
Delaware Register of Regulations

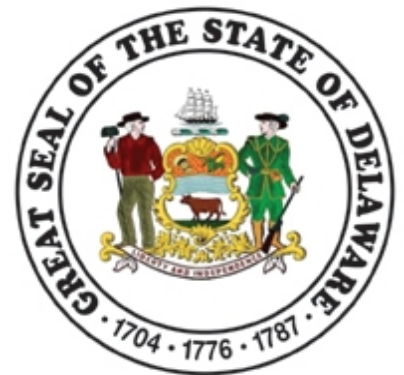
Issue Date: September 1, 2023
Volume 27 - Issue 3, Pages 130-195



IN THIS ISSUE:

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Proposed
Final

Calendar of Events &
Hearing Notices



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

Cover Photo
Gordon's Pond State Park

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

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

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

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

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.
February 1	January 15	4:30 p.m.
March 1	February 15	4:30 p.m.

DIVISION OF RESEARCH STAFF

Mark J. Cutrona, Director; **Richard Dillard**, Legislative Drafting Advisor; **Amanda Fulton**, Special Projects Administrative Specialist; **Deborah Gottschalk**, Sr. Legislative Attorney; **Quran Hernandez**, Graphics and Printing Technician III; **Benjamin Kowal**, Legislative Research Analyst; **Robert Lupo**, Graphics and Printing Supervisor; **Colinda Marker**, Executive Assistant; **Amanda McAtee**, Joint Legislative Oversight Sunset Committee Analyst; **Carolyn Meier**, Delaware Code Editor; **Kathleen Morris**, Fiscal Administrative Officer; **Nathan Poore**, Graphics and Printing Technician IV; **Joel Rudnick**, Legislative Librarian; **Erika Schrader**, Assistant Registrar of Regulations; **Yvette W. Smallwood**, Registrar of Regulations; **Holly Vaughn Wagner**, Deputy Director; **Carrie Wanstall**, Administrative Specialist III; **Natalie White**, Legal Publications Editor; **Cara Wilson**, Legislative Attorney.

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Symbol Key

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

Proposed Regulations

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

DEPARTMENT OF EDUCATION**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(a) (14 **Del.C.** §122(a))
14 **DE Admin. Code** 901

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del.C. §122(d)****901 Dispute Resolution Process for Educational Placement for Children and Youth Experiencing Homelessness****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(a), the Delaware Department of Education seeks to amend 14 **DE Admin. Code** 901 Dispute Resolution Process for Educational Placement for Children and Youth Experiencing Homelessness. This regulation is being amended pursuant to 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years. The amendments include updating definitions to align with 14 **DE Admin. Code** 255 Definitions of Types of Schools, and corrections to grammar and style in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

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

C. IMPACT CRITERIA

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

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education, especially those experiencing homelessness.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected by ensuring educational placement for children and youth experiencing homelessness.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected, especially those experiencing homelessness.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.

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

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

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

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

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

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 137RFA 09-01-23.pdf>

901 Dispute Resolution Process for Educational Placement for Children and Youth Experiencing Homelessness

1.0 Purpose

~~The intent of this regulation is to outline~~ This regulation outlines the dispute resolution process for disputes related to the educational placement of children and youth experiencing homelessness.

2.0 Definitions

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

"**Charter School school**" means a public school established pursuant to Chapter 5 of Title 14 of the Delaware Code that is operated under a charter granted by, or transferred to, the Department or other authorizing body pursuant to 14 Del.C. Ch. 5.

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

"**Guardian**" means a non-parent legally appointed by the court with the powers, rights, and duties which are necessary to protect, manage, and care for a child.

"Homeless Children and Youths children and youths" as defined by the provisions of the 42 U.S.C. §11434a(2), means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of 42 U.S.C. §11302(a)(1)); and includes:

- Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; or are living in emergency or transitional shelters; or are abandoned in hospitals;
- Children and youths who have a primary nighttime residence that is in a private or public place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of 42 U.S.C. §11302(a)(2)(C));
- Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and Migratory children (as such term is defined in section 20 U.S.C. §6399 of the Elementary and Secondary Education Act of 1965, as amended) who qualify as homeless because the children are living in circumstances described above.

"Inter-Local Education Agency" or **"Inter-LEA inter-LEA"** means between Local Education Agencies local education agencies.

"LEA Homeless Liaison homeless liaison" means the Local Educational Liaison for Homeless Children and Youths local educational agency's liaison for homeless children and youths designated under 42 U.S.C. §11432(g)(1)(J)(ii).

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

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

"Relative Caregiver caregiver" means an adult who by blood, marriage or adoption is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the child.

"School district" means a reorganized school district or vocational-technical school district or both.

"School of Origin origin" means the specific public school building that the student attended when permanently housed, the public school in which the student was last enrolled before becoming homeless or the next receiving public school the student would attend for all feeder schools.

"School of Residence residence" means the specific public school building that the student would attend based on where the student is currently residing.

"Secretary" means the Delaware Secretary of Education.

"State Coordinator coordinator" means the Delaware Coordinator for Education of Homeless Children and Youths coordinator for the education of homeless children and youths designated under 42 U.S.C. §11432(d)(3).

"Unaccompanied Youth youth" means a homeless child or youth not in the physical custody of a Parent or Guardian parent or guardian.

3.0 Federal Regulations Compliance with Federal Law

Local School Districts and Charter Schools districts and charter schools shall comply with the provisions of the federal McKinney-Vento Homeless Education Assistance Improvement Act 42 U.S.C. §11431 et. seq. and federal Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. §6301 et seq. as reauthorized by the Every Student Succeeds Act (ESSA), 42 U.S.C. §§11431 - 11435, and any regulations issued pursuant thereto.

PROPOSED REGULATIONS

4.0 Procedures for the Resolution of Disputes Concerning the Educational Placement of Homeless Children and Youths

- 4.1 The local school shall provide the ~~Parents, Guardians, Relative Caregivers or Unaccompanied Youth~~ parents, guardians, relative caregivers or unaccompanied youth with a written notice of the school's decision regarding school selection or enrollment. The notice shall include:
- 4.1.1 A written explanation of the school's decision regarding school selection or enrollment;
 - 4.1.2 Contact information for the LEA ~~Homeless Liaisons~~ homeless liaisons and ~~State Coordinator~~ state coordinator, with a brief description of their roles;
 - 4.1.3 A form that ~~Parents, Guardians, Relative Caregivers or Unaccompanied Youth~~ parents, guardians, relative caregivers or unaccompanied youth can complete and turn in to the school to initiate the dispute resolution process;
 - 4.1.4 Instructions as to how to dispute the school's decision at the ~~Local School District or Charter School~~ school district or charter school level;
 - 4.1.5 Notice of the right to enroll immediately in the school of choice pending resolution of the dispute;
 - 4.1.6 Notice that immediate enrollment includes full participation in all school activities for which the student is eligible;
 - 4.1.7 Notice of the right to appeal to the State if the ~~Local School District or Charter School~~ school district or charter school level resolution is not satisfactory; and
 - 4.1.8 Timelines for resolving ~~Local School District or Charter School~~ school district or charter school and ~~State-level~~ State-level appeals.
- 4.2 If a dispute arises over school selection or enrollment, the child or youth shall be immediately enrolled in either the ~~School of Origin~~ school of origin or the ~~School of Residence~~ school of residence in which enrollment is sought by the ~~Parents, Guardians, Relative Caregivers, or Unaccompanied Youth~~ parents, guardians, relative caregivers or unaccompanied youth, pending final resolution of the dispute, including all available appeals.
- 4.3 ~~Local School District and Charter School Level Dispute Resolution Process~~
- 4.3.1 ~~Local School Districts and Charter Schools~~ School districts and charter schools shall develop a dispute resolution process at the ~~Local School District or Charter School~~ school district or charter school level. The dispute resolution process shall be as informal and accessible as possible, but shall allow for impartial and complete review. ~~Parents, Guardians, Relative Caregivers and Unaccompanied Youth~~ guardians, relative caregivers or unaccompanied youth shall be able to initiate the dispute resolution process directly at the school they ~~choose or~~ choose, the ~~Local School District or Charter School~~ school district or charter school, or LEA Homeless Liaison's ~~the~~ LEA homeless liaison's office.
 - 4.3.2 Within ~~ten (10)~~ 10 business days of the initiation of the ~~Local School District and Charter School~~ school district and charter school level dispute resolution process, the ~~Local School District or Charter School~~ school district or charter school shall inform the parties in writing of its determination, along with notice of the right to appeal to the State if the ~~Local School District or Charter School~~ school district or charter school level resolution is not satisfactory.
- 4.4 Inter-LEA Resolution Process
- 4.4.1 When ~~Inter-LEA~~ inter-LEA issues arise, including transportation, representatives from all involved ~~Local School Districts and Charter Schools~~ school districts and charter schools, the ~~State Coordinator~~ state coordinator, or their designee, and the ~~Parents, Guardians, Relative Caregivers or Unaccompanied Youth~~ parents, guardians, relative caregivers or unaccompanied youth shall meet within ~~ten (10)~~ 10 business days of the initiation of the dispute process to attempt to resolve the dispute.
 - 4.4.2 The ~~State Coordinator's~~ state coordinator's role is to facilitate the meeting.
 - 4.4.3 If the parties are unable to resolve the ~~Inter-LEA~~ inter-LEA dispute, it shall be referred to the Secretary or designee within ~~ten (10)~~ 10 business days of the meeting. Subsection 4.5 shall govern the Secretary's or designee's determination. The Secretary or designee shall consider the

entire record of the dispute, including any written statements submitted and shall make a determination based on the child's or youth's best interest, as defined in 42 U.S.C. §11432(g)(3).

4.4.3.1 Notwithstanding subsection 4.4.3, where the ~~Inter-LEA~~ inter-LEA dispute is limited solely to the issue of the apportionment of responsibility and costs for providing the child transportation to and from the school of origin, there shall be no referral to the Secretary.

4.4.3.2 Pursuant to 42 USC 11432 (g)(1)(J)(iii)(II), if the ~~Local School Districts and Charter Schools~~ school districts and charter schools are unable to agree upon such a method of appropriation, the responsibility for the costs for transportation shall be shared equally.

4.5 State Level Dispute Resolution Process

4.5.1 The ~~State-level~~ State-level dispute resolution process is available for appeals from ~~Local School District and Charter School~~ school district or charter school level decisions and ~~Inter-LEA~~ inter-LEA disputes. Appeals may be filed by ~~Parents, Guardians, Unaccompanied Youth, Local School Districts or Charter Schools~~ parents, guardians, relative caregivers or unaccompanied youth, school districts or charter schools. Appeals filed by a local school board within a ~~Local School District~~ school district shall not be accepted.

4.5.2 To initiate the ~~State-level~~ State-level dispute resolution process, the appellant must file a written notice of appeal with the Secretary no later than ~~ten (10)~~ 10 business days after receiving written notification of the ~~Local School District or Charter School~~ school district or charter school level or ~~Inter-LEA~~ inter-LEA decision. The notice of appeal shall state with specificity the grounds of the appeal, and shall be signed by the appellant. Where the appeal is being initiated by a ~~Local School District or Charter School~~ school district or charter school, the superintendent of the ~~Local School District or Charter School~~ school district or charter school head of school must sign the notice of appeal.

4.5.3 A copy of the notice of appeal shall be delivered by hand or certified mail or electronically to all other parties to the proceeding at the time it is sent to the Secretary. A copy of any other paper or document filed with the Secretary or designee shall, at the time of filing, also be provided to all other parties to the proceeding.

4.5.4 Upon receipt of a notice of appeal, the Secretary or designee, shall within ~~five (5)~~ 5 business days decide whether to hear the appeal or assign it to an independent and impartial review official and shall so advise the parties.

4.5.5 The ~~Local School District or Charter School~~ school district or charter school shall file a certified record of the ~~Local School District or Charter School~~ school district or charter school or ~~Inter-LEA~~ inter-LEA level dispute proceeding with the Secretary or designee within ~~five (5)~~ 5 business days of the date the Secretary notifies the parties that an appeal has been filed. The record shall contain any written decision, any written minutes of the ~~meeting(s)~~ meetings at which the disputed action was taken, all exhibits or documentation presented at the LEA or ~~Inter-LEA~~ inter-LEA level dispute proceeding, and any other evidence relied on by the ~~Local School District or Charter School~~ school district or charter school in making its decision.

4.5.6 Appeals are limited to the record. The parties may support their positions in written statements limited to matters in the existing record. In order to be considered, written statements must be filed with the Secretary or designee no later than ~~fifteen (15)~~ 15 business days after the appeal is filed.

4.5.7 The Secretary or designee shall consider the entire record of the dispute, including any written statements submitted in reaching a decision. The Secretary or designee shall overturn the ~~Local School District or Charter School~~ school district or charter school or ~~Inter-LEA~~ inter-LEA decision only if it is decided that the ~~Local School District or Charter School~~ school district or charter school decision was not supported by substantial evidence or was arbitrary or capacious or is inconsistent with state and federal law or regulation.

