employment, or attends an educational setting during the three months of continued child care, DSS will authorize care until the family's next eligibility review date.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DELAWARE SEX OFFENDER MANAGEMENT BOARD

Statutory Authority: 11 Delaware Code, Section 4120A(c)(8) (11 **Del.C.** §4120A(c)(8))
1 **DE Admin. Code** 1100

PUBLIC NOTICE

1100 Delaware Sex Offender Management Board

The Sex Offender Management Board (SOMB), pursuant to 11 **Del. C.** §4120A (c)(8), proposes to revise its regulations. The proposed amendments, which were voted on in a General Meeting by the SOMB on March 29, 2021, seek to add an associate level service provider, add provisions for declared states of emergencies, as well as update and clarify information regarding qualifications for Sex Offense Service Providers and the credentialing process.

The SOMB will allow for the submission of written comments, suggestions, or other materials regarding the proposed rules to the Criminal Justice Council Attn: Bridget V. Poulle, Carvel State Office Building, 10th Floor, 820 N French Street, Wilmington, Delaware 19801-3590 or e-mail BridgetV.Poulle@state.de.us. Any written submission in response to this notice and the relevant proposed regulations must be received by the Department of Safety and Homeland Security no later than 4:30 p.m. (EST) on June 3, 2021. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, under the statutory authority and for the reasons sent forth above, the Sex Offender Management Board does hereby ORDER that the regulations be, and that they hereby are, proposed to be enacted as set forth below.

Marvin Mailey, Chairman SOMB

***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/may2021/proposed/24 DE Reg 995RFA 05-01-21.pdf>

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

1100 Delaware Sex Offender Management Board

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

FINAL ORDER**1001 Thoroughbred Racing Rules and Regulations**

Date: April 27, 2021

Amendments to Regulations of the Thoroughbred Racing Commission

The Thoroughbred Racing Commission ("Commission") issues this Order to take effect ten (10) days after the publication of this Order in the Delaware *Register of Regulations*:

1. Pursuant to its statutory authority (3 **Del.C.** §10103(c)), the Commission proposed for adoption revisions to the Commission's Rule 15 by amending Rules 15.1.3.1.5 and 15.1.3.1.6 relating to phenylbutazone and oxphenbutazone and amending Rule 15.2.1.4 relating to Furosemide (Salix). Other regulations issued by the Thoroughbred Racing Commission are not affected by this Order.

2. A copy of the proposed regulations was published in the September 1, 2020 edition of the Delaware Register of Regulations and has been available for inspection in the office of the Commission at 777 Delaware Park Boulevard, Wilmington, Delaware 19804 during regular office hours.

3. The Commission did not receive any written comments on the proposed regulations during the 30 day period following publication of the proposed regulations on September 1, 2020.

4. THEREFORE, IT IS ORDERED, that the proposed regulations are adopted and shall become effective May 11, 2021, after publication of the final regulation in the May 1, 2021 edition of the Delaware *Register of Regulations*.

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 September 2020 issue of the *Register* at page 219 (24 DE Reg. 219). 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

FINAL ORDER

1001 Thoroughbred Racing Rules and Regulations

Date: April 14, 2021

Amendments to Regulations of the Thoroughbred Racing Commission

The Thoroughbred Racing Commission ("Commission") issues this Order to take effect ten (10) days after the publication of this Order in the Delaware *Register of Regulations*:

1. Pursuant to its statutory authority (3 **Del.C.** §10103(c)), the Commission proposed for adoption revisions to the Commission's Rules 2.3, 2.5.1.17.1, 2.5.1.22, 2.10, 3.4.1.15, 6.1.7, 7.3.4, 11.4, 11.14, 15.6.3, and 15.32. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

2. A copy of the proposed regulations was published in the March 1, 2021 edition of the Delaware Register of Regulations and has been available for inspection in the office of the Commission at 777 Delaware Park Boulevard, Wilmington, Delaware 19804 during regular office hours.

3. The Commission did not receive any written comments on the proposed regulations during the 30 day period following publication of the proposed regulations on March 1, 2021.

4. THEREFORE, IT IS ORDERED, that the proposed regulations are adopted and shall become effective May 11, 2021, after publication of the final regulation in the May 1, 2021 edition of the Delaware *Register of Regulations*.

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 2021 issue of the *Register* at page 825 (24 DE Reg. 825). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

1001 Thoroughbred Racing Rules and Regulations

FINAL REGULATIONS

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 1049B (14 Del.C. §1049B)
14 DE Admin. Code 210

REGULATORY IMPLEMENTING ORDER

210 District School Board Member Special Education Due Process Hearing Training

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §1049B, the Secretary of Education intends to amend 14 DE Admin. Code 210 District School Board Member Special Education Due Process Hearing Training. This regulation is being amended to include charter school board members; to ensure consistent and clear language when referencing school district, charter school and vocational technical school district; and to streamline language in accordance with the *Delaware Administrative Code Style Manual*.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on March 1, 2021. In addition, notice was published in *The News Journal* and the *Delaware State News* on March 1, 2021, in the form hereto attached as *Exhibit "A"*. Comments received which were pertinent to the proposed amendments suggested the Department consider the following:

(1) Given that Regulation 210 District School Board Member Special Education Due Process Hearing Training and Regulation 211 Notice of School Boards of Due Process Proceedings essentially address the same situation, they should have more consistent language; specifically the definition of "School Board Member" in Regulation 210 does not include vocational technical school boards. For clarity, the comment suggests removing the existing definition of "District School Board or Charter School Board" and instead include a definition for "School Board Member" which includes charter school boards, reorganized school district boards and vocational technical school district boards.

Response: The Department agrees that for clarity the definitions of "School Board" and "School Board Member" in Regulation 210 District School Board Member Special Education Due Process Hearing Training should be defined the same as in Regulation 211 Notice to School Boards of Due Process Proceedings. Therefore, the proposed definition of "District School Board" or "Charter School Board" in Regulation 210 will be removed and replaced with the "School Board" definition as it appears in Regulation 211. Additionally, the "School Board Member" definition in Regulation 210 will be updated to align with the same definition in Regulation 211. A reference to "District or Charter School Board Member" in subsection 4.1 of Regulation 210 was corrected as well.

(2) Stakeholders receive more than the minimum of two hours of Special Education Due Process Hearing Training due to the complexity and due diligence needed to ensure school board members are given ample opportunity to learn as much as possible about the process.

Response: The Department appreciates the recommendation but disagrees. The training is a minimum of two hours. In addition to the live presentation, the Department also provides a compendium of resources including case studies, regulations, Delaware special education statistics, responsibilities of the School Board members, Procedural Safeguards, Due Process Procedures, and State Complaint Procedures. School Board Members are also provided with the presenters' contact information and encouraged to contact them with any further questions or concerns.

(3) The timeframe in which school board members must be trained should be reduced from one year to three months in order to protect the rights of students with disabilities under the IDEA.