4.5.8 Within ~~thirty (30)~~ 30 business days of the receipt of the notice of appeal, the Secretary or designee shall inform the parties of the appeal determination.

4.5.9 The determination of the Secretary or designee shall be final and is not subject to further appeal within the Department.

PROPOSED REGULATIONS

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), 1210(c)(1), and 1212(a) (14 Del.C. §§1203, 1205(b), 1210(c)(1), & 1212(a))
14 DE Admin. Code 1503

PUBLIC NOTICE

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

1503 Comprehensive Educator Induction Programs

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), 1210(c), and 1212, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1503 Comprehensive Educator Induction Programs. The regulation concerns mentoring requirements for licensed educators in Delaware public schools. The proposed amendments include adding "Administrator," "Induction Coach," "Induction Coordinator," "LEA Induction Team," "Lead Induction Coach," "Professional Learning," "Site Induction Team," and "Teacher" as defined terms and revising and striking existing defined terms in Section 2.0; revising Section 3.0, which concerns the requirements for comprehensive educator induction programs for teachers; revising Sections 4.0, 5.0, and 6.0, which concern the requirements for the comprehensive educator induction programs for teachers; adding Section 7.0, which concerns the comprehensive educator induction programs for specialists; adding Sections 8.0 and 9.0, which concern the requirements for the comprehensive educator induction programs for specialists; revising Section 10.0, which concerns comprehensive educator induction programs for administrators; revising Sections 11.0, 12.0, and 13.0, which concern the requirements for the comprehensive educator induction programs for administrators; adding Section 14.0, which provides the duties and responsibilities of Induction Coordinators, Lead Induction Coaches, and Induction Coaches; revising Section 15.0, which concerns the duties and responsibilities of Administrator Mentors; and revising Section 16.0, which concerns salary supplement payments. The proposed effective date of the amended regulation is July 1, 2024.

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

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The requirements for comprehensive educator induction programs 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 requirements for comprehensive educator induction programs 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 mentoring requirements 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 mentoring requirements 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.

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 Department collects data from schools to evaluate comprehensive educator induction programs and reports such data to the Board upon the Board's request (Section 17.0).

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

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

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

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

***Please Note:**

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 142RFA 09-01-23.pdf>

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 142 09-01-23.htm>

DEPARTMENT OF FINANCE
DIVISION OF REVENUE

Statutory Authority: 29 Delaware Code, Section 8303(7) and 30 Delaware Code, Section 558
(29 **Del.C.** §8303(7) & 30 **Del.C.** §558)

PUBLIC NOTICE

Regulations Governing Tax Refund Intercept Claims of Other States

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

In accordance with 29 **Del.C.** §8303(7), the Delaware Department of Finance submits proposed regulations governing the tax refund intercept claims of other states authorized under 30 **Del.C.** §558.

STATUTORY BASIS AND LEGAL AUTHORITY TO ACT

29 **Del.C.** §8303(7), 30 **Del.C.** §558.

OTHER REGULATIONS AFFECTED

None.

HOW TO COMMENT ON THE PROPOSED REGULATION

Members of the public may receive a copy of the proposed regulations at no charge by sending a letter via U.S. mail or by emailing or calling the following Revenue contact person:

Donna Owens
820 N. French St., Eighth Floor
Wilmington, Delaware 19801
Donna.owens@delaware.gov
(302) 577-8682

Members of the public may present written comments on the proposed regulations by submitting such comments to Donna Owens as provided above. Written comments must be received on or before October 2, 2023.

SUMMARY OF PROPOSED REGULATIONS

The Director of Revenue is required under 30 **Del.C.** §558 to take certain steps to intercept a taxpayer's refund if a claimant government submits a proper certification to Revenue that details the taxpayer's tax debt owed to the claimant government. The proposed regulations impose certification and other requirements on claimant governments that request intercept of tax refunds. The proposed regulations also establish procedures for Revenue and claimant governments to follow in connection with the program and protest procedures for taxpayers.

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 143RFA 09-01-23.pdf>

Regulations Governing Tax Refund Intercept Claims of Other States**1.0 Authority and Purpose**

- 1.1 The Secretary is authorized under 29 **Del.C.** §8303(7) to establish and promulgate regulations as the Secretary may deem necessary to govern the administration and operation of the Department.
- 1.2 This regulation establishes policies and procedures for the intercept program set forth in 30 **Del.C.** §558.

2.0 Definitions

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

"**Claimant government**" has the meaning ascribed to it in 30 **Del.C.** §558(b)(1)a and 30 **Del.C.** §558(b)(10).

"**Debtor**" means a person, organization, or entity who owes a debt to a claimant government.

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

"**Director**" means the individual appointed to serve as Director of Revenue pursuant to 29 **Del.C.** §8303(2)b.

"**Program**" refers to the intercept program authorized under 30 **Del.C.** §558.

"**Refund**" has the meaning ascribed to it in 30 **Del.C.** §558(b)(1)b.

"**Revenue**" means the Delaware Division of Revenue, a division of the Delaware Department of Finance.

"**Secretary**" means the individual appointed to serve as Secretary of the Delaware Department of Finance pursuant to 29 **Del.C.** §8302(a).

"**Tax debt**" has the meaning ascribed to it in 30 **Del.C.** §558(b)(1)c.

"**Taxing official**" has the meaning ascribed to it in 30 **Del.C.** §558(b)(1)d.

"**Taxpayer**" has the meaning ascribed to it in 30 **Del.C.** §558(b)(1)e.

3.0 General Provisions

- 3.1 This regulation applies only to tax debts owed to a claimant government.
- 3.2 A claimant government is not precluded from using other debt collection procedures available under applicable law. Debt collection procedures may be used separately or in conjunction with the program.
- 3.3 The Director shall ensure that claimant governments are not provided with or given access to tax returns or information from tax returns, including the amount of income or particulars set forth or disclosed in a report or return required under Title 30 of the Delaware Code and information on a federal return or report which is required to be attached to or included in a State tax return, except to the limited extent necessary to administer the program. Access to tax information granted by the Director shall be on a need-to-know basis to perform program related duties and shall be memorialized in writing. Claimant governments shall take necessary steps to protect tax information from inadvertent disclosure and unauthorized access.
- 3.4 The Director shall have the authority under 30 Del.C. §558(b)(8) to enter into agreements with taxing officials of claimant governments relating to:
 - 3.4.1 Procedures and methods to be employed by a claimant government with respect to the operation of the program;
 - 3.4.2 Safeguards against the disclosure or inappropriate use of personally identifiable information regarding the taxpayer obtained or maintained in the administration of the program; and
 - 3.4.3 A referral threshold amount.

4.0 Request for Intercept

- 4.1 Referral threshold. No single tax debt owed to a claimant government may be referred to Revenue for intercept under the program if the tax debt amount is less than \$100.00. Revenue and the claimant government may agree to a higher threshold amount in writing.
- 4.2 Authority to certify tax debt and request intercept. A taxing official may certify to the Director the existence of a tax debt owed to a claimant government and request that the Director withhold a refund to which the taxpayer is entitled. A taxing official may not certify or request the Director to withhold a refund, unless the laws of the claimant government extend a like comity for the collection of a tax debt owed to this State as required by 30 Del.C. §558(b)(2)b.
- 4.3 Referral requirements. When a taxing official refers a tax debt to Revenue for intercept, the taxing official must provide:
 - 4.3.1 The full name of the taxpayer and, if required by the Director, the taxpayer's address;
 - 4.3.2 The taxpayer's Social Security number or federal tax identification number;
 - 4.3.3 The amount of the tax debt; and
 - 4.3.4 A detailed statement for the applicable taxable year showing tax, interest, and penalty; or data that sufficiently describes the tax debt in the Director's discretion.
- 4.4 Certification. When a taxing official refers a tax debt to Revenue for intercept, the taxing official shall certify to the Director that:
 - 4.4.1 The debtor exhausted all rights to administrative remedies and appeals related to the tax debt;
 - 4.4.2 The debtor's rights to applicable administrative remedies and appeals lapsed;
 - 4.4.3 The claimant government determined the assessment of tax, interest, and penalty to be final and enforceable; and
 - 4.4.4 The claimant government determined that the tax debt is more than the referral threshold specified in this regulation or more than the amount specifically agreed to in writing by Revenue and the claimant government.
- 4.5 Noncompliance. Revenue may reject a referral that does not comply with the requirements of this regulation.
- 4.6 Post-referral obligations. After referring a tax debt to Revenue, the claimant government shall promptly notify Revenue and make the appropriate correction of the referral if:
 - 4.6.1 The claimant government determines that an error has been made with respect to the information transmitted to Revenue;

PROPOSED REGULATIONS

- 4.6.2 The claimant government receives a payment on account of a tax debt referred for intercept; or
- 4.6.3 The claimant government determines that the tax debt amount is otherwise incorrect.

5.0 Intercept Procedures

- 5.1 Upon referral of a tax debt under this regulation, Revenue will compare tax refund records with records of tax debts referred for intercept.
- 5.2 For purposes of this regulation, a match for a tax refund owed to a debtor will occur when the taxpayer identifying number and name are the same as the taxpayer identifying number and name of a debtor submitted by the claimant government.
- 5.3 After a match, the Director shall promptly take reasonable steps to notify the taxpayer of a claimant government's request for intercept and include a copy of the certification by the taxing official. The Director shall also promptly take reasonable steps to notify the taxpayer of the right to challenge the proposed intercept by filing a written protest.
- 5.4 The taxpayer's written protest must include detailed reasons for the taxpayer's opposition of the intercept and supporting documents. The taxpayer must hand deliver or mail the written protest to the Director so that the Director receives it no later than 30 days from the date of the notice.
- 5.5 If a taxpayer files a timely protest, the Director shall:
 - 5.5.1 Suspend the proposed intercept;
 - 5.5.2 Impound the claimed amount of the taxpayer's refund;
 - 5.5.3 Pay the unclaimed amount of the refund to the taxpayer;
 - 5.5.4 Send a copy of the protest and supporting documents to the claimant government for a determination of the merits of the protest in accordance with the laws of that state; and
 - 5.5.5 Pay the impounded amount to the taxpayer if the claimant government fails to recertify to the Director within 45 days of the date of the protest that the claimant government reviewed the issues raised by the taxpayer, the taxpayer exhausted the administrative and judicial remedies provided under the laws of the state of the claimant government, and the final tax debt amount.
- 5.6 Subject to the taxpayer's rights of notice and protest, the Director shall pay the entire refund or the amount certified to the claimant government, whichever is less. The Director shall pay a refund in excess of the certified amount to the taxpayer.
- 5.7 If more than 1 claimant government has a debt against the taxpayer, Revenue will remit payments in order of priority as determined by the Director.
- 5.8 If a refund is less than the certified amount, the Director shall withhold amounts from subsequent refunds due to the taxpayer provided the claimant government shall withhold subsequent refunds of taxpayers certified to the claimant government by the Director.
- 5.9 The Director shall take reasonable steps to notify the taxpayer that the refund has been reduced and the amount of the reduction.
- 5.10 Joint tax returns. If a match relates to a joint personal income tax, the Director shall promptly take reasonable steps to notify a non-debtor taxpayer of a claimant government's request for intercept and the right to challenge the proposed intercept.
 - 5.10.1 The non-debtor taxpayer must hand deliver or mail a written protest to the Director so that the Director receives the written protest no later than 30 days from the date of the notice.
 - 5.10.2 The non-debtor taxpayer's written protest must include a detailed description of the taxpayer's reasons for a proper share of the refund and supporting documents.
 - 5.10.3 The non-debtor taxpayer may attempt to make the required showing to the Director's satisfaction by providing documentation to establish a right to a portion of the refund based on income reported by the non-debtor taxpayer on the joint return.
 - 5.10.4 If the non-debtor taxpayer files a timely protest and makes the required showing, Revenue shall remit the proper share of the tax refund to the non-debtor taxpayer and apply the balance of the refund in the manner prescribed in subsections 5.5 and 5.6.

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- 5.11 In the event the debtor is due a refund with a non-debtor due to filing Married Filing Combined Separate on 1 return, the Director shall regard a taxpayer as entitled to separate refunds based upon the taxes due and prior payments of a taxpayer individually. The intercept contemplated in this regulation shall not be applicable to a separate refund due to the non-debtor taxpayer. The intercept provisions shall apply to a separate refund due to the debtor taxpayer.
- 5.12 Revenue has made reasonable attempts to notify a taxpayer if Revenue uses the current address information contained in Revenue's records related to a tax return.
- 5.13 Revenue will advise a claimant government of the names and addresses of the debtors from whom debts were collected and of the amounts collected from the debtors. Revenue will not advise as to the source of payment from which the amounts were collected.
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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

Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD), specifically, to align state plan with current reimbursement and provide for future flexibility.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on October 1, 2023. Please identify in the subject line: Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD).

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 Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD).

Statutory Authority

- 42 CFR 447.20

Background

Historically, CMS' Medicare fee schedule for Part B drugs was calculated as Average Sales Price (ASP)+6%. However, for five years beginning 10/1/2022, CMS changed the rate for some Part B drugs to ASP+8%. Since states get these pre-calculated rates from the quarterly CMS Medicare fee schedule file, they are already paying ASP+8% for these drugs. In addition, CMS will be introducing a future rate type into the Medicare fee schedule that is different than ASP+6% and the ASP+8%. To relieve states from having to submit multiple SPAs for these changes, CMS requested states to update any references to ASP+6% to the "Medicare fee schedule."

Also, CMS anticipates the introduction of new OTC products that Medicaid programs will be required to cover. These include OTC naloxone (in first half 2023) and OTC oral contraceptives (in second half 2023). To reduce the

number of SPAs to accommodate these new OTC drug classes, CMS requests that states insert general language into the pharmacy coverage pages of their State Plans that reference covered OTCs listed in the state's provider manual. Delaware's provider manual already has these products listed in a table so will be in compliance with the state plan when this SPA is approved.

In addition, there are changes to remove specific drugs/drug classes for coverage of other exceptions, with replacement language that points to the preferred drug list, or when determined to be medically necessary. These were made to achieve the same purpose as the CMS-requested OTC language change.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to align Delaware's Medicaid State Plan with current reimbursement policy, provide for future flexibility with less administrative burden, and to update the State Plan in anticipation of future OTC drugs/drug classes that Medicaid will be required to cover, thus reducing the need to submit multiple State Plan Amendments.

Summary of Proposed Changes

Effective for services provided January 1, 2023, DHSS/DMMA proposes to amend Attachment 3.1-A and Section 4.19-B of the Medicaid State Plan to update over the counter drugs and physician administered drug sections.

Public Notice

In accordance with the *federal* public notice requirements established in Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on October 1, 2023.

Centers for Medicare and Medicaid Services Review and Approval

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

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 147RFA 09-01-23.pdf>

Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD)

***Please Note: Due to the formatting requirements of the regulation, it is being attached here as PDF documents:**

<http://regulations.delaware.gov/register/september2023/proposed/Attachment 4.19-B-p14 Amended.pdf>

<http://regulations.delaware.gov/register/september2023/proposed/Attachment 3.1-A.1-p2-2b Amended.pdf>

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

PUBLIC NOTICE

Ground Emergency Medical Transportation (GEMT)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Ground Emergency Medical Transportation (GEMT), specifically, to increase Medicaid reimbursement for emergency transportation providers.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on October 1, 2023. Please identify in the subject line: Ground Emergency Medical Transportation (GEMT)

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 Ground Emergency Medical Transportation (GEMT).

Statutory Authority

- 42 C.F.R § 430.10 and § 447.201

Background

Delaware legislature has introduced a bill to revise Medicaid reimbursement for emergency transportation services (GEMT), effective in SFY 2024. In its current form, this legislation calls for increasing the present percentages of the Medicare rates that Medicaid pays for the services to 75% of Medicare across the board.

The amendment is needed to adjust for changes in the percentages of Medicare rates on which Medicaid bases its reimbursement; this is in response to a Delaware state legislated requirement to increase emergency transportation reimbursement. The proposed changes will allow for the update in reimbursement at this time and will provide greater flexibility for Medicaid to implement future changes without the need for future amendments.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to update Ground Emergency Medical Transportation (GEMT), specifically, to increase Medicaid reimbursement for emergency transportation providers.

Summary of Proposed Changes

Effective July 1, 2023, the DHSS/DMMA proposes to amend Attachment 4.19-B page 3 of the Title XIX Medicaid State Plan to increase Medicaid reimbursement for emergency transportation providers.

Public Notice

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

on October 1, 2023.

Centers for Medicare and Medicaid Services Review and Approval

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

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 provide 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

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$309,000	\$312,000
Federal funds	\$457,800	\$462,500

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 149RFA 09-01-23.pdf>

Ground Emergency Medical Transportation (GEMT)

***Please Note: Due to the formatting requirements of the regulation, it is being attached here as a PDF document:**

<http://regulations.delaware.gov/register/september2023/proposed/Attachment 4.19-B page 3 Amended.pdf>

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 102 (18 Del.C. §102)

18 DE Admin. Code 1406

PUBLIC NOTICE

1406 Third Party Administrators

A. Type of Regulatory Action Required

Proposal of amendments to Regulation 1406 Third Party Administrators.

B. Synopsis of Subject Matter of the Regulation

Regulation 1406 implements 18 Del.C. §102(12) by setting forth regulations pertaining to third-party administrators. The purpose of the proposed amendment is to revise the responsibilities of insurers with respect to on-site audits of their contracted third-party administrators. Subsection 7.3 of Regulation 1406, in part, requires insurers to conduct semiannual reviews, including at least one on-site review, of the operations of their

administrators. The purpose of the proposed update to this regulation is to allow for the required review of the operations of the administrator to be completed virtually or on-site.

The Department is also taking the opportunity of this proposal to make grammatical and formatting edits throughout the regulation.

C. Notice and Public Comment

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

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 2nd day of October 2023. Any such requests and any questions concerning connecting to the public hearing should be directed to:

Alisa L. Pritchard, Regulatory Specialist
Delaware Department of Insurance
1351 West North Street, Suite 101
Dover, DE 19904
(302) 674-7379
Email: doi-legal@delaware.gov

*Please Note:

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 150RFA 09-01-23.pdf>

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 150 09-01-23.htm>

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 2002 (7 Del.C. §2002)
7 DE Admin. Code 3801

REGISTER NOTICE

SAN # 2022-02

DOCKET # 2022-R-F-0014

3801 Shellfish Aquaculture

1. TITLE OF THE REGULATIONS:

Amend 7 **DE Admin. Code** 3801 Shellfish Aquaculture.

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

The Shellfish Aquaculture regulation, 7 **DE Admin. Code** 3801, was approved prior to the initiation of shellfish aquaculture leasing as it was required in order to establish a legal framework for the leasing of state-owned subaqueous lands for aquaculture businesses. The proposed amendments 7 **DE Admin. Code** 3801 will update the regulation to incorporate current aquaculture practices, simplify compliance with the regulation for Inland Bays shellfish growers, and increase the efficiency of DNREC's administrative oversight of shellfish aquaculture leasing.

Specifically, the proposed amendments include additions, modifications or deletions regarding: definitions, lease issuance and application procedures, aquaculture gear and lease area marking requirements, shellfish aquaculture species, shellfish cultivation, planting and harvesting requirements and timelines, reporting requirements, lease transfer, and prohibited activities.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del. C. § 2002

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

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to **3801 Shellfish Aquaculture** opens September 1, 2023 (Hearing Docket No. 2022-R-F-0014). The virtual public hearing will be held on Wednesday, September 27, 2023, beginning at 6:00 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://dnrec.alpha.delaware.gov/public-hearings/>. If prompted, use Meeting ID: 875 4107 2704 Passcode: 884733. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID and Passcode noted above. Closed captioning is available in over 20 languages, including English and Spanish, to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing. The designated page for this Pre-Registration process can be found here: <https://dnrec.alpha.delaware.gov/public-hearings/comments/registration/>

The proposed amendments may be inspected online starting September 1, 2023 at https://regulations.delaware.gov/services/current_issue.shtml, or in-person, by appointment only, by contacting John Clark by phone at 302-739-9914 or by email at John.Clark@delaware.gov.

Public comments will be received until close of business Thursday, October 12, 2023. Comments will be accepted in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnreccomments>, or by U.S. mail to the following address:

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

7. PREPARED BY:

John H. Clark

Email: John.Clark@delaware.gov

Phone: (302)739-9914

***Please Note:**

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 151RFA 09-01-23.pdf>

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

<https://regulations.delaware.gov/register/september2023/proposed/27 DE Reg 151 09-01-23.htm>

Symbol Key

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

Final Regulations

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

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

DEPARTMENT OF AGRICULTURE THOROUGHBRED RACING COMMISSION

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

ORDER

1001 Thoroughbred Racing Rules and Regulations

I. NATURE OF PROCEEDINGS

Pursuant to its authority under 3 **Del.C.** §10103(c) the State of Delaware, Department of Agriculture proposed to amend its regulations to amend the definitions of "horse" in Section 1.0 to include Quarter Horses.

Notice of a public comment period of thirty (30) days on the Thoroughbred Racing Commission's proposed amended regulations was published in the Delaware *Register of Regulations* for July 1, 2023 in accordance with 29 **Del.C.** §10118(a). This is the Thoroughbred Racing Commission's Decision and Order adopting the proposed amended regulations.

II. FINDINGS AND CONCLUSIONS

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

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

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

4. The proposed changes amend the definitions of "horse" in Section 1.0 to include Quarter Horses.

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

III. DECISION AND ORDER CONCERNING THE REGULATIONS

AND NOW on this 1st day of August 2023, it is hereby ordered that:

1. The proposed amendments to the Thoroughbred Racing Commission's regulations are adopted;
2. The text of the final regulations shall be in the form attached hereto as Exhibit A, which remain unchanged as initially published in the July 1, 2023 *Delaware Register of Regulations*.
3. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations* in accordance with 29 **Del.C.** §10118(e); and
4. The Thoroughbred Racing Commission reserves to itself the authority to issue such other and further orders concerning its Regulations as it deems appropriate.

Delaware Thoroughbred Racing Commission

Sarah A. Crane, Executive Director

***Please note that no changes were made to the regulation as originally proposed and published in the July 2023 issue of the *Register* at page 10 (27 DE Reg. 10). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 153 09-01-23.htm>

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15), 303, and 304(2) and 29 Delaware Code, Section 10113(b)(2) (14 **Del.C.** §§122(b)(15), 303, & 304(2) and 29 **Del.C.** §10113(b)(2))
14 **DE Admin. Code** 1021

ORDER

1021 DIAA Committees

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(b)(15), 303, and 304(2), the Delaware Interscholastic Athletic Association ("DIAA") Board of Directors developed amendments to 14 **DE Admin. Code** 1021 DIAA Committees. The regulation sets forth rules of practice and procedure of the concerning the DIAA Board of Directors' committees. The proposed amendments are to revise subsection 4.3, which concerns the membership makeup of committees, replace the annual election requirement for most of the committees with a two-year election requirement, and add the requirement that an individual may not be appointed to serve on more than one recognized sport committee during a particular sport season.

The amendments are exempt from the requirement of public notice and comment and are adopted informally in accordance with 29 **Del.C.** §10113(b)(2).

II. FINDINGS OF FACT

The Department finds that the regulation relates to interscholastic athletics at the middle and high school levels and is necessary to implement 14 **Del.C.** Ch. 3. The Department further finds that the regulation sets forth rules of practice and procedure used by the DIAA Board of Directors. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1021 DIAA Committees.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1021 DIAA Committees. Therefore, pursuant to 14 **Del.C.** §§122(b)(15), 303, and 304(2) and 29 **Del.C.** §10113(b)(2), 14 **DE Admin. Code** 1021 DIAA Committees, attached hereto as Exhibit "A," is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1021 DIAA Committees amended hereby shall be in the form attached hereto as Exhibit "A" and said regulation shall be cited as 14 **DE Admin. Code** 1021 DIAA Committees in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 15th day of August, 2023.

Department of Education

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

1021 DIAA Committees

1.0 Content

This regulation sets forth the process for an individual to be appointed or removed as a member of 1 of the 27 standing committees or another committee established by the Delaware Interscholastic Athletic Association's Board of Directors pursuant to 14 **Del.C.** §304(2). In addition, this regulation outlines committees' reporting requirements to the Board.

2.0 Definitions

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

"**Board**" means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 **Del.C.** ch. 3.

"**Department**" means the Delaware Department of Education established pursuant to 14 **Del.C.** §101.

"**DIAA**" means the Delaware Interscholastic Athletic Association established pursuant to 14 **Del.C.** §301.