Response: The Department appreciates the recommendation but disagrees. This training is one element of a larger required training for all School Board members which is coordinated by the Executive Director of the

Delaware School Boards Association. The Executive Director schedules these trainings.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training in order to include charter school board members, to ensure consistent and clear language when referencing school district, charter school and vocational technical school district, and to streamline language in accordance with the *Delaware Administrative Code Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training 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** 210 District School Board Member Special Education Due Process Hearing Training amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 210 District School Board Member Special Education Due Process Hearing Training 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 April 13, 2021. 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 April 2021.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 13th day of April 2021

210 District and Charter School Board Member Special Education Due Process Hearing Training

1.0 Purpose

The purpose of this regulation is to outline the criteria and process for the required training for members of district and charter school boards, including vocational technical school boards, pursuant to 14 **Del.C.** §1049B. The purpose of the training is to inform school board members of the educational and legal issues generally involved in special education due process hearings arising under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 ("IDEA") and ~~Chapter 31 of Title 14 of the Delaware Code ("Chapter 31")~~ 14 **Del.C.** Ch. 31.

2.0 Definitions

~~["District School Board" or "Charter School Board" shall mean means a reorganized school district boards and board, a charter school board, or a vocational technical school district boards board duly appointed or elected pursuant to Chapter 10 of Title 14 of the Delaware Code 14 Del.C. Ch. 10.~~ "School Board" means charter school boards of directors organized pursuant to 14 **Del.C.** Ch. 5, and reorganized school district boards and vocational technical school district boards duly appointed or elected pursuant to 14 **Del.C.** Ch. 10.]

"Materials" shall ~~mean~~ means training aids approved by the Secretary of Education for use in the Special Education Due Process Hearing Training.

"School Board Member" shall mean ~~means~~ means a district school board ~~[District or Charter School Board member district, vocational technical, or charter school board member]~~ [District or Charter School Board member] whether that person is elected, appointed, or ~~is a volunteer~~ volunteers.

"Special Education Due Process Hearing Training" means the program and materials approved by the Department of Education consisting of a minimum of two (2) hours covering the topics described in Section 3.0.

"Trainer" means an individual, agency, or organization approved by the Secretary of Education to provide the Special Education Due Process Hearing Training, in whole or in part.

3.0 Special Education Due Process Hearing Training Requirement

- 3.1 The Special Education Due Process Hearing Training ~~means the program and materials approved by the Department of Education consisting~~ shall consist of a minimum of two (2) hours and ~~covering~~ cover the following topics:
- 3.1.1 Overview of special education requirements related to the identification, evaluation, and educational placement of children with disabilities, and the provision of a free, appropriate public education to children with disabilities; and
 - 3.1.2 Overview of the due process hearing system; and
 - 3.1.3 Summary of other procedural safeguards and dispute resolution options available to ~~parents and school districts~~ parents, school districts and charter schools under the IDEA and ~~Chapter 34 14 Del.C. Ch. 31.~~
- 3.2 The training may be provided in a format that includes, but is not limited to, an electronic media format or in person.

4.0 Special Education Due Process Hearing Training Requirement for District and Charter School Board Members

- 4.1 Each district ~~[District or Charter]~~ School Board Member shall participate and complete the Special Education Due Process Hearing Training ~~the later of the following: within one (1) year of election, appointment, or voluntary service to a [District or Charter] School Board.~~
- 4.1.1 ~~Within one (1) year of election, appointment, or voluntary service to a District School Board; or~~
 - 4.1.2 ~~Within one year of the initial effective date of this regulation.~~

5.0 Trainer

The training required by this regulation shall be conducted by a trainer as defined in this regulation.

6.0 Materials

The materials used for the training required by this regulation shall be those as defined in this regulation.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 3110(d) (14 **Del.C.** § 3110(d))
14 **DE Admin. Code** 211

REGULATORY IMPLEMENTING ORDER

211 Notice to School Boards of Due Process Proceedings

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §3110(d), the Secretary of Education intends to amend 14 **DE Admin. Code** 211 Notice to School Boards of Due Process Proceedings. This regulation is being amended to specifically recognize vocational school and charter school board members and to streamline language in accordance with the *Delaware*

Administrative Code Style Manual.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on March 1, 2021. In addition, notice was published in *The News Journal* and the *Delaware State News* on March 1, 2021, in the form hereto attached as *Exhibit "A"*. Comments received which were pertinent to the proposed amendments were either in support of the changes or suggested the Department consider the following:

(1) Regulation 210 District School Board Member Special Education Due Process Hearing Training and Regulation 211 Notice of School Boards of Due Process Proceedings essentially address the same situation, therefore they should have more consistent language. Specifically, the definition of "School Board Member" in Regulation 210 does not include vocational technical school boards. For clarity, the comment suggests removing the existing definition of "District School Board or Charter School Board" and instead include a definition for "School Board Member" which includes charter school boards, reorganized school district boards and vocational technical school district boards.

Response: The Department agrees that for clarity the definitions of "School Board" and "School Board Member" in Regulation 210 District School Board Member Special Education Due Process Hearing Training should be defined the same as in Regulation 211 Notice to School Boards of Due Process Proceedings. These changes were made to Regulation 210, including a reference to "School Board" in subsection 4.1 of Regulation 210.

(2) The Department noted that the words "whether" and "person" are unnecessary and should be removed from the definition of "School Board Member" in Regulation 211 to simplify the definition, to comply with the Delaware Administrative Code Style Manual, and to ensure consistency with similar definitions in Regulation 210.

Response: These changes were made within Regulation 211 to simplify the definition, to comply with the *Delaware Administrative Code Style Manual*, and to ensure consistency with similar definitions in Regulation 210.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 211 Notice to School Boards of Due Process Proceedings to specifically recognize vocational school and charter school board members and to streamline language in accordance with the *Delaware Administrative Code Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 211 Notice to School Boards of Due Process Proceedings. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 211 Notice to School Boards of Due Process Proceedings attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 211 Notice to School Boards of Due Process Proceedings 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** 211 Notice to School Boards of Due Process Proceedings amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 211 Notice to School Boards of Due Process Proceedings 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 April 13, 2021. 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 April 2021.

FINAL REGULATIONS

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 13th day of April 2021

211 Notice to District and Charter School Boards of Due Process Proceedings Hearings

1.0 Purpose

The purpose of this regulation is to outline the process for notifying district, including vocational technical school, and charter school board members pursuant to 14 **Del.C.** §3110(d) of special education administrative hearings under the Individuals With Disabilities Education Act, 20 U.S.C. § 1400 et seq. ("IDEA") and 14 **Del.C.** §3101 et seq. ("Chapter 31") involving the school ~~district~~ district, vocational technical school, or charter school.

2.0 Definitions

"School Board" ~~shall mean~~ means charter school boards of directors organized pursuant to ~~Chapter 5 of Title 14 of the Delaware Code, 14 Del.C. Ch. 5,~~ and reorganized school district boards and vocational technical school district boards duly appointed or elected pursuant to ~~Chapter 10 of Title 14 of the Delaware Code~~ 14 Del.C. Ch. 10.

"School Board Member" ~~shall mean~~ means a ~~district school board member~~ district, vocational technical, or charter school board member **[whether]** that **[person]** is elected, appointed, or ~~is a volunteer~~ volunteers.

3.0 Privacy and Confidentiality Considerations

Actions taken and documents provided in accordance with this regulation and 14 **Del.C.** §3110(d) must comply with IDEA and its regulations, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g ("FERPA") and its regulations, the Delaware Freedom of Information Act, 14 **Del.C.** §10001 et seq. ("FOIA"), and all other applicable federal and state laws and regulations governing the privacy and confidentiality of student information and records.