3.0 Standing Committees

3.1 The Board has established the following standing committees:

3.1.1 The recognized sport committees are:

- 3.1.1.1 Baseball Committee
- 3.1.1.2 Boys' Basketball Committee
- 3.1.1.3 Boys' Lacrosse Committee
- 3.1.1.4 Boys' Soccer Committee
- 3.1.1.5 Boys' Volleyball Committee
- 3.1.1.6 Cross Country Committee
- 3.1.1.7 Field Hockey Committee
- 3.1.1.8 Football Committee
- 3.1.1.9 Girls' Basketball Committee
- 3.1.1.10 Girls' Lacrosse Committee
- 3.1.1.11 Girls' Soccer Committee
- 3.1.1.12 Girls' Volleyball Committee
- 3.1.1.13 Golf Committee

- 3.1.1.14 Softball Committee
- 3.1.1.15 Swimming and Diving Committee
- 3.1.1.16 Tennis Committee
- 3.1.1.17 Track and Field Committee
- 3.1.1.18 Wrestling Committee
- 3.1.2 The other committees are:
 - 3.1.2.1 Awards Committee
 - 3.1.2.2 Classification Committee
 - 3.1.2.3 Officials Committee
 - 3.1.2.4 Rules and Regulations Committee
 - 3.1.2.5 Scheduling Committee
 - 3.1.2.6 Sports Medicine Advisory Committee
 - 3.1.2.7 Sportsmanship Committee
 - 3.1.2.8 Student-Athlete Development Committee and Student-Athlete Advisory Subcommittee
 - 3.1.2.9 Unified Sports® Committee
- 3.2 The Board may appoint additional committees to assist in the performance of its duties.

4.0 Committee and Subcommittee Membership

- 4.1 Committees shall consist of no less than 10 and no more than 15 committee members in addition to 1 current Board member. The Student-Athlete Advisory Subcommittee shall consist of no less than 10 and no more than 21 subcommittee members.
- 4.2 Committee members shall have expertise in the committee's subject matter.
- 4.3 Committee membership shall be ~~geographically representative of the DIAA Member Schools located within all 3 counties and may include administrators, athletic directors, coaches, local school board members, officials, public members, licensed physicians and sports medicine professionals, school staff, state interpreters, coaches' association representatives, and mental health professionals~~ as provided in subsections 4.3.1 through 4.3.5.
 - 4.3.1 Each committee shall include a current Board member as a member of the committee except for the Student-Athlete Advisory Subcommittee.
 - 4.3.2 ~~Each~~ In addition to 1 current Board member, each recognized sport committee, as provided in subsection 3.1.1, ~~shall~~ may consist of the following members:
 - 4.3.2.1 ~~At least one~~ 1 athletic director ~~from a DIAA Member School. If there are 2 or more athletic directors on a recognized sport committee, the athletic directors shall be from DIAA Member Schools in different counties;~~
 - 4.3.2.2 One representative each from the Blue Hen, Diamond State, Henlopen, and Independent Conferences;
 - 4.3.2.3 One non-conference representative;
 - 4.3.2.4 One coaches' association representative;
 - 4.3.2.5 One officials' association representative from each DIAA-recognized association in the applicable sport; and
 - 4.3.2.6 ~~At least one~~ 1 public member who is a current Delaware resident at the time of application. If there are 2 or more public members on a recognized sport committee, the public members shall reside in different counties in Delaware.
 - 4.3.3 All other committees, including the committees provided in subsection 3.1.2, may consist of the following members:
 - 4.3.3.1 Administrators from DIAA Member Schools in different counties;
 - 4.3.3.2 Athletic directors from DIAA Member Schools in different counties;
 - 4.3.3.3 Coaches from DIAA Member Schools in different counties;

- 4.3.3.4 Local school board members from DIAA Member Schools in different counties;
 - 4.3.3.5 Officials who officiate at DIAA Member Schools;
 - 4.3.3.6 Public members who resided in Delaware for at least 3 years prior to being appointed to the committee and who reside in different counties in Delaware;
 - 4.3.3.7 Physicians and sports medicine professionals who hold an active, unencumbered license to practice in Delaware;
 - 4.3.3.8 School staff members from DIAA Member Schools in different counties;
 - 4.3.3.9 DIAA State Interpreters;
 - 4.3.3.10 Coaches' association representatives; and
 - 4.3.3.11 Mental health professionals who hold an active, unencumbered license to practice in Delaware.
- ~~4.3.3~~ 4.3.4 The Student-Athlete Development Committee shall may also include school counselors, mental health professionals, and school climate or student discipline personnel from DIAA Member Schools in different counties.
- ~~4.4~~ 4.3.5 The Notwithstanding subsection 4.3.3, the Student-Athlete Advisory Subcommittee shall be comprised of student-athletes only and shall be geographically representative of the three counties. The student-athletes shall be from DIAA Member Schools in different counties in Delaware.
- ~~4.5~~ 4.4 The Executive Director shall make a call for applications to fill vacancies on committees. Prospective and current committee members shall submit a DIAA Committee Application to the DIAA Office. The Executive Director and the committee's chairperson shall review the applications and make recommendations to the Board for approval and appointment or reappointment.
- ~~4.6~~ 4.5 ~~Except for the Sports Medicine Advisory Committee, each~~ Each committee shall elect a chairperson, vice chairperson, and secretary annually every 2 years. ~~The Sports Medicine Advisory Committee shall elect a chairperson, vice chairperson, and secretary every 2 years.~~
- 4.6.1 The committee chairperson shall preside over all meetings of the committee.
- 4.6.2 The committee's vice chairperson shall serve in the capacity of the committee's chairperson in the chairperson's absence.
- ~~4.7~~ 4.6 The Executive Director shall make a call for applications to fill vacancies on the Student-Athlete Advisory Subcommittee. Prospective and current subcommittee members shall submit a DIAA Committee Application to the DIAA Office. The Student-Athlete Development Committee shall review the applications and appoint or reappoint members.
- 4.7 An individual may be appointed to serve on no more than 1 recognized sport committee during a particular season.
- 4.8 Committee and subcommittee members shall serve staggered 4-year terms.
- 4.9 Committee members who miss ~~three~~ 3 consecutive meetings shall be reported to the Board, which may appoint replacement committee members.
- 4.10 Members of the Student-Athlete Advisory Subcommittee who miss 3 consecutive meetings shall be reported to the Student-Athlete Development Committee, which may appoint replacement subcommittee members.
- 4.11 The Board may remove a committee member whose actions are contradictory to the committee's purpose or DIAA's purpose or are in violation of applicable law. In such case, the Board shall appoint a replacement committee member.
- 4.12 The Student-Athlete Development Committee may remove a member of the Student-Athlete Advisory Subcommittee whose actions are contradictory to the subcommittee's purpose or DIAA's purpose or are in violation of applicable law. In such case, the Student-Athlete Development Committee shall appoint a replacement subcommittee member.

5.0 Committee Reports and Recommendations

- 5.1 The recognized sport committees, as provided in subsection 3.1.1, shall provide a report to the Board at the conclusion of the state tournament for their sport. The other committees, as provided in subsection 3.1.2, shall provide a progress report to the Board after each meeting.
- 5.2 Committees shall submit the report in writing to the DIAA Office or designate at least 1 committee member to deliver the report in writing at the Board's next regularly scheduled meeting.
- 5.3 Recommendations to the Board from committees shall be submitted in writing to the DIAA Office at least 1 week prior to the Board's next regularly scheduled meeting. The committee shall designate at least 1 committee member to attend the Board's meeting and present the committee's recommendation to the Board.

6.0 Administrative Assistance from DIAA Office

The Executive Director and the Coordinator of Interscholastic Athletics shall provide administrative assistance to the committees before, during, and after committee meetings subject to the Department's approval and supervision.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)
14 **DE Admin. Code** 1043

ORDER

1043 Officials

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association Board of Directors ("DIAA Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1043 Officials. The regulation concerns the requirements for DIAA-recognized officials' associations, requirements for officials who officiate at DIAA Member Schools, and the fees for officiating contests and competitions. The Board proposes to strike the reference to the current school year and amend the rates for officiating regular season contests in subsection 5.1; amend the fee for traveling in subsection 5.2; and amend the fees for officiating scrimmages in subsection 5.3.

Notice of the proposed regulation was published in the *Register of Regulations* on June 1, 2023. The DIAA Board did not receive any written submittals concerning the proposed regulation.

II. FINDINGS OF FACTS

On July 13, 2023, the DIAA Board voted to propose 14 **DE Admin. Code** 1043 Officials, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation relates to interscholastic athletics at the middle and high school levels and is necessary to implement 14 **Del.C.** Ch. 3. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1043 Officials.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1043 Officials subject to the State Board of Education's approval. On July 20, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1043 Officials. Therefore, pursuant to 14 **Del.C.** §§122(b)(15) and 303, 14 **DE Admin. Code** 1043 Officials, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1043 Officials amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1043 Officials in the *Administrative Code of*

Regulations for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 20th day of July, 2023.

Department of Education

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

Approved this 20th day of July, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

/s/ Deborah Stevens

/s/ Rev. Provey Powell, Jr.

***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 June 2023 issue of the *Register* at page 994 (26 DE Reg. 994). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 158 09-01-23.htm>

OFFICE OF THE SECRETARY

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

ORDER

1213 Speech-Language Pathologist Student Loan Repayment Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), and 3435(b), the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes the adoption of 14 **DE Admin. Code** 1213 Speech-Language Pathologist Student Loan Repayment Program. The Speech-Language Pathologist Student Loan Repayment Program is a student financial assistance for higher education program that is administered by DHEO. The proposed regulation provides the eligibility criteria, application requirements, and award process for the program. The proposed regulation is consistent with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022. In addition, the proposed definition of Qualified Educational Loan in Section 2.0 and the substantiation requirement in subsection 4.2.3 are consistent with 26 C.F.R. § 1.127-2, the Internal Revenue Service's regulation concerning qualified educational assistance programs.

Notice of the proposed regulation was published in the *Register of Regulations* on July 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

II. FINDINGS OF FACTS

The Department finds that the proposed regulation is necessary to implement 14 Del.C. Ch. 34 and the Speech-Language Pathologist Student Loan Repayment Program, which is a student financial assistance program that DHEO administers. In addition, the Department finds that House Bill 480 of the 151st General Assembly amended 14 Del.C. Ch. 34 and that the proposed regulation is consistent with the statute that went into effect on August 25, 2022. The Department further finds that the proposed definition of Qualified Educational Loan in

Section 2.0 and the substantiation requirement in subsection 4.2.3 are consistent with the applicable federal law.

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to adopt 14 **DE Admin. Code** 1213 Speech-Language Pathologist Student Loan Repayment Program subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved the adoption of 14 **DE Admin. Code** 1213 Speech-Language Pathologist Student Loan Repayment Program. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3435(b), 14 **DE Admin. Code** 1213 Speech-Language Pathologist Student Loan Repayment Program, attached hereto as Exhibit A, is hereby adopted.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1213 Speech-Language Pathologist Student Loan Repayment Program adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1213 Speech-Language Pathologist Student Loan Repayment Program in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

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

1213 Speech-Language Pathologist Student Loan Repayment Program

1.0 Purpose

The purpose of this regulation is to provide the eligibility criteria, application requirements, and award process for the Speech-Language Pathologist Student Loan Repayment Program pursuant to 14 Del.C. §3435(b).

2.0 Definitions

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

"Award" means the Delaware Higher Education Office's decision to make a loan payment on an applicant's behalf.

"Delaware Higher Education Office" or "DHEO" means the Department of Education's office which administers specific programs related to higher education, including student financial assistance programs.

"Qualified Educational Loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational expenses related to an applicant's undergraduate or graduate degree program. Reasonable educational expenses do not include tools or supplies (other than textbooks) that are retained by the recipient after the course of instruction; meals, lodging, or

transportation; or education involving sports, games, or hobbies unless such education is required as part of a degree program.

3.0 Eligibility

- 3.1 In order to be eligible for an Award under the Speech-Language Pathologist Student Loan Repayment Program, an applicant shall meet the requirements of subsections 3.1.1 and 3.1.2.
- 3.1.1 The applicant shall be employed full-time as a speech-language pathologist in a Delaware public school for a minimum of 1 school year.
- 3.1.2 The applicant must have secured a Qualified Educational Loan prior to submitting the application.

4.0 Application Requirements

- 4.1 The application acceptance and submission period for the Speech-Language Pathologist Student Loan Repayment Program shall be posted on the DHEO's website by December 1 of each calendar year.
- 4.1.1 Applications shall not be accepted outside of the posted application acceptance period under any circumstances.
- 4.1.2 Incomplete applications shall not be accepted or processed.
- 4.2 In order for an application to be considered complete, the applicant shall complete all of the requirements in subsections 4.2.1 through 4.2.3.
- 4.2.1 The applicant shall certify to DHEO that the applicant meets all of the eligibility requirements in Section 3.0.
- 4.2.2 The applicant shall provide the applicant's current employment information, lender, and loan amount to DHEO.
- 4.2.3 The applicant shall provide substantiation to DHEO that the Award will be used for a Qualified Educational Loan as defined in Section 2.0.