4.0 Notice of Due Process Complaint

- 4.1 After receiving notification that a due process complaint has been received by the Secretary of the Department of Education, the superintendent of a reorganized school district or a vocational technical school district (~~"superintendent"~~) or the head of charter school ~~principal~~ (~~"principal"~~) shall provide a copy of the complaint to each school board member at the next scheduled school board meeting.
- 4.2 The school board president shall sign a statement that all school board members received a copy of the complaint and the superintendent or ~~principal~~ head of charter school shall provide a copy of the statement to the ~~parent(s)~~ parent or legal guardian of the child named in the complaint by certified mail.

5.0 Notice of Due Process Hearing Panel Decision

- 5.1 Within ~~7~~ seven (7) school days of receiving a due process hearing decision, the superintendent or ~~principal~~ head of charter school shall provide a copy of the decision to each school board member.
- 5.2 The superintendent or ~~principal~~ head of charter school shall send a letter signed by the school board president to the parent or legal guardian of the child named in the hearing decision by certified mail, stating that the members of the school board were provided with a copy of the due process hearing decision.

6.0 Notice of Parent Request for Judicial Review of Due Process Hearing Panel Decision

- 6.1 After receipt of the civil action filed by a parent or legal guardian seeking judicial review of a due process hearing decision pursuant to applicable laws and regulation, the superintendent or ~~principal~~

head of charter school shall provide each school board member with a copy of the civil action at the next regularly scheduled school board meeting.

6.2 The superintendent or ~~principal~~ head of charter school shall send a letter signed by the president of the school board by certified mail to the ~~parent(s)~~ parent or legal guardian of the child named in the civil action stating that the members of the school board were provided with a copy of the civil action.

7.0 School District or Charter School Request for Judicial Review of Due Process Hearing Panel Decision

A decision by a reorganized school ~~district or~~ district, a vocational technical school district or a charter school to seek judicial review of a due process hearing decision must be made by a majority of school board members.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DELAWARE HEALTH CARE COMMISSION

Statutory Authority: 16 Delaware Code, Section 9903 (16 Del.C. §9903)

ORDER

Delaware Health Insurance Individual Market Stabilization Reinsurance Program and Fund

IN THE MATTER OF:)
)
ADOPTION OF THE STATE OF DELAWARE)
REGULATIONS GOVERNING)
REINSURANCE)

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (“DHSS”) initiated proceedings to adopt the State of Delaware Regulations Governing Reinsurance. The DHSS proceedings to adopt regulations were initiated pursuant to 29 *Del. C.* Chapter 101 and authority as prescribed by 16 *Del. C.* § 9903.

On March 1, 2021 (Volume 24, Issue 9), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 *Del. C.* § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by April 1, 2021, after which time DHSS would review information, factual evidence, and public comment to the said proposed regulations.

Written comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the accompanying “Summary of Evidence.”

FINDINGS OF FACT:

Some changes were made to the regulations since publication as proposed. The Department finds that the proposed regulations, as set forth in the attached copy, should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing Reinsurance is adopted and shall become effective May 11, 2021, 10 days after publication of the final regulation in the *Delaware Register of Regulations*.

April 9, 2021
Date

Molly K. Magarik, MS
Cabinet Secretary

SUMMARY OF EVIDENCE

STATE OF DELAWARE REGULATIONS GOVERNING REINSURANCE

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations Governing Reinsurance were published in the *Delaware Register of Regulations*. Written comments were received on the proposed regulations during the public comment period (March 1, 2021 through April 1, 2021).

Entities offering written comments include:

- State Council for Persons with Disabilities (SCPD), Terri Hancharick – Chairperson
- Governor’s Advisory Council for Exceptional Citizens (GACEC), Ann Fisher - Chairperson; Wendy Strauss - Executive Director
- Highmark Blue Cross Blue Shield Delaware, Pamela V. Price - Senior Government Affairs Representative

Comments from the State Council for Persons with Disabilities (SCPD)

The proposed regulations are mandated by the law establishing the reinsurance program and fund and promulgated by the DHCC. They further the purpose of the program, namely, to provide reinsurance to carriers that offer individual health plans by reimbursing eligible claims as defined in the regulations.

- **Response:** The Health Care Commission appreciates the SCPD reviewing the proposed regulations and the comment.

Comments from the Governor’s Advisory Council for Exceptional Citizens (GACEC)

The Governor’s Advisory Council for Exceptional Citizens (GACEC) has reviewed the Delaware Health and Social Services (DHSS)/Delaware Health Care Commission (DHCC) proposal to revise the Delaware Health Insurance Individual Market Stabilization Reinsurance Program and Fund. These regulations were mandated by House Bill 193, which required the Delaware Health Care Commission to establish the Delaware Health Insurance Individual Market Stabilization Reinsurance Program and Fund. They further the purpose of the program, namely, to provide reinsurance to carriers that offer individual health plans by reimbursing eligible claims as defined in the regulations. Council **endorses** the proposed regulations.

- **Response:** The Health Care Commission appreciates the GACEC reviewing the proposed regulations and the comment.

Comments from Highmark Blue Cross Blue Shield Delaware

The regulation is being revised to include a reference to “2020 claim payments,” but that reference will no longer be relevant after this year. Our proposed edit to the revised Section 4.4.4 is: “Estimate of prior Benefit Year 2020 claim payments outstanding, e.g., to be paid after February 28th or February 29th of the current calendar year.”

- **Response:** The Health Care Commission appreciates this comment and will change the regulation to reflect this edit.

Delaware Health Insurance Individual Market Stabilization Reinsurance Program and Fund**1.0 Purpose**

- 1.1 The purpose of these Regulations is to establish procedures for the Delaware Health Insurance Individual Market Stabilization Reinsurance Program and Fund established pursuant to House Bill No. 193, 150th General Assembly for the purpose of stabilizing insurance rates and premiums in the individual market and providing greater financial certainty to consumers of health insurance in the State.
- 1.2 Policies and procedures for implementation of these regulations may be established in manuals and other documents by the Executive Director of the Delaware Health Care Commission or the Cabinet Secretary of Delaware Health and Social Services.

- 1.3 Nothing in these regulations shall preempt or otherwise conflict with any applicable state and federal laws and rules.

2.0 Authority

This regulation is promulgated pursuant to the authority granted in Chapter 99, Title 16, of the Delaware Code.

3.0 Definitions

The following definitions shall apply to this regulation:

“**Attachment point**” means the threshold dollar amount, adopted by the Executive Director, after which point the claims costs of an insured individual’s covered benefits under a reinsurance-eligible health benefit plan in a benefit year are eligible for reinsurance payments.

“**Benefit year**” means a calendar year beginning on or after January 1, 2020 for which reinsurance eligible health benefit plan provides health insurance coverage.

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

“**Coinsurance rate**” means the rate at which the Executive Director may reimburse a reinsurance eligible health benefit plan for claims costs incurred after the attachment point and before the reinsurance cap for an insured individual’s covered benefits in a benefit year.

“**Commission**” or “**DHCC**” ~~mean~~ means the Delaware Health Care Commission created pursuant to 16 Del.C. §9902.

“**DHSS**” means Department of Health and Social Services.

“**DOI**” means Department of Insurance.

“**Executive Director**” means the Executive Director of the Delaware Health Care Commission (DHCC) or designee.

“**Health insurance carrier**” or “**carrier**” means any entity that provides health insurance in this State. For the purposes of this regulation, carrier includes an insurance company, health service corporation, health maintenance organization, managed care organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

The entities providing insurance under the following types of plans do not meet the definition of carrier, per this regulation: plans of health insurance or health benefits designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act (42 U.S.C. §§1395 et seq., 1396 et seq., and 1397aa et seq.), known as Medicare, Medicaid; Chapter 52 of Title 29 of the Delaware Code; or any other similar coverage under state or federal governmental plans. Additionally, this regulation shall not apply to stand-alone dental insurance, stand-alone vision insurance, long-term care insurance, disability income insurance and all accident-only insurance.

“**Health insurance coverage**” means legal entitlement to payment or reimbursement for health care costs, generally under a contract with a health insurance company or a group health plan offered in connection with employment.

“**Program**” means the Delaware Health Insurance Individual Market Stabilization Reinsurance Program created by 16 Del.C. §9903(g).

“**Regulations**” ~~mean~~ means parts of the Rules and Regulations pertaining to the Delaware Health Insurance Individual Market Stabilization Reinsurance Program.

“**Reinsurance cap**” means the threshold dollar amount, adopted by the Executive Director, for claims costs incurred by a reinsurance eligible health benefit plan for an insured individual’s covered benefits in a benefit year, after which threshold the claims costs for the benefits are no longer eligible for reinsurance payments.

“**Reinsurance eligible claim**” means a claim for services covered under a reinsurance eligible health benefit plan that is incurred by a reinsurance eligible issuer during the applicable benefit year and within the period of eligibility for the member that is paid by the reinsurance eligible issuer before June 1 of the following year. A reinsurance eligible claim shall not be adjusted for risk nor for pharmacy

rebates. A reinsurance eligible claim does include a claim for certain abortion services, as defined in 45 CFR §156.280(d)(1).

“Reinsurance eligible health benefit plan” means health insurance coverage offered on the individual market that:

1. Constitutes minimum essential coverage, as set forth in 26 U.S.C. §5000A(f);
2. Is approved by the State’s Insurance Commissioner;
3. Is delivered or issued for delivery by a carrier in the State; and
4. Is not a grandfathered plan as defined in §1251 of the Patient Protection and Affordable Care ~~Act,~~ **Act.]** 29 CFR §2590.715-1251.

“Reinsurance eligible individual” means an individual who is insured in a reinsurance eligible health benefit plan on or after January 1, 2020.

“Reinsurance eligible issuer” means a health insurance carrier that offers a reinsurance eligible health benefit plan to reinsurance eligible individuals.

“Reinsurance payment” means payments issued to a reinsurance eligible issuer in accordance with Section 6.0.

“State” means the State of Delaware.

4.0 Information Reporting

- 4.1 ~~As a condition of receiving reinsurance payments from the program, a reinsurance eligible issuer must provide the following information to the program in the form and manner prescribed by the Executive Director: The State entered into an intergovernmental agreement with the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), to calculate reinsurance payments to issuers participating in the State of Delaware's reinsurance program under Delaware's State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act. CMS will identify paid claims eligible for reimbursement under the reinsurance program from data submitted to "EDGE Servers."~~
- 4.1.1 ~~The name and company code assigned to the reinsurance eligible issuer by the National Association of Insurance Commissioners;~~
 - 4.1.2 ~~The identification number assigned to the reinsurance eligible issuer by the DHCC;~~
 - 4.1.3 ~~The total amount of the reinsurance eligible issuer's reinsurance eligible claims for the benefit year;~~
 - 4.1.4 ~~The portion of the reinsurance eligible issuer's total reinsurance eligible claims for the benefit year that fall between the attachment point and reinsurance cap;~~
 - 4.1.5 ~~A summary data file containing de-identified information for each reinsurance eligible individual with claims for which reinsurance payments are being requested:

 - 4.1.5.1 ~~The start and end dates of coverage for the reinsurance eligible individual;~~
 - 4.1.5.2 ~~The DHCC plan identification number for the reinsurance eligible health benefit plan in which the reinsurance eligible individual was enrolled;~~
 - 4.1.5.3 ~~The total amount of reinsurance eligible claims for the reinsurance eligible individual for the benefit year; and~~
 - 4.1.5.4 ~~The total amount of reinsurance eligible claims for the reinsurance eligible individual for the benefit year that fall between the attachment point and reinsurance cap.~~~~
 - 4.1.6 ~~If requested by the Executive Director, a de-identified claims file extracted from the reinsurance eligible issuer's claims processing system that includes the issuer's complete record of all reinsurance eligible claims for the benefit year, in accordance with applicable state and federal confidentiality laws;~~
 - 4.1.7 ~~An attestation signed by an executive officer of the reinsurance eligible issuer stating that the information is accurate as of the date of submission; and~~
 - 4.1.8 ~~Any other information requested by the Executive Director that he or she deems necessary to administer the program, in accordance with applicable state and federal confidentiality laws.~~

- ~~4.2~~ ~~In lieu of subsections 4.1.1 through 4.1.8, the State may enter a legal agreement with the Centers for Medicare and Medicaid Services (CMS), whereby the State shall use the CMS EDGE server for the purposes of the program.~~
- ~~4.3~~ 4.2 Carriers must sign an attestation that they meet the submission and data requirements of the State Reinsurance Program through their participation in CMS EDGE Server.
- ~~4.4~~ 4.3 ~~As a condition of receiving reinsurance payments from the program, a~~ A reinsurance eligible issuer must submit one interim report due on March 31st after the benefit year, containing de-identified data from the prior benefit year with claims paid by February 28th or February 29th, and an estimate of claims payments still outstanding. This report will be used to aid the Executive Director in setting parameters for future program years; ~~the EDGE Server, and not this report, shall be used to calculate the paid claims eligible for reimbursement under the reinsurance program.~~ The report shall be issued using a secure method of transmission approved by the Executive Director. ~~The Executive Director may, in his or her discretion, waive the interim report.~~
- 4.4 The interim report must contain the following data elements for the individual ACA plan:
- 4.4.1 De-identified Member ID;
 - 4.4.2 Benefit Year Member Months;
 - 4.4.3 Benefit Year Incurred Claims (paid through February 28th or February 29th of the current calendar year); and
 - 4.4.4 Estimate of [prior] Benefit Year [2020] claim payments outstanding, e.g., to be paid after February 28th or February 29th of the current calendar year.
- 4.5 DHCC shall annually receive from the Department of Insurance the actual Second Lowest Cost Silver Plan premium under the Affordable Care Act 1332 waiver, 45 U.S.C. §18052, and an estimate of the premium as it would have been without the waiver.
- 4.6 If the State's participation in the CMS EDGE Server were to be discontinued, as a condition of receiving reinsurance payments from the program, a reinsurance eligible issuer would provide the following information to the program in the form and manner prescribed by the Executive Director:
- 4.6.1 The name and company code assigned to the reinsurance eligible issuer by the National Association of Insurance Commissioners;
 - 4.6.2 The identification number assigned to the reinsurance eligible issuer by the DHCC;
 - 4.6.3 The total amount of the reinsurance eligible issuer's reinsurance eligible claims for the benefit year;
 - 4.6.4 The portion of the reinsurance eligible issuer's total reinsurance eligible claims for the benefit year that fall between the attachment point and reinsurance cap;
 - 4.6.5 A summary data file containing de-identified information for each reinsurance eligible individual with claims for which reinsurance payments are being requested:
 - 4.6.5.1 The start and end dates of coverage for the reinsurance eligible individual;
 - 4.6.5.2 The DHCC plan identification number for the reinsurance eligible health benefit plan in which the reinsurance eligible individual was enrolled;
 - 4.6.5.3 The total amount of reinsurance eligible claims for the reinsurance eligible individual for the benefit year; and
 - 4.6.5.4 The total amount of reinsurance eligible claims for the reinsurance eligible individual for the benefit year that fall between the attachment point and reinsurance cap.
 - 4.6.6 If requested by the Executive Director de-identified claims file extracted from the reinsurance eligible issuer's claims processing system that includes the issuer's complete record of all reinsurance eligible claims for the benefit year, in accordance with applicable state and federal confidentiality laws;
 - 4.6.7 An attestation signed by an executive officer of the reinsurance eligible issuer stating that the information is accurate as of the date of submission; and
 - 4.6.8 Any other information requested by the Executive Director that he or she deems necessary to administer the program, in accordance with applicable state and federal confidentiality laws.