5.0 Awards

- 5.1 The ability to make Awards each year is contingent upon the availability of funds.
- 5.2 If possible, DHEO shall make an Award to every applicant who satisfies the requirements of this regulation, consistent with Section 6.0 of this regulation. Awards will be determined based on the pool of eligible applicants in the given year.
- 5.2.1 If there are insufficient funds to make a loan payment on behalf of every applicant who satisfies the requirements of this regulation, DHEO shall give priority to applicants who have the greatest financial need as determined by DHEO.
- 5.2.2 To determine an applicant's financial need, DHEO shall request the applicant provide the applicant's income and total amount of Qualified Educational Loans.
- 5.3 DHEO shall have the sole discretion to prioritize applications and determine Awards consistent with the requirements of the Program as noted in this regulation.
- 5.4 DHEO shall make a loan payment directly to the applicant's lending agency, on behalf of the applicant, to retire a portion of the applicant's Qualified Educational Loan.
- 5.5 An Award is not renewable.
- 5.6 To be considered for a second and third Award, an applicant shall submit a new, completed application and meet all of the requirements in Section 3.0 of this regulation each year.
- 5.7 An applicant may receive only 1 Award per year and may not receive more than 3 Awards in the applicant's lifetime.

6.0 Award Payment

- 6.1 An Award shall not exceed \$5,000 per year.

- 6.2 If an applicant knowingly submits false information or commits fraud in connection with the application process, DHEO may reevaluate the applicant's eligibility for a loan payment and may withdraw its decision to make a loan payment on the applicant's behalf.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3437
(14 Del.C. §§122(b)(8), 181(15), 183, 3402(c), & 3437)
14 DE Admin. Code 1215

ORDER

1215 High Needs Educator Student Loan Payment Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), and 3437, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes to amend 14 DE Admin. Code 1215 High Needs Educator Student Loan Payment Program. The High Needs Educator Student Loan Payment Program is a student financial assistance for higher education program that is administered by DHEO. The regulation provides the eligibility criteria, application requirements, and award process for the program. The proposed amendments include revising the definition of Qualified Educational Loan in Section 2.0 and adding the substantiation requirement in subsection 4.2.3, which are consistent with 26 C.F.R. § 1.127-2, the Internal Revenue Service's regulation concerning qualified educational assistance programs. In addition, the proposed amendments include adding award process to Section 1.0, striking two terms from Section 2.0, clarifying Section 3.0, revising Section 4.0, adding subsection 5.7, and adding subsection 6.2.

Notice of the proposed regulation was published in the *Register of Regulations* on July 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

II. FINDINGS OF FACTS

The Department finds that the proposed regulation is necessary to implement 14 Del.C. Ch. 34 and the High Needs Educator Student Loan Payment Program, which is a student financial assistance program that DHEO administers. The Department further finds that the proposed definition of Qualified Educational Loan in Section 2.0 and the substantiation requirement in subsection 4.2.3 are consistent with the applicable federal law.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1215 High Needs Educator Student Loan Payment Program subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved amending 14 DE Admin. Code 1215 High Needs Educator Student Loan Payment Program. Therefore, pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), and 3437, 14 DE Admin. Code 1215 High Needs Educator Student Loan Payment Program, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 DE Admin. Code 1215 High Needs Educator Student Loan Payment Program amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 DE Admin. Code 1215 High Needs Educator Student Loan Payment Program in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

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

1215 High Needs Educator Student Loan Payment Program

1.0 Purpose

The purpose of this regulation is to provide eligibility ~~criteria and to delineate the application criteria, application requirements, and award~~ process for the High Needs Educator Student Loan Payment Program, pursuant to 14 Del.C. §3437.

2.0 Definitions

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

"Award" means the Delaware Higher Education Office's decision to make a ~~Loan Payment~~ loan payment on an applicant's behalf.

"Delaware Higher Education Office" or **"DHEO"** means the Delaware Department of Education's office which administers specific programs related to higher education, including student financial assistance programs.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the Department 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 Standards Board and approved by the State Board of Education. For purposes of this regulation, Educator also includes teachers employed by the Delaware Division for the Visually Impaired who teach students with visual impairment.

"High Needs Area" means:

- (1) Any certification field DHEO has identified as being difficult to staff or of critical need; or
- (2) Any school either:
 - (a) In the top quartile in 3 or more of the following:
 - (1) Percentage of Low-Income Students or students within the statewide metric determined by the Department utilizing direct certification for Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP);
 - (2) Percentage of English Learners or students with limited English proficiency and who meet the definition of English Learner as defined by the Department's regulations;
 - (3) Percentage of Students with Disabilities or students who are determined to eligible for 1 or more of the educational classifications under the Department's regulations and who, by reason thereof, need special education and related services; or
 - (4) Percentage of Minority Students or students who are members of a racial or ethnic group other than the racial or ethnic group that represents the majority of the State's population; or
 - (b) Having 90% of its students classified as Low-Income, English Learners, or Minority; or

(c) Any facility operated by the Department of Services for Children, Youth and Their Families in which education programs are provided.

"Loan Payment" means a payment by the Department to a successful applicant's lending agency to retire a portion of the applicant's Qualified Educational Loan.

"Program" means the High Needs Educator Student Loan Payment Program.

"Qualified Educational Loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational expenses related to an Educator's undergraduate or graduate degree program. Reasonable educational expenses do not include tools or supplies (other than textbooks) that are retained by the recipient after the course of instruction; meals, lodging, or transportation; or education involving sports, games, or hobbies unless such education is required as part of a degree program.

"School" means a Delaware public school, including a vocational-technical school and a charter school, or a facility operated by the Department of Services for Children, Youth and Their Families.

"Secretary" means the Delaware Secretary of Education.

3.0 Eligibility

- 3.1 In order to ~~qualify to participate in the Program~~ all of the following must apply: be eligible for an Award under the High Needs Educator Student Loan Payment Program, an applicant shall meet the requirements of subsections 3.1.1 through 3.1.5.
- 3.1.1 The applicant shall be an ~~Educator;~~ Educator.
- 3.1.2 The applicant shall have secured a Qualified Educational Loan prior to submitting an ~~application;~~ application.
- 3.1.3 The applicant shall have obtained a license and certificate issued by the ~~Department;~~ Department.
- 3.1.4 The applicant has not had an ineffective evaluation on the State's current evaluation system or the equivalent thereof on a State-approved alternative educator evaluation ~~system;~~ system.
- 3.1.5 The applicant shall instruct or provide educational support in an identified High Needs Area or School for 1 school year.

4.0 Application Requirements

- 4.1 ~~The application to participate in the Program shall require the applicant to certify that the applicant meets all eligibility requirements.~~
- 4.2 ~~The applicant must submit for review and approval a new, completed application each year, along with any additional information the Department requests.~~
- 4.1 The application acceptance and submission period for the High Needs Educator Student Loan Program shall be posted on the DHEO's website by December 1 of each calendar year.
- 4.1.1 Applications shall not be accepted outside of the posted application acceptance period under any circumstances.
- 4.1.2 Incomplete applications shall not be accepted or processed.
- 4.2 In order for an application to be considered complete, the applicant shall complete all of the requirements in subsections 4.2.1 through 4.2.3.
- 4.2.1 The applicant shall certify to DHEO that the applicant meets all of the eligibility requirements in Section 3.0.
- 4.2.2 The applicant shall provide the applicant's current employment information, lender, and loan amount to DHEO.
- 4.2.3 The applicant shall provide substantiation to DHEO that the Award will be used for a Qualified Educational Loan as defined in Section 2.0.

5.0 ~~Award Decision and Disbursement~~ Awards

- 5.1 The ability to make Awards each year is contingent upon the availability of funds.

- 5.2 If possible, DHEO shall make an Award to every applicant who satisfies the requirements of this regulation, consistent with Section 6.0 ~~Amount of Award~~ of this regulation. Awards will be determined based on the pool of eligible applicants in the given year.
- 5.2.1 Applicants seeking eligibility based on eligible school shall maintain continuous employment by the same School as in the previous school year in order to be eligible for the Award.
- 5.2.1.1 Applicants shall still be eligible for an Award if they have separated from the School they were previously employed with if separation was involuntary, including reduction in force, or was otherwise beyond the applicant's control.
- 5.3 Where there are insufficient funds to make an Award to every applicant who satisfies Program requirements, DHEO shall give priority to applicants who meet the following criteria:
- 5.3.1 Applicants employed in both a certification field and a School that the Department has identified as a High Needs Area as defined in this regulation.
- 5.3.2 Applicants having the greatest financial need.
- 5.4 The applicants having the greatest financial need shall be determined at the sole discretion of DHEO. Such decision shall be based upon:
- 5.4.1 The applicant's income;
- 5.4.2 The applicant's spousal income;
- 5.4.3 The number of applicant's dependents; and
- 5.4.4 The total amount of the applicant's Qualified Educational Loans.
- 5.5 DHEO shall have the sole discretion to prioritize applications and determine Awards consistent with the requirements of the Program as noted in this regulation.
- 5.6 DHEO shall make a ~~Loan Payment~~ loan payment directly to the applicant's lending agency on behalf of the applicant.
- 5.7 To be considered for a second, third, fourth, or fifth Award, an applicant shall submit a new, completed application and meet all of the requirements in Section 3.0 of this regulation each year.
- 5.7 ~~5.8~~ An applicant may receive only 1 Award per year, and may receive no more than 5 Awards in their lifetime.

6.0 ~~Amount of Award Payment~~

- 6.1 An Award shall be a minimum of \$1,000 and shall not exceed \$2,000.
- 6.2 If an applicant knowingly submits false information or commits fraud in connection with the application process, DHEO may reevaluate the applicant's eligibility for a loan payment and may withdraw its decision to make a loan payment on the applicant's behalf.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), 3402(h), and 3438 (14 **Del.C.** §§122(b)(8), 181(15), 183, 3402(c), 3402(h), & 3438)
14 **DE Admin. Code** 1216

ORDER

1216 Educator Support Scholarship Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), 3402(h), and 3438, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes to amend 14 **DE Admin. Code** 1216 Educator Support Scholarship Program. The Educator Support Scholarship Program is a student financial assistance for higher education program that is administered by DHEO. The proposed amendments are to add subsections 3.1.1.1, which provides that an applicant who is enrolled in an undergraduate

program of study must be enrolled full-time, and 3.1.1.2, which provides that an applicant is enrolled in a graduate program of study must be enrolled part- or full-time. Pursuant to 14 **Del.C.** §3402(h), awards are intended for full-time study; however, DHEO has the discretion to make prorated awards to applicants who are enrolled less than full-time. Many of the applicants for the Educator Support Scholarship Program who are enrolled in a graduate program of student are working full-time in Delaware schools and, as a result, are not enrolled full-time in their programs of study. The proposed amendments are consistent with 14 **Del.C.** §3402(h) and will allow both full-time and part-time graduate-level students to be eligible for an award through the Educator Support Scholarship Program.

Notice of the proposed regulation was published in the *Register of Regulations* on July 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

II. FINDINGS OF FACTS

The Department finds that the proposed regulation is necessary to implement 14 **Del.C.** Ch. 34 and the Educator Support Scholarship, which is a student financial assistance program that DHEO administers. The Department further finds that the proposed amendments are intended to allow full- and part-time students to be eligible for an award under the program and that they are consistent with DHEO's statutory authority.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1216 Educator Support Scholarship Program subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1216 Educator Support Scholarship Program. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3438, 14 **DE Admin. Code** 1216 Educator Support Scholarship Program, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1216 Educator Support Scholarship Program amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1216 Educator Support Scholarship Program in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

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

1216 Educator Support Scholarship Program

1.0 Purpose

The purpose of this regulation is to provide the eligibility criteria, application requirements, and award process for the Educator Support Scholarship Program pursuant to 14 **Del.C.** §3438.

2.0 Definitions

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

"Area of Need" means 1 of the specific areas of need in which there is a shortage of teachers or specialists in Delaware as determined by the DHEO pursuant to 14 **Del.C.** §3438(b).

"Award" means a scholarship awarded under the Educator Support Scholarship Program.

"Delaware Higher Education Office" or **"DHEO"** means the Department of Education's office which administers specific programs related to higher education, including, ~~but not limited to,~~ student financial assistance programs.

"Free Application for Federal Student Aid" or **"FAFSA"** means the data supplied in connection with the federal government's application for federal financial aid which DHEO uses to determine an applicant's eligibility for an Award.

"Student Account Access Site" means the webpage on the DHEO's website where students can access scholarship opportunities.

3.0 Eligibility

3.1 In order to be eligible for an Award under the Educator Support Scholarship Program, an applicant shall meet the requirements of subsections 3.1.1 through 3.1.3.

3.1.1 The applicant shall be enrolled in an undergraduate or graduate program of study leading to a career as a teacher or specialist in an Area of Need.

3.1.1.1 Applicants who are enrolled in an undergraduate program of study shall be enrolled full-time. For the purpose of subsection 3.1.1.1, full-time means the minimum college credit hours for full-time status as an undergraduate student as required by the applicant's college or university. Generally, this is a minimum of 12 credit hours per term.

3.1.1.2 Applicants who are enrolled in a graduate program of study shall be enrolled full-time or part-time.

3.1.1.2.1 For the purpose of subsection 3.1.1.2, full-time means the minimum college credit hours for full-time status as a graduate student as required by the applicant's college or university. Generally, this is a minimum of 9 credit hours.