5.0 Reinsurance Parameters

Annually, the Executive Director shall set an attachment point, cap, and coinsurance rate for the reinsurance program for the upcoming year based on anticipated revenue and recently reported premium, enrollment, and claims data.

6.0 Reinsurance Payments

- 6.1 A reinsurance eligible issuer becomes eligible for a reinsurance payment when the claims costs for at least one reinsurance eligible individual's covered benefits in a calendar year exceed the attachment point.
- 6.2 ~~The~~ Under the intergovernmental agreement with CMS, the Executive Director shall calculate ~~receives~~ from CMS reports detailing the total reinsurance payment ~~payments~~ on a cumulative basis, to date, owed to each reinsurance eligible issuer.
- 6.2.1 Subject to subsections 6.2.2 and 6.2.3, the reinsurance payment made to each reinsurance eligible issuer for a benefit year will be the product of the coinsurance rate and the portion of the reinsurance eligible issuer's total reinsurance eligible claims for the benefit year that fall between the attachment point and the reinsurance cap.
- 6.2.2 The Executive Director shall uniformly reduce or increase the coinsurance rate to the extent necessary, but at no time shall the increase exceed 100%, to ensure that reinsurance payments do not exceed the total available funding for the benefit year, as determined by the Executive Director in his or her sole discretion.
- ~~6.2.3 In making the calculation under subsection 6.2.1, the Executive Director in his or her sole discretion may disregard any or all reinsurance eligible claims reported by a reinsurance eligible issuer under Section 4.0 that cannot be verified as part of the audit described under subsection 7.1.~~
- 6.3 The program shall issue reinsurance payments to all reinsurance eligible issuers on an annual basis in the year following each benefit year. The Executive Director shall issue a payment schedule to all issuers.
- 6.4 Payments shall be made directly to reinsurance eligible issuers by a method designated by the Executive Director.
- 6.5 If the Executive Director determines that a reinsurance eligible issuer has substantively failed to comply with this regulation, he or she shall give notice thereof to the issuer stating the Executive Director's findings and stating how the nonconformance can be remedied. The Executive Director shall specify a time period for remedying the nonconformance. The program shall not issue reinsurance payments until the nonconformance is remedied.

7.0 Duties of the Administrator

- 7.1 The program shall be administered by the Executive Director. As administrator of the program, the Executive Director may:
- 7.1.1 Conduct an audit of the information ~~submitted~~ received under Section 4.0.
- 7.1.2 Notify reinsurance eligible issuers of the results of the calculation described in Section 6.0, including any modifications of the coinsurance rate once ~~HCC~~ DHCC receives the results from CMS.
- 7.1.3 Issue reinsurance payments to each reinsurance eligible issuer in accordance with Section 6.0.
- 7.1.4 Assign the functions vested in him or her by the Delaware Health Insurance Individual Market Stabilization Reinsurance Program and these regulations to subordinate officers and employees as he or she deems necessary. The designee shall have the same power and authority that would be afforded to the Executive Director.
- 7.1.5 Contract with other state agencies and third parties as he or she deems necessary to administer the program.
- 7.1.6 Use, access, store, and disclose the information submitted to the program under Section 4.0, including disclosing the information to the Insurance Commissioner, in accordance with applicable

state and federal confidentiality laws, for the purposes of ensuring the efficient administration of the program and to reduce the reporting burden on issuers.

- 7.1.7 Submit an annual report to the Governor and General Assembly, in consultation with the DHSS and DOI and in accordance with applicable state and federal confidentiality laws.
- 7.1.8 Perform other functions he or she deems reasonably necessary to administer the program.

8.0 Document Retention and Audits

- 8.1 A reinsurance eligible issuer must maintain documents and records, whether paper, electronic, or in other media, sufficient to substantiate its requests for reinsurance payments made pursuant to this regulation for a minimum period of 10 years and must make those documents and records available to the program upon request by the Executive Director for purposes of verification, investigation, or audit, in accordance with applicable state and federal confidentiality laws.
- 8.2 The Executive Director may audit a reinsurance eligible issuer to assess its compliance with the requirements of this regulation. The reinsurance eligible issuer must ensure that its relevant contractors, subcontractors, or agents cooperate with any audit under this Section. If an audit results in a finding of material weakness or significant deficiency with respect to compliance with any requirement of this Section, the reinsurance eligible issuer must complete all of the following:
 - 8.2.1 Within 30 calendar days of the issuance of the final audit report, provide a written corrective action plan to the program for approval;
 - 8.2.2 Implement that plan; and
 - 8.2.3 Provide to the program written documentation of the corrective actions once taken.
- 8.3 If, at the conclusion of the audit, the Executive Director determines that a reinsurance eligible issuer received excess reinsurance payments, at the request of the Executive Director, the reinsurance eligible issuer shall return the excess payments to the program in a manner to be determined by the Executive Director within 60 days of his or her request.

9.0 Severability

If any provisions of this regulation or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect, and to this end the provisions of these regulations are declared to be severable.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 2024

ORDER

Case Processing Procedures - Fraudulent Receipt of Benefits in Multiple States

BEFORE DELAWARE HEALTH AND SOCIAL SERVICES
IN THE MATTER OF

REVISION OF THE REGULATION)
OF DELAWARE'S)
DELAWARE SOCIAL SERVICES MANUAL (DSSM))
DSSM 2024)

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (Department) / Division of Social Services initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Case Processing Procedures, specifically, to explain

the procedures for disqualifying individuals from cash assistance and food benefit programs when an individual has been found guilty of fraudulently receiving these benefits in multiple states. The Department's proceedings to amend its regulations were initiated pursuant to 29 *Del. C.* § 10114 and its authority as prescribed by 31 *Del. C.* § 512.

The Department published its notice of proposed regulation changes pursuant to 29 *Del. C.* § 10115 in the April 2020 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 1, 2020, at which time the Department would receive information, factual evidence, and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after May 11, 2021, Delaware Health and Social Services (Department)/Division of Social Services (DSS) proposes to amend the Division of Social Service Manual (DSSM) section 2024 specifically to explain the case processing procedures for disqualifying individuals from cash assistance and food benefit programs when an individual has been found guilty of fraudulently receiving these benefits in multiple states.