3.1.1.2.2 For the purpose of subsection 3.1.1.2, part-time means the minimum college credit hours for part-time status as a graduate student as required by the applicant's college or university. Generally, this is less than 9 credit hours.

3.1.2 The applicant shall meet the definition of residency as defined in 14 **Del.C.** §3402(f).

3.1.3 The applicant shall be enrolled at a college or university that is located in Delaware and is accredited by an accrediting agency recognized by the U.S. Secretary of Education.

4.0 Application Requirements

4.1 The application acceptance and submission period for the Educator Support Scholarship Program shall be posted on the DHEO's website by December 1 of each calendar year.

4.1.1 Applications shall not be accepted outside of the posted application acceptance period under any circumstances.

4.1.2 Incomplete applications shall not be accepted or processed.

4.2 In order for an application to be considered complete, an applicant shall fulfill all of the requirements in subsections 4.2.1 and 4.2.2.

4.2.1 The applicant shall complete an online application through the Student Account Access Site by the last date of the application acceptance period.

4.2.1.1 Applicants may update their enrollment information on the Student Account Access Site through the last date of the application acceptance period.

4.2.1.2 A first time applicant must establish an account and provide the applicant's valid email address and permanent mailing address before being permitted to submit the information required in subsection 4.2 of this regulation.

- 4.2.2 The applicant shall complete the FAFSA for the school year in which the scholarship is sought by the application deadline.

5.0 Awards

- 5.1 DHEO determines the amount of scholarships to be awarded annually. Contingent upon funding appropriated for the Educator Support Scholarship Program and based on the size of the applicant pool, at least 1 applicant in each Area of Need will be awarded a scholarship annually.
- 5.2 To determine an applicant's financial need for the purpose of the Educator Support Scholarship, DHEO will consider the applicant's EFC; the expense of attending the applicant's college or university; and the applicant's eligibility for Pell grants and other federal, state, or private grant assistance. For the purpose of this regulation, EFC means the Expected Family Contribution, which is the number that is calculated using the financial information an applicant provides on the applicant's Free Application for Federal Student Aid (FAFSA) to determine the applicant's eligibility for federal student aid.
- 5.3 An Award shall be used for, and not in excess of, tuition, mandatory fees, room, board, books, and other direct and indirect educational expenses.
- 5.4 An Award is renewable for up to 3 additional years.
- 5.5 To be eligible to renew an Award, a student shall update the student's enrollment information on the Student Account Access Site; continue to be enrolled in a program of study leading to a career as a teacher or specialist in an Area of Need; maintain satisfactory academic progress by successfully completing coursework according to the standards of the college or university in which the student is enrolled; and continue to be eligible to receive financial aid.
- 5.6 A student shall not receive more than 4 annual Awards.

6.0 Award Payment

- 6.1 Award payments shall be disbursed directly to the student's college or university only.
- 6.2 If a student withdraws from school or otherwise does not qualify for full payment at the end of the add/drop period for a semester, DHEO will apply the refund policies set forth in 14 **Del.C.** §3402(k). For the purpose of this regulation, semester means a half-year term in a school or college, typically lasting 15 to 18 weeks.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3439(b)
(14 **Del.C.** §§122(b)(8), 181(15), 183, 3402(c), & 3439(b))

ORDER

1218 Mental Health Services Student Loan Repayment Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3439(b), the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes the adoption of 14 **DE Admin. Code** 1218 Mental Health Services Student Loan Repayment Program. The Mental Health Services Student Loan Repayment Program is a student financial assistance for higher education program that is administered by DHEO. The proposed regulation provides the eligibility criteria, application requirements, and award process for the program. The proposed regulation is consistent with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022. In addition, the proposed definition of Qualified Educational Loan in Section 2.0 and the substantiation requirement in subsection 4.2.3 are consistent with 26 C.F.R. § 1.127-2, the Internal Revenue Service's regulation concerning qualified educational assistance programs.

Notice of the proposed regulation was published in the *Register of Regulations* on July 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

II. FINDINGS OF FACTS

The Department finds that the proposed regulation is necessary to implement 14 **Del.C.** Ch. 34 and the Mental Health Services Student Loan Repayment Program, which is a student financial assistance program that DHEO administers. In addition, the Department finds that House Bill 480 of the 151st General Assembly amended 14 **Del.C.** Ch. 34 and that the proposed regulation is consistent with the statute that went into effect on August 25, 2022. The Department further finds that the proposed definition of Qualified Educational Loan in Section 2.0 and the substantiation requirement in subsection 4.2.3 are consistent with the applicable federal law.

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to adopt 14 **DE Admin. Code** 1218 Mental Health Services Student Loan Repayment Program subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved the adoption of 14 **DE Admin. Code** 1218 Mental Health Services Student Loan Repayment Program. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3439(b), 14 **DE Admin. Code** 1218 Mental Health Services Student Loan Repayment Program, attached hereto as Exhibit A, is hereby adopted.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1218 Mental Health Services Student Loan Repayment Program adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1218 Mental Health Services Student Loan Repayment Program in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

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

1218 Mental Health Services Student Loan Repayment Program**1.0 Purpose**

The purpose of this regulation is to provide the eligibility criteria, application requirements, and award process for the Mental Health Services Student Loan Repayment Program pursuant to 14 Del.C. §3439(b).

2.0 Definitions

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

"Award" means the Delaware Higher Education Office's decision to make a loan payment on an applicant's behalf.

"Delaware Higher Education Office" or "DHEO" means the Department of Education's office which administers specific programs related to higher education, including student financial assistance programs.

"Qualified Educational Loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational expenses related to an applicant's undergraduate or graduate degree program. Reasonable educational expenses do not include tools or supplies (other than textbooks) that are retained by the recipient after the course of instruction; meals, lodging, or transportation; or education involving sports, games, or hobbies unless such education is required as part of a degree program.

3.0 Eligibility

3.1 In order to be eligible for an Award under the Mental Health Services Student Loan Repayment Program, an applicant shall meet the requirements of subsections 3.1.1 and 3.1.2.

3.1.1 The applicant shall be employed full-time as a school counselor, school psychologist, or school social worker in a Delaware public school for a minimum of 1 school year.

3.1.2 The applicant shall have secured a Qualified Educational Loan prior to submitting the application.

4.0 Application Requirements

4.1 The application acceptance and submission period for the Mental Health Services Student Loan Repayment Program shall be posted on the DHEO's website by December 1 of each calendar year.

4.1.1 Applications shall not be accepted outside of the posted application acceptance period under any circumstances.

4.1.2 Incomplete applications shall not be accepted or processed.

4.2 In order for an application to be considered complete, the applicant shall complete all of the requirements in subsections 4.2.1 through 4.2.3.

4.2.1 The applicant shall certify to DHEO that the applicant meets all of the eligibility requirements in Section 3.0.

4.2.2 The applicant shall provide the applicant's current employment information, lender, and loan amount to DHEO.

4.2.3 The applicant shall provide substantiation to DHEO that the Award will be used for a Qualified Educational Loan as defined in Section 2.0.

5.0 Awards

5.1 The ability to make Awards each year is contingent upon the availability of funds.

5.2 If possible, DHEO shall make an Award to every applicant who satisfies the requirements of this regulation, consistent with Section 6.0 of this regulation. Awards will be determined based on the pool of eligible applicants in the given year.

5.2.1 If there are insufficient funds to make a loan payment on behalf of every applicant who satisfies the requirements of this regulation, DHEO shall give priority to applicants who have the greatest financial need as determined by DHEO.

5.2.2 To determine an applicant's financial need, DHEO shall request the applicant provide the applicant's income and total amount of Qualified Educational Loans.

5.3 DHEO shall have the sole discretion to prioritize applications and determine Awards consistent with the requirements of the Program as noted in this regulation.

5.4 DHEO shall make a loan payment directly to the applicant's lending agency, on behalf of the applicant, to retire a portion of the applicant's Qualified Educational Loan.

5.5 An Award is not renewable.

5.6 To be considered for a second and third Award, an applicant shall submit a new, completed application and meet all of the requirements in Section 3.0 of this regulation each year.

5.7 An applicant may receive only 1 Award per year and may not receive more than 3 Awards in the applicant's lifetime.

6.0 Award Payment

6.1 An Award shall not exceed \$5,000 per year.

6.2 If an applicant knowingly submits false information or commits fraud in connection with the application process, DHEO may reevaluate the applicant's eligibility for a loan payment and may withdraw its decision to make a loan payment on the applicant's behalf.

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1210 (14 Del.C. §§1203, 1205(b), & 1210)
14 DE Admin. Code 1510

ORDER

1510 Initial License

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203, 1205(b), and 1210, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1510 Initial License. The regulation sets forth the requirements for issuance and retention of an educator's Initial License. The proposed amendments include amending and striking terms in Section 2.0; revising subsections 3.1.2 and 3.1.4; amending Section 4.0, which concerns the requirements for an Initial License; amending Section 5.0, which provides reciprocity requirements; amending Section 6.0, which concerns expired Delaware educators' licenses; amending Section 7.0, which concerns application requirements; amending Section 9.0, which concerns the validity of an Initial License, and adding the requirements for placement on active and inactive status; removing the performance assessment requirement in Section 15.0; and adding Section 17.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address. The proposed amendments are consistent with HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022.

Notice of the proposed regulation was published in the *Register of Regulations* on June 1, 2023. The Professional Standards Board received three written submittals concerning the proposed regulation. The Executive Board Members of the Delaware Association for Behavior Analysis ("DEABA") commented that the proposed regulation includes a \$100 fee to obtain a Standard Certificate and that it is not clear if the cost is accounted for in districts' budgets. DEABA further commented that the majority of states have licensure requirements in place that acknowledge BACB's BCBA and BCaBA as the preferred credential for behavior analysis. DEABA also commented that behavior-analytic service providers working in schools and their administrative support teams did not have sufficient awareness of the proposed regulation in order to provide meaningful consideration and feedback during the public comment period. Nicole Gouge commented that the fee should be reconsidered due to the "costly fees involved with obtaining and maintaining BCBA credentials coupled with the high turnover rates for BCBA and BCaBAs. Ms. Gouge further commented that BCBAs, BCaBAs, and school teams have not had the proper time to review the proposed regulations and provide eloquent feedback. Ms. Gouge also commented that behavior analytic service providers should be part of the process in creating the proposed regulations and that the language concerning Secretary of Education review should be reconsidered. Sarah D'Amico commented that she is against the proposed regulation. She stated that DEABA's Executive Board has been working on a plan to pursue licensure for behavior analysts in the State. In addition, Ms. D'Amico commented that QBAs are not overseen, regulated, or certified by the BACB.

II. FINDINGS OF FACTS

On August 3, 2023, the Professional Standards Board considered the written submittals. The Professional

Standards Board found that there are two organizations that certify behavior analysts and QBAs were included at the suggestion of the head of Delaware's Statewide Autism Program. Additionally, the Professional Standards Board found that there is a \$100 fee for all applicants for an Initial License that is reimbursed for applicants who become employed at a Delaware public school (14 **Del.C.** §122(b)(27)). The Professional Standards Board further found that it proposed numerous changes throughout the regulation but behavior analysts and behavior analyst assistants are referenced in only two of the proposed subsections. The Professional Standards Board did not make any changes as a result of the written submittals and voted to propose 14 **DE Admin. Code** 1510 Initial License, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1510 Initial License.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1510 Initial License subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1510 Initial License. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1210, 14 **DE Admin. Code** 1510 Initial License, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1510 Initial License amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1510 Initial License in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education:

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

***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 June 2023 issue of the *Register* at page 998 (26 DE Reg. 998). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 171 09-01-23.htm>

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1206(d) and 29 Delaware Code, Section 10113(b)(2) (14 **Del.C.** §§1203, 1205(b), & 1206(d) and 29 **Del.C.** §10113(b)(2))

ORDER

1516 Professional Standards Board Standing Committees

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§1203, 1205(b), and 1206(d), the Delaware Department of Education ("Department"), in consultation and cooperation with the Professional Standards Board, developed amendments to 14 **DE Admin. Code** 1516 Professional Standards Board Standing Committees. The regulation sets forth rules of practice and procedure used by the Professional Standards Board and is being amended under the provision of 29 **Del.C.** §10113(b)(2). The proposed amendments include striking the phrase "unless the context clearly indicates otherwise" from Section 2.0 and amending subsection 4.6 to remove "co-chairpersons" and add chairperson and vice chairperson.

The amendments are exempt from the requirement of public notice and comment and are adopted informally in accordance with 29 **Del.C.** §§10113(b)(2).