Statutory Authority

- 42 U.S.C. § 608 (a)(8)
- 7 C.F.R. § 273.16 (b)(5)

Background

Federal regulations mandate that individuals who are found guilty of fraudulently receiving cash assistance or food benefits in multiple states are disqualified from receiving these benefits for a 10-year period. DSSM 2024 identifies the disqualification criteria for multiple benefits for cash assistance programs and the Supplement Nutrition Assistance Program (SNAP) and provides case processing instructions for DSS staff.

NOTE: Regulation 2024 is being published as final. Regulation 2024 was originally proposed with Regulation 2020 on burial assistance in 23 DE Reg. 827 (04/01/20) (Prop.). Regulation 2020 will be republished at a later date.

Purpose

The purpose is to amend DSSM 2024 to improve the format of the policy and to include the current procedures for disqualifying individuals for fraudulently receiving cash assistance or food benefits in multiple states.

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 447.205 and the *state* public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) 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 were to have been received by 4:30 p.m. on May 1, 2020.

Fiscal Impact Statement

There is no anticipated fiscal impact associated with this policy change.

Summary of Comments Received with Agency Response and Explanation of Changes

No comments were received during the public comment period.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the April 2020 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Service Manual section 2024, specifically to explain the case processing procedures for disqualifying individuals from cash assistance and food benefit programs when an individual has been found guilty of fraudulently receiving these benefits in multiple states, is adopted and shall be final effective May 11, 2021.

4/13/2021

Date of Signature

Molly K. Magarik, Secretary, DHSS

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

2024 Disqualification for Receipt of Multiple Benefits Disqualifying Individuals for the Fraudulent Receipt of Benefits in Multiple States

42 USC 608 (a)(8); 7 CFR. 273.16 (b)(5)

For Cash Benefits:

- ~~Individuals shall be ineligible to receive cash benefits as a member of any assistance unit for a ten (10)-year period if they misrepresent their place of residence in order to receive multiple benefits.~~
- ~~The individual must have been convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance from two or more states at the same time. This provision applies to programs funded under Title IV, Title XIX Medicaid program, the Food Stamp Act of 1977, and Title XVI Supplemental Security Income program. This does not apply to an individual for whom the President of the United States has granted a pardon.~~
- ~~Determine income, resources, and deductions according to DSSM 4003.2 if the individual is a parent payee. Exclude the income and resources of the individual if the person is a non-parent payee.~~

For Food Stamps:

- ~~Individuals shall be ineligible to receive food stamp benefits as a member of any household for a 10-year period if they misrepresent their identity and/or place of residence in order to receive multiple food stamp benefits.~~
- ~~The individual(s) must be found guilty by DSS to have made a fraudulent statement or misrepresentation to the identity and/or place of residence or convicted in a Federal or State court of having made a fraudulent statement or misrepresentation to the identity and/or place of residence in order to receive the multiple benefits at the same time.~~
- ~~Determine the income, resources and deductions of these disqualified individuals according to DSSM 9076.1.~~

Individuals who have been found guilty of fraudulently receiving cash assistance or food benefits in multiple states are disqualified from receiving these benefits.

1. Disqualification Criteria for Cash Assistance Recipients

- A. An individual is ineligible to receive cash assistance as a member of any assistance unit if the individual:
 - i. Made a fraudulent statement or representation of the individual's place of residence to receive assistance from two or more states simultaneously; and
 - ii. Was convicted in federal or state court for this offense.

- B. The individual is disqualified from receiving cash assistance for a 10-year period beginning on the conviction date.

FINAL REGULATIONS

- C. The disqualification applies to programs funded under Title IV, Title XIX, and Title XVI of the Social Security Act and the Food and Nutrition Act of 2008.
- D. The disqualification does not apply to an individual for whom the President of the United States has granted a pardon for the conviction.
- E. DSS case workers must:
 - i. Determine the income, resources, and deductions according to DSSM 4003.2 if the disqualified individual is a parent payee; or
 - ii. Exclude the income and resources of the disqualified individual if the individual is a non-parent payee.

2. Disqualification Criteria for Food Benefit Recipients

- A. An individual is ineligible to receive food benefits as a member of any household if the individual:
 - i. Made a fraudulent statement or representation of the individual's place of residence or identity to receive assistance from two or more states simultaneously; and
 - ii. Was convicted in federal or state court, was found guilty as the result of an Administrative Disqualification Hearing, or signed a waiver of the right to an Administrative Disqualification Hearing for this offense.
- B. The individual is disqualified from receiving food benefits for a 10-year period beginning no later than the second month following the date the individual receives written notice of the disqualification.
- C. DSS case workers must:
 - i. Determine the income, resources, and deductions of the disqualified individual according to DSSM 9076.1.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY DELAWARE COUNCIL ON POLICE TRAINING

Statutory Authority: 11 Delaware Code, Sections 8402 & 8404(a)(14) (11 Del.C. §§8402, 8404(a)(14))

1 DE Admin. Code 801

ORDER

801 Regulations of the Delaware Council on Police Training

NATURE OF THE PROCEEDINGS

At 24 DE Reg. 763 (February 1, 2021), The Council on Police Training (COPT), pursuant to 11 Del. C. §8404(a)(14) and in accordance with 29 Del. C. §10115, published notice of intent to adopt regulations that seek to update information regarding firearms training and qualifications, temporarily waiving or modifying minimum standards under declared states of emergency, reviewing reciprocity cases, and make other minor technical corrections and clarifications. At the same time, the COPT submitted a Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation, as required by 29 Del. C. Ch. 104. The COPT 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 February 1, 2021 through March 03, 2021. During this period, the COPT did not receive any written responses.

FINDINGS OF FACT

The public was given the required notice of the Council'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, the COPT finds that the proposed revised regulations should be adopted as submitted by the COPT.

EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the COPT pursuant to 11 **Del. C.** §8404(a)(14). 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, the Council on Police Training does hereby ORDER this 13th day of April 2021 that the regulations be, and that they hereby are, adopted to be enacted as set forth below.

IT IS SO ORDERED, this 13th day of April 2021.

COUNCIL ON POLICE TRAINING

/s/ Nathaniel McQueen, Jr.
Chair

Robert J. Irwin
Attorney General/Proxy

Absent /Susan Bunting
Secretary, Department of Education/Proxy
Department of Education

Absent /Charles Emory (Proxy)
Chief of Police, Wilmington
Police Department/Proxy

Absent / Capt. Joseph Bloch (Proxy)
Chief of the New Castle County
Police/Proxy

Absent / William West
Mayor, Sussex County

Christopher Jones
Chief of Police, Newark Police
Department/Proxy

Major Sean Moriarty
Superintendent of State Police/
Proxy

Chief Thomas A. Johnson, Jr.
Chief of Police, Dover Police
Department/Proxy

Mayor Robin Christiansen
Mayor, Kent County

Chief Patrick Ogden
Chair, Delaware Police Chiefs
Council/Proxy

Lew Killmer
President, Delaware League of Local
Government/Proxy

***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 February 2021 issue of the *Register* at page 763 (24 DE Reg. 763). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

[801 Regulations of the Delaware Council on Police Training](#)

**DEPARTMENT OF STATE
PUBLIC SERVICE COMMISSION**

Statutory Authority: 26 Delaware Code, Section 362(a) and 29 Delaware Code, Section 10113(B)(4)-(5)) (26 **Del.C.** §362(a) & 29 **Del.C.** §§10113(B)(4)-(5))
26 **DE Admin. Code** 3008