II. FINDINGS OF FACT

The Department finds that the regulation sets forth rules of practice and procedure used by the Professional Standards Board. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1516 Professional Standards Board Standing Committees.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1516 Professional Standards Board Standing Committees. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1206(d) and 29 **Del.C.** §10113(b)(2), 14 **DE Admin. Code** 1516 Professional Standards Board Standing Committees, attached hereto as Exhibit "A," is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1516 Professional Standards Board Standing Committees amended hereby shall be in the form attached hereto as Exhibit "A" and said regulation shall be cited as 14 **DE Admin. Code** 1516 Professional Standards Board Standing Committees in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

1516 Professional Standards Board Standing Committees

1.0 Applicability

This regulation shall apply to the Professional Standards Board's standing committees pursuant to 14 **Del.C.** §1206(d).

2.0 Definitions

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.

“**Executive Director**” means the Delaware Professional Standards Board’s Executive Director.

“**LCCC**” means the Licensure and Certification Criteria Committee established pursuant to 14 **Del.C.** §1206(d)(1).

“**PDACC**” means the Professional Development and Associated Compensation Committee established pursuant to 14 **Del.C.** §1206(d)(2).

“**Secretary**” means the Secretary of the Delaware Department of Education.

“**Standards Board**” means the Delaware Professional Standards Board established pursuant to 14 **Del.C.** §1201.

3.0 Standing Committees

3.1 The Standards Board’s standing committees are:

3.1.1 LCCC; and

3.1.2 PDACC.

3.2 The LCCC makes recommendations for developing and amending, as necessary, regulations in the areas of licensure and certification.

3.3 The PDACC makes recommendations for developing and amending, as necessary, regulations in the areas of professional development and salary supplements for educators pursuant to 14 **Del.C.** Ch. 13.

4.0 Standing Committee Membership

4.1 Each committee shall consist of no more than 15 committee members.

4.2 Each committee shall include at least ~~one~~ 1 current Standards Board member.

4.3 Committee members shall have expertise in the committee’s subject matter.

4.4 Committee membership shall be geographically representative of the ~~three~~ 3 counties and may include teachers from the elementary, middle, and high school levels, education specialists, administrators, local school board members, parents, higher education representatives, and Department representatives.

4.5 The Executive Director shall make a call for applications to fill vacancies on committees. Prospective committee members shall submit an application to the Executive Director. The Standards Board’s Chairperson and the Secretary shall review applications and appoint committee members.

4.6 Each committee shall elect ~~co-chairpersons~~ a chairperson and a vice chairperson annually. The committee ~~co-chairpersons~~ chairpersons shall preside over all meetings of their respective committees. A committee vice chairperson shall serve in the capacity of the committee’s chairperson in the chairperson’s absence. As part of its annual election, each committee may elect other officers as it deems necessary.

4.7 Committee members shall serve staggered 3-year terms.

4.8 Prior to the expiration of a committee member’s term, the Executive Director shall verify the committee member’s continued interest in serving on the committee. The Executive Director shall submit the names of the committee members who are interested in serving another term to the Standards Board’s Chairperson and the Secretary for reappointment.

4.9 Committee members who miss 3 consecutive meetings shall be reported to the Standards Board’s Chairperson and the Secretary, who may appoint replacement committee members.

4.10 The Board’s Chairperson and the Secretary may remove a committee member whose actions are contradictory to the committee’s purpose or the Standards Board’s purpose or are in violation of applicable law. In such case, the Board’s Chairperson and the Secretary shall appoint a replacement committee member.

5.0 Committee Reports and Recommendations

- 5.1 Each committee shall provide a progress report, including any recommendations, to the Standards Board after each meeting.
 - 5.2 Committees shall submit the report in writing to the Standards Board or designate at least one committee member to deliver the report at the Standards Board's next regularly scheduled meeting.
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PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 **Del.C.** §§1203, 1205(b), & 1220)
14 **DE Admin. Code** 1571

ORDER

1571 Special Education Teacher of Students with Disabilities

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities. The regulation concerns the requirements for a Special Education Teacher of Students with Disabilities Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments to the regulation include revising the title of the Standard Certificate in Section 1.0; striking terms from Section 2.0 that have been embedded within the body of the regulation; revising the definition of "Valid and Current License or Certificate" in Section 2.0; clarifying the reference to license in subsection 3.1.2; adding the Praxis Special Education: Foundational Knowledge (ETS Test Code # 5355) as an option in subsection 4.1.2.2; adding subsection 5.2, which concerns disclosure of criminal conviction history; and adding Section 10.0, which concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Notice of the proposed regulation was published in the *Register of Regulations* on July 1, 2023. The Professional Standards Board received one written submittal concerning the proposed regulation. Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"), commented that GACEC supports the proposed amendments because they "do not negatively impact students with disabilities or students in general."

II. FINDINGS OF FACTS

On August 3, 2023, the Professional Standards Board considered the written submittal. The Professional Standards Board voted to propose 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

***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 July 2023 issue of the *Register* at page 24 (27 DE Reg. 24). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 175 09-01-23.htm>

PROFESSIONAL STANDARDS BOARD

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

ORDER

1585 School Behavior Analyst

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed 14 **DE Admin. Code** 1585 School Behavior Analyst. The proposed regulation concerns the requirements for a School Behavior Analyst Standard Certificate in accordance with 14 **Del.C.** §1220. Proposed Section 1.0 provides who would be required to hold the School Behavior Analyst Standard Certificate; Section 2.0 provides definitions for the proposed regulation; Section 3.0 concerns the issuance of a School Behavior Analyst Standard Certificate; Section 4.0 provides the prescribed education, knowledge, and skill requirements for the issuance of a School Behavior Analyst Standard Certificate; Section 5.0 provides the application requirements; Section 6.0 concerns Secretary of Education review; Section 7.0 concerns the validity of a School Behavior Analyst Standard Certificate; Section 8.0 concerns the requirements to retain the School Behavior Analyst Standard Certificate; Section 9.0 concerns disciplinary actions; and Section 10.0 concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Notice of the proposed regulation was published in the *Register of Regulations* on June 1, 2023. The Professional Standards Board received four written submittals concerning the proposed regulation. The Executive

Board Members of the Delaware Association for Behavior Analysis ("DEABA") commented that the proposed regulation includes a \$100 fee to obtain a Standard Certificate and that it is not clear if the cost is accounted for in districts' budgets. DEABA further commented that the majority of states have licensure requirements in place that acknowledge BACB's BCBA and BCaBA as the preferred credential for behavior analysis. DEABA also commented that behavior-analytic service providers working in schools and their administrative support teams did not have sufficient awareness of the proposed regulation in order to provide meaningful consideration and feedback during the public comment period. Nicole Gouge commented that the fee should be reconsidered due to the "costly fees involved with obtaining and maintaining BCBA credentials coupled with the high turnover rates for BCBA and BCaBAs. Ms. Gouge further commented that BCBAs, BCaBAs, and school teams have not had the proper time to review the proposed regulations and provide eloquent feedback. Ms. Gouge also commented that behavior analytic service providers should be part of the process in creating the proposed regulations and that the language concerning Secretary of Education review should be reconsidered. Sarah D'Amico commented that she is against the proposed regulation. She commented that QBAs are not overseen, regulated, or certified by the BACB and DEABA has been working on a plan to pursue licensure for BCBAs in Delaware. Ms. D'Amico noted that the proposed regulation would assist districts in building capacity. Ms. D'Amico further commented that it is reasonable to expect behavior analysts will be reimbursed the \$100 fee. She also commented that behavior-analytic service providers who work in schools and their administrative support teams did not have sufficient awareness of the proposed regulation. Carol Percy commented about the proposed regulation being published during the summer when many of the people it would affect are not working.

II. FINDINGS OF FACTS

On August 3, 2023, the Professional Standards Board considered the written submittals. The Professional Standards Board found that the fee is for an Initial License, not a Standard Certificate. The Professional Standards Board further found that the Delaware Division of Professional Regulation does not license behavior analysts. The Professional Standards Board also found that its Executive Director met with special education directors regarding the proposed regulation in March, a draft of the proposed regulation was distributed to special education directors for feedback, the proposed regulation was published in the *Register of Regulations* from June 1, 2023 through July 3, 2023, and notice of the proposed regulation was included in the Department's newsletters to principals and human resources directors. The Professional Standards Board also found that it develops regulations throughout the year and the proposed regulation followed the same process that all of the regulations follow, including providing the opportunity for comment. The Professional Standards Board did not make any changes as a result of the written submittals and voted to propose 14 **DE Admin. Code** 1585 School Behavior Analyst, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation is necessary to implement 14 **Del.C.** Ch. 12 and is designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to adopt 14 **DE Admin. Code** 1585 School Behavior Analyst.

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to adopt 14 **DE Admin. Code** 1585 School Behavior Analyst subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved adopting 14 **DE Admin. Code** 1585 School Behavior Analyst. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1585 School Behavior Analyst, attached hereto as Exhibit A, is hereby adopted.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1585 School Behavior Analyst adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1585 School Behavior Analyst in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

FINAL REGULATIONS

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

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

1585 School Behavior Analyst

1.0 Content

This regulation shall apply to the issuance of a School Behavior Analyst Standard Certificate pursuant to 14 Del.C. §1220(a). The School Behavior Analyst Standard Certificate is required for all behavior analysts who provide behavior analytic services in Delaware public schools. The School Behavior Analyst Standard Certificate is not required for educators who provide behavior analytic services in the course of their work and are licensed and certified to practice in other areas such as, but not limited to, teachers or school psychologists. Applied Behavior Analysis Technicians (ABATs), Board Certified Assistant Behavior Analyst (BCaBA), Qualified Autism Service Practitioner - Supervisors (QASP-Ss), and Registered Behavior Technicians (RBTs) are not eligible to hold the School Behavior Analyst Standard Certificate.

2.0 Definitions

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

"Department" means the Delaware Department of Education.

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

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

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

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

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

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

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

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

3.0 Issuance of a Standard Certificate

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

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 An applicant for a School Behavior Analyst Standard Certificate shall have satisfied the requirement in subsection 4.1.1.
- 4.1.1 The applicant shall hold 1 of the certifications in subsections 4.1.1.1 through 4.1.1.2.
- 4.1.1.1 The applicant holds a Board Certified Behavior Analyst (BCBA) certification issued by the Behavior Analyst Certification Board.
 - 4.1.1.2 The applicant holds a Qualified Behavior Analyst (QBA) issued by the Qualified Applied Behavior Analysis Credentialing Board.

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in 14 Del.C. §1219 and it could delay the processing or result in the denial of the application for a School Behavior Analyst Standard Certificate.
- 5.3 For applicants who are applying for the School Behavior Analyst Standard Certificate under subsection 3.1.1, the following documentation is required:
- 5.3.1 Proof the applicant holds 1 of the certificates listed in subsection 4.1.1; and
 - 5.3.2 Additional documentation as required by the Department.
- 5.4 For applicants who are applying for the School Behavior Analyst Standard Certificate under subsection 3.1.2, the following documentation is required:
- 5.4.1 An official copy of the Valid and Current License or Certificate; and
 - 5.4.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

- 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a School Behavior Analyst 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 Behavior Analyst Standard Certificate but whose effectiveness is documented by the local school district or charter school.
- 6.1.1 For school districts, requests shall be approved by the superintendent of the school district.

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

7.0 Validity of a Standard Certificate

7.1 A School Behavior Analyst 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 Behavior Analyst Standard Certificate is not subject to renewal.

8.0 Requirements Related to Retention of the School Behavior Analyst Standard Certificate

8.1 In order to retain a School Behavior Analyst Standard Certificate, the Educator shall:

8.1.1 Hold an Initial, Continuing, or Advanced License and meet any requirements related to retention of the license.

8.1.2 Maintain the Educator's certification issued by the Behavior Analyst Certification Board or the Qualified Applied Behavior Analysis Credentialing Board.

8.2 If an Educator fails to meet any of the requirements related to retaining a School Behavior Analyst Standard Certificate, the Educator shall immediately notify the Department in writing.

8.3 The requirements set forth in subsection 8.1 apply to all Educators regardless of the date the School Behavior Analyst Standard Certificate was issued.

9.0 Disciplinary Action

9.1 An Educator's School Behavior Analyst 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 the School Behavior Analyst Standard Certificate as provided in Section 8.0.

9.2 An Educator's School Behavior Analyst 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.

9.3 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.