ORDER

3008 Rules and Procedures to Implement the Renewable Energy Portfolio Standard (Opened August 23, 2005)

IN THE MATTER OF THE ADOPTION OF RULES AND PROCEDURES TO IMPLEMENT THE RENEWABLE ENERGY PORTFOLIO STANDARDS ACT, 26 *DEL. C.* §§ 351-363, AS APPLIED TO RETAIL ELECTRICITY SUPPLIERS (OPENED AUGUST 23, 2005; REOPENED SEPTEMBER 4, 2007; AUGUST 5, 2008; SEPTEMBER 22, 2009; AUGUST 17, 2010; SEPTEMBER 6, 2011, SEPTEMBER 18, 2012; FEBRUARY 2, 2017; MARCH 31, 2021)

PSC REGULATION
DOCKET NO. 56

ORDER NO. 9768 (CORRECTED)

AND NOW, this 31st day of March 2021, the Delaware Public Service Commission ("Commission") determines and orders as follows:

WHEREAS, on February 10, 2021, the Governor of Delaware signed into law Senate Bill 33, thereby amending the *Renewable Energy Portfolio Standards Act* ("*REPSA*") at §§ 354, 358, 362, and 363 of Title 26 of the Delaware Code¹; and

WHEREAS, Senate Bill 33: (i) continued increasing the required minimum percentage of electrical energy sales to Delaware end-use customers from renewable energy sources through 2035; (ii) eliminated the "cost-cap" mechanism for freezing the *REPSA* minimum percentages and replaced it with a market-based mechanism that freezes the *REPSA* minimum percentages when alternative compliance payments exceed certain levels; and (iii) replaced the term "retail electricity supplier" with "commission-regulated utility" in 26 *Del. C.* §§ 354 and 358;² and

WHEREAS, the attached revisions to the Commission's *Rules and Procedures to Implement the Renewable Energy Portfolio Standard*, 26 *Del. Admin. C.* § 3008 et seq. ("*RPS Rules*")³ are necessary to reflect the Senate Bill 33 amendments by updating the required minimum percentages of renewable energy, replacing the "cost cap" mechanism with the market-based mechanism provided by Senate Bill 33, and replacing "electricity supplier" with "commission regulated electric company" or "CREC"; and

WHEREAS, under 29 *Del. C.* § 10113(b)(5), an agency's "amendments to existing regulations to make them consistent with changes in basic law but which do not otherwise alter the substance of the regulations" is exempt from the requirements of 29 *Del. C.* Ch. 101 relating to notice and public comment and may instead be informally adopted or amended; and

WHEREAS, the attached revisions to the *RPS Rules* also include nonsubstantive changes to alter style or form or to correct technical errors; and

WHEREAS, under 29 *Del. C.* § 10113(b)(4), an agency's adoption of "[n]onsubstantive changes in existing

regulations to alter style or form or to correct technical errors" is exempt from the requirements of 29 *Del. C. Ch. 101* relating to notice and public comment and may instead be informally adopted or amended; and

WHEREAS, given that the attached revisions are necessary to make the *RPS Rules* consistent with the Senate Bill 33 amendments to *REPSA*, to address style and form, and to correct technical errors, the Commission finds that 29 *Del. C. §§ 10113(b)(4)-(5)* apply to these amendments; and

¹ Senate Bill 33 is attached hereto as Exhibit "A".

² The change in terms reflects *REPSA* amendments from 2011 which transferred the *REPSA* renewable energy obligation from all "retail electricity suppliers" to "commission-regulated electric companies." See Senate Bill No. 124, as amended by Senate Amendment No. 1 (78 *Del. Laws ch. 99*) (July 7, 2011).

³ The Commission Order No. 6931 dated June 6, 2006 and subsequently amended in last made changes by Order No. 9289 dated November 9, 2018.

WHEREAS, on March 12, 2021, Commission Staff posted the draft *RPS Rules* to DelaFile advising interested persons that the Commission would accept written comments by March 19, 2021, and Staff received no such comments;

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

1. That pursuant to 26 *Del. C. § 362(a)* and 29 *Del. C. §§ 10113(b)(4)-(5)*, the Commission hereby amends its *Rules and Procedures to Implement the Renewable Energy Portfolio Standard*, 26 *Del. Admin. C. § 3008*, as proposed herein. A marked-up version of the *RPS Rules* reflecting only the amended sections is attached as **Exhibit "B"**. A non-marked up version of the entire text of The Rules, as amended herein, is attached as **Exhibit "C"**.

2. That pursuant to 26 *Del. C. §§ 10113* and 10118, the Secretary of the Commission shall transmit a copy of this Order, including Exhibits "B" and "C," to the Registrar of Regulations for publication in the May 1, 2021 edition of the *Delaware Register of Regulations*. An exact copy of the *RPS Rules*, as amended, shall be published in the *Delaware Register of Regulations* as the current official regulation as defined in 29 *Del. C. § 1132*.

3. That the effective date of the amendments to the *RPS Rules* shall be the later of May 11, 2021, or ten days after publication in the *Delaware Register of Regulations*.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Dallas Winslow, Chairman

/s/ Manubhai C. Karia, Commissioner

/s/ Joann T. Conaway, Commissioner

/s/ Kim Drexler, Commissioner

/s/ Harold B. Gray, Commissioner

ATTEST: Donna Nickerson, Secretary

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

EXHIBIT "A"

Order No. 9768
(Senate Bill 33)

***Please note: Senate Bill 33 can be viewed online at:**

<https://legis.delaware.gov/BillDetail?LegislationId=48278>

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

3008 Rules and Procedures to Implement the Renewable Energy Portfolio Standard

DEPARTMENT OF TRANSPORTATION

DIVISION OF MOTOR VEHICLES

DRIVER SERVICES

Statutory Authority: 21 Delaware Code, Section 302; 18 Delaware Code, Section 2503; 29 Delaware Code, Sections 101 and 8404) (21 **Del.C.** §302; 18 **Del.C.** §2503; and 29 **Del.C.** §§101 & 8404)

2 **DE Admin. Code** 2224

ORDER

2224 Defensive Driving Course, Providers, and Instructors

Pursuant to the authority provided by 21 *Del. C.* §302, 18 *Del. C.* §2503, and 29 *Del. C.* §101, the Delaware Division of Motor Vehicles (DMV), adopted the Defensive Driving Course, Providers, and Instructors. The Division of Motor Vehicles uses this regulation to initiate program requirements.

Findings of Fact and Conclusions of Law

1. The public was given notice and the opportunity to provide comments in writing concerning the proposed revisions.
2. The proposed revisions are useful and proper, and the Department believes that the adoption of these regulations is appropriate.

Decision and Effective Date

Based on the provision of Delaware law and the record of this docket, I hereby adopt the Defensive Driving Course, Providers, and Instructors as set forth in the version attached, to be effective May 11, 2021.

It is ordered on this 7th day of April, 2021.

Nicole Majeski, Secretary
Delaware Department of Transportation

*Please note that no changes were made to the regulation as originally proposed and published in the March 2021 issue of the *Register* at page 859 (24 DE Reg. 859). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

2224 Defensive Driving Course, Providers, and Instructors

DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM**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., June 1, 2021. Written comments shall be submitted via e-mail to Marianne.Kennedy@delaware.gov or via the USPS to Ms. Marianne Kennedy Chair, DELJIS Board of Managers, 800 Silver Lake Blvd. Suite 101, Dover, DE 19904.

DELAWARE RIVER BASIN COMMISSION**PUBLIC NOTICE**

The Delaware River Basin Commission will hold a public hearing on **Wednesday, May 12, 2021** beginning at **1:30 p.m.** In light of COVID-19 mitigation measures in effect for DRBC member states, the Commission will conduct the public hearing on a remote platform. Please check the Commission's website, www.drbc.gov, on or after April 28, 2021 for details regarding the resolutions and draft docket decisions that will be subjects of the public hearing and for information on how to attend and participate in this remote public hearing.

The Commission's quarterly business meeting will be held the following month, on **Wednesday, June 9, 2021**, beginning at **10:30 a.m.** The business meeting will also be conducted remotely. Details about the meeting format and how to attend will be posted on the Commission's website, www.drbc.gov, no later than April 28, 2021.

For additional information, please visit the DRBC website at www.drbc.gov or contact Denise McHugh at denise.mchugh@drbc.gov or Patricia Hausler at patricia.hausler@drbc.gov.

DEPARTMENT OF AGRICULTURE**FOOD PRODUCTS INSPECTION****PUBLIC NOTICE****302 Produce Safety Regulations**

The Department of Agriculture proposes to amend its Regulations adopted in accordance with Title 3, Chapter 1 of the Delaware Code to revise the existing Produce Safety Regulations at 3 DE Admin. Code 302. The purpose of the amended regulations is to revise sections 3.1 and 3.4 to better address compliance of regulated farms with the federal regulations promulgated under the Food Safety Modernization Act (Title 21, Part 112 of the Code of Federal Regulations). Other regulations issued by the Department of Agriculture are not affected by this proposal. The Department of Agriculture is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. Statutory Authority: 3 Delaware Code, Section 101(1), (3) & (6) (3 Del.C. §101(1), (3) & (6)). This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

A copy of the proposed regulations is being published in the May 1, 2021 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 *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 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 June 1, 2021. Written materials submitted will be available for inspection at the above address.

On or after June 1, 2021, 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.

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*.

PLANT INDUSTRIES SECTION**PUBLIC NOTICE****805 Rules and Regulations for Delaware Domestic Hemp Production Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 3 of the Delaware Code, Chapter 1, Sections 101(2) & (3), Delaware Department of Agriculture and Plant Industries Section is proposing regulations governing the Delaware Domestic Hemp Production Program.

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 to, the Plant Industries Section, 2320 South DuPont Highway, Camden DE 19901, by email to dda_hempprogram@delaware.gov by 4:30 p.m. on June 1, 2021. Please identify in the subject line: Regulations Governing Delaware Domestic Hemp Production Program.

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

THOROUGHBRED RACING COMMISSION**PUBLIC NOTICE****1001 Thoroughbred Racing Rules and Regulations**

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend Rule 13.1.3 to change the existing open claiming rule. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

A copy of the proposed regulations is being published in the May 1, 2021 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 *Del.C.* § 10118(a), public comments must be received on or before June 1, 2021. Written materials submitted will be available for inspection at the above address.

On or after June 1, 2021, following review of the public comment, the Thoroughbred Racing Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

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

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

On March 12, 2020, Governor Carney issued a declaration of a state of emergency for the state of Delaware due to a public health threat. The State of Emergency allows all public meetings of executive branch public bodies, including the SBE, to be conducted electronically, either by means of telephone conference call or video-conference call.

In accordance with the State of Emergency, the State Board of Education is currently holding meetings electronically. The meeting information can be accessed via the public meeting calendar (<https://publicmeetings.delaware.gov/Search?q=&AnyAll=Any&AgencyID=22&StartDateInclusive=2020-08-01>). Members of the public can join the meeting via the web or telephone.

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

DEPARTMENT OF ELECTIONS
OFFICE OF THE STATE ELECTION COMMISSIONER
PUBLIC NOTICE**101 Procedures for Addressing Post-Election Voting Machine Audit Discrepancies**

The Department of Elections, pursuant to 15 **Del.C.** § 5012A(f), proposes to enact a new regulation. The proposed regulation outlines the procedures to be followed by the Department of Elections in the case of a discrepancy discovered during a post-election audit performed in accordance with the provisions of 15 **Del.C.** § 5012A. The proposed regulation is not substantially likely to impose additional costs or burdens upon individuals and/or small businesses. Other regulations issued by the Department of Elections or the State Election Commissioner are not affected by this proposal. This Notice is issued pursuant to the requirements of 29 **Del.C.**, Ch. 11, Subchapter III, 29 **Del.C.**, Ch. 101, Subchapter II, and 29 **Del.C.**, Ch. 104, §§ 10404A(b)(1) and 10404B(b)(1).

This proposed regulation is being published in the May 2021 edition of the *Delaware Register of Regulations*. Copies are also on file in the Office of the State Election Commissioner, 905 S. Governors Avenue, Suite 170, Dover, DE 19904 and are available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed regulation or submit written suggestions, compilations of data, briefs, or other materials to State Election Commissioner Anthony Albence at the above address as to whether the proposed regulation should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before June 4, 2021. Written materials submitted will be available for inspection at the above address.

On or after June 4, 2021, following review of the public comments received, the Department of Elections will determine whether to adopt the proposed regulation, or make additional changes because of the public comments received.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
PUBLIC NOTICE**Drug Utilization Review (DUR) - Opioid Provisions**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of 31 *Del. C.* § 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding the Drug Utilization Review (DUR), specifically, to update policy to comply with the published Final Rule.

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, Policy and Quality 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 June 1, 2021. Please identify in the subject line: Drug Utilization Review (DUR) - Opioid Provisions.

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 SOCIAL SERVICES**PUBLIC NOTICE****Child Care for Families Receiving Temporary Assistance for Needy Families (TANF)**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of 31 *Del. C.* § 512, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) is proposing to amend the Division of Social Services Manual (DSSM) regarding Child Care for Families Receiving TANF, specifically to explain the child care eligibility requirements for parents, caretakers, and minor parents participating in the Temporary Assistance for Needy Families (TANF) program.

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, Division of Social Services (DSS), 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 June 1, 2021. Please identify in the subject line: Child Care for Families Receiving TANF.

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

DEPARTMENT OF SAFETY AND HOMELAND SECURITY**DELAWARE SEX OFFENDER MANAGEMENT BOARD****PUBLIC NOTICE****1100 Delaware Sex Offender Management Board**

The Sex Offender Management Board (SOMB), pursuant to 11 *Del. C.* 4120A (c)(8), proposes to revise its regulations. The proposed amendments, which were voted on in a General Meeting by the SOMB on March 29, 2021, seek to add an associate level service provider, add provisions for declared states of emergencies, as well as update and clarify information regarding qualifications for Sex Offense Service Providers and the credentialing process.

The SOMB will allow for the submission of written comments, suggestions, or other materials regarding the proposed rules to the Criminal Justice Council Attn: Bridget V. Poulle, Carvel State Office Building, 10th Floor, 820 N French Street, Wilmington, Delaware 19801-3590 or e-mail BridgetV.Poulle@state.de.us. Any written submission in response to this notice and the relevant proposed regulations must be received by the Department of Safety and Homeland Security no later than 4:30 p.m. (EST) on June 3, 2021. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml.