10.0 Contact Information and Change of Name or Address

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

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

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

PROFESSIONAL STANDARDS BOARD

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

ORDER

1586 School Behavior Analyst Assistant

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed 14 DE Admin. Code 1586 School Behavior Analyst Assistant. The proposed regulation concerns the requirements for a School Behavior Analyst Assistant Standard Certificate in accordance with 14 Del.C. §1220. Proposed Section 1.0 provides who would be required to hold the School Behavior Analyst Assistant Standard Certificate; Section 2.0 provides definitions for the proposed regulation; Section 3.0 concerns the issuance of a School Behavior Analyst Assistant Standard Certificate; Section 4.0 provides the prescribed education, knowledge, and skill requirements for the issuance of a School Behavior Analyst Assistant Standard Certificate; Section 5.0 provides the application requirements; Section 6.0 concerns Secretary of Education review; Section 7.0 concerns the validity of a School Behavior Analyst Assistant Standard Certificate; Section 8.0 concerns the requirements to retain the School Behavior Analyst Assistant Standard Certificate; Section 9.0 concerns disciplinary actions; and Section 10.0 concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Notice of the proposed regulation was published in the *Register of Regulations* on June 1, 2023. The Professional Standards Board received three written submittals concerning the proposed regulation. The Executive Board Members of the Delaware Association for Behavior Analysis ("DEABA") commented that the proposed regulation includes a \$100 fee to obtain a Standard Certificate and that it is not clear if the cost is accounted for in districts' budgets. DEABA further commented that the majority of states have licensure requirements in place that acknowledge BACB's BCBA and BCaBA as the preferred credential for behavior analysis. DEABA also commented that behavior-analytic service providers working in schools and their administrative support teams did not have sufficient awareness of the proposed regulation in order to provide meaningful consideration and feedback during the public comment period. Nicole Gouge commented that the fee should be reconsidered due to the costly fees involved with obtaining and maintaining BCBA credentials coupled with the high turnover rates for BCBA and BCaBAs. Ms. Gouge further commented that BCBAs, BCaBAs, and school teams have not had the proper time to review the proposed regulations and provide eloquent feedback. Ms. Gouge also commented that behavior analytic service providers should be part of the process in creating the proposed regulations and that the language concerning Secretary of Education review should be reconsidered. Sarah D'Amico commented that she is against the proposed regulation but noted that the proposed regulation would assist districts in building capacity. Ms. D'Amico further commented that it is reasonable to expect BCaBAs will be reimbursed the \$100 fee. She commented that the last sentence of Section 1.0 contains a typographical error.

II. FINDINGS OF FACTS

On August 3, 2023, the Professional Standards Board considered the written submittals. The Professional Standards Board found that the fee is for an Initial License, not a Standard Certificate. The Professional Standards Board further found that the Delaware Division of Professional Regulation does not license behavior analysts. The Professional Standards Board also found that its Executive Director met with special education directors regarding the proposed regulation in March, a draft of the proposed regulation was distributed to special education directors for feedback, the proposed regulation was published in the *Register of Regulations* from June 1, 2023 through July 3, 2023, and notice of the proposed regulation was included in the Department's newsletters to principals and human resources directors. The Professional Standards Board also found that it develops regulations throughout the year and the proposed regulation followed the same process that all of the regulations follow, including providing the opportunity for comment. Pursuant to 29 Del.C. §10118(c), the Professional Standards Board made a non-substantive change and added an "s" after "Board Certified Behavior Analyst" in the last sentence of Section 1.0. The Professional Standards Board did not make any further changes as a result of the written submittals and

voted to propose 14 **DE Admin. Code** 1586 School Behavior Analyst Assistant, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation is necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to adopt 14 **DE Admin. Code** 1586 School Behavior Analyst Assistant.

III. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to adopt 14 **DE Admin. Code** 1586 School Behavior Analyst Assistant subject to the State Board of Education's approval. On August 10, 2023, the State Board of Education approved adopting 14 **DE Admin. Code** 1586 School Behavior Analyst Assistant. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1586 School Behavior Analyst Assistant, attached hereto as Exhibit A, is hereby adopted.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1586 School Behavior Analyst Assistant adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1586 School Behavior Analyst Assistant in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 10th day of August, 2023.

Department of Education

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

Approved this 10th day of August, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rev. Provey Powell, Jr.

/s/ Deborah Stevens, Vice President

/s/ Wali W. Rushdan, II

/s/ Candice Fifer

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

1586 School Behavior Analyst Assistant

1.0 Content

This regulation shall apply to the issuance of a School Behavior Analyst Assistant Standard Certificate pursuant to 14 **Del.C.** §1220(a). The School Behavior Analyst Assistant Standard Certificate is required for all behavior analyst assistants who provide behavior analytic services in Delaware public schools. Educators who hold a School Behavior Analyst Assistant Standard Certificate shall be supervised by educators who hold a School Behavior Analyst Standard Certificate (14 **DE Admin. Code** 1585). The School Behavior Analyst Assistant Standard Certificate is not required for educators who provide behavior analytic services in the course of their work and are licensed and certified to practice in other areas such as, but not limited to, teachers or school psychologists. Applied Behavior Analysis Technicians (ABATs), Board Certified Behavior Analyst[s] (BCBAs), Qualified Behavior Analysts (QBAs), and Registered Behavior Technicians (RBTs) are not eligible to hold the School Behavior Analyst Standard Certificate.

2.0 Definitions

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

"Department" means the Delaware Department of Education.

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

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

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

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

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

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

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

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

3.0 Issuance of a Standard Certificate

3.1 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a School Behavior Analyst Assistant Standard Certificate to an applicant who:

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

3.1.2 Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a school behavior analyst assistant issued by another state or jurisdiction.

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

4.0 Prescribed Education, Knowledge, and Skill Requirements

4.1 An applicant for a School Behavior Analyst Assistant Standard Certificate shall have satisfied the requirement in subsection 4.1.1.

4.1.1 The applicant shall hold 1 of the certifications in subsections 4.1.1.1 through 4.1.1.2.

4.1.1.1 The applicant holds a Board Certified Assistant Behavior Analyst (BCaBA) certification issued by the Behavior Analyst Certification Board.

4.1.1.2 The applicant holds a Qualified Autism Service Practitioner – Supervisor (QASP-S) issued by the Qualified Applied Behavior Analysis Credentialing Board.

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in 14 **Del.C.** §1219 and it could delay the processing or result in the denial of the application for a School Behavior Analyst Assistant Standard Certificate.
- 5.3 For applicants who are applying for the School Behavior Analyst Assistant Standard Certificate under subsection 3.1.1, the following documentation is required:
 - 5.3.1 Proof the applicant holds 1 of the certificates listed in subsection 4.1.1; and
 - 5.3.2 Additional documentation as required by the Department.
- 5.4 For applicants who are applying for the School Behavior Analyst Assistant Standard Certificate under subsection 3.1.2, the following documentation is required:
 - 5.4.1 An official copy of the Valid and Current License or Certificate; and
 - 5.4.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

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

7.0 Validity of a Standard Certificate

- 7.1 A School Behavior Analyst Assistant 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 Behavior Analyst Assistant Standard Certificate is not subject to renewal.

8.0 Requirements Related to Retention of the School Behavior Analyst Assistant Standard Certificate

- 8.1 In order to retain a School Behavior Analyst Assistant Standard Certificate, the Educator shall:
 - 8.1.1 Hold an Initial, Continuing, or Advanced License and meet any requirements related to retention of the license.
 - 8.1.2 Maintain the Educator's certification issued by the Behavior Analyst Assistant Certification Board or the Qualified Applied Behavior Analysis Credentialing Board.
- 8.2 If an Educator fails to meet any of the requirements related to retaining a School Behavior Analyst Assistant Standard Certificate, the Educator shall immediately notify the Department in writing.
- 8.3 The requirements set forth in subsection 8.1 apply to all Educators regardless of the date the School Behavior Analyst Assistant Standard Certificate was issued.

9.0 Disciplinary Action

- 9.1 An Educator's School Behavior Analyst Assistant 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 the School Behavior Analyst Assistant Standard Certificate as provided in Section 8.0.
- 9.2 An Educator's School Behavior Analyst Assistant 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.
- 9.3 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.

10.0 Contact Information and Change of Name or Address

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

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Statutory Authority: 16 Delaware Code, Section 5004 (16 Del.C. §5004)

16 DE Admin. Code 6002

ORDER

6002 Credentialing Mental Health Screeners and Payment for Voluntary Admissions

NATURE OF THE PROCEEDINGS

According to the *Administrative Procedures Act* established under 29 Del.C. Ch. 101 ("the APA") and the authority of 16 Del. C. § 5004, the State of Delaware Department of Health and Social Services ("the Department") initiated a proceeding to amend regulations governing credentialed mental health screeners ("screeners").

On June 1, 2023, the Registrar published a notice of the Department's proposed regulation ("the proposed regulation") in the *Delaware Register of Regulations* (26 DE Reg. 1023) under the APA. The notice requested that the public provide written submissions of suggestions, data, testimony, briefs, or other materials related to the Department's proposal to the Department no later than July 3, 2023, after which the Department would review the submissions.

The Department reviewed public comments from the Governor's Advisory Council for Exceptional Citizens ("GACEC") via a letter from Chairperson Ann Fisher and from the State Council for Persons with Disabilities ("SCPD") via a letter from Chairperson Benjamin Shrader. The comments from the GACEC and the SCPD concerned the proposed regulation's removal of hours-based training requirements in the current regulation. The GACEC and the SCPD were additionally concerned with removing provisions in the current regulation related to payment for admission to psychiatric facilities. Finally, the GACEC and SCPD expressed support for registering psychiatrists. The Department did not receive any other written submissions on the proposal.

The Department shares the commenters' view that screeners receive through training. However, the Department believes that the proposed regulation's simplified training requirement allowing for the Division of Substance Abuse and Mental Health ("the Division") to approve appropriate training is sufficient to ensure the

proper training of screeners. Furthermore, the Department notes that the current regulations focus on "continuing education units" or "CEUs" to fulfill the hour requirements. The proposed regulation eliminates the CEUs in favor of training specific to Delaware's laws and practices rather than duplicating the clinical continuing education requirements specific to each screener's professional licensure, employment, or both. The Department believes that standardizing the Division-approved training across screeners will result in a more uniform system and decrease inappropriate detentions.

The Department shares the commenters' concern that State funds be expended only for appropriate admissions. However, the Department believes that the language establishing a review process for payments in the current regulation is inappropriate and that the proposed regulation remedies this error. Under 16 **Del. C.** § 5005, a person may "not be admitted to a hospital except pursuant to the written certification of a psychiatrist." A screener has no authority to admit a person to a hospital, so regulations related to hospital admissions are not germane to the regulation. Additionally, the adoption of the proposed regulation will be under the authority of 16 **Del. C.** § 5004. Therefore, a payment review process would exceed the authority granted by 16 **Del. C.** § 5004.

FINDINGS OF FACT

The Department finds that the proposed regulation, 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 credentialed mental health screeners be adopted on September 10, 2023, after publication of the final regulation in the *Delaware Register of Regulations*, and that the final regulation is effective January 1, 2024.

Josette D. Manning, Esq.
Secretary

8/4/23
Date

***Please note that no changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1023 (26 DE Reg. 1023). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 185 09-01-23.htm>

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
Statutory Authority: 4 Delaware Code, Section 304 (4 **Del.C.** §304)
4 DE Admin. Code 202

ORDER

Rule 202 (Formerly Rule 19) A Rule Defining the Words Hotel, Motel, Restaurant and Dinner Theater

SUMMARY OF THE EVIDENCE

1. Title 4, Section 304 of the Delaware Code authorizes the Alcoholic Beverage Control Commissioner to establish regulations in relation to all powers, duties and functions vested pursuant to the regulation of alcoholic beverages in Delaware.
2. Pursuant to 4 Del. C. § 304, the Alcoholic Beverage Control Commissioner intends to amend 4 DE Admin. C. 202. The regulations are being amended to update the dining seat to bar seat ratio in restaurants from 4:1 to 3:1, and reorganize the format and update minor grammatical items of this rule, specifically regarding a motel.
3. Notice of the proposed regulation change was published in the June 1, 2023 edition of the *Delaware Register of Regulations*, and the public was given thirty (30) days to provide written comment.
4. No public comments were received for this proposed regulation.
5. Having provided the opportunity for public comment on the proposed regulations in accordance with the

Delaware Administrative Procedures Act, 29 Del.C. Ch. 101, et. seq., this is the Commissioner's Order adopting the proposed amended regulation as published previously.

FINDINGS OF FACT

1. The Commissioner finds that it is necessary to adopt the proposed regulation as published previously in order to update restaurant seating ratio to 3:1 dining seats to bar seats and update formatting and grammatical items in the rule.

DECISION AND ORDER TO AMEND THE REGULATION

For the foregoing reasons, the Commissioner concludes that it is appropriate to amend 4 DE Admin. Code 202 in which the text of the final regulation shall be in the form referenced herein and remain unchanged as initially published in the June 1, 2023 Delaware Register of Regulations, and therefore the regulation shall be adopted in accordance with this Order. The effective date of this Order shall be ten days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 27th day of July, 2023 by the Office of the Delaware Alcoholic Beverage Control Commissioner.

The Honorable Jacqueline Paradee Mette, Esq.
Commissioner

202 (Formerly Rule 19) A Rule Defining the Words Hotel, Motel, Restaurant and Dinner Theater

1.0 Purpose and Scope

This Rule supplements the definition of Hotel, Motel, Dinner Theater and Restaurant contained in the Liquor Control Act, 4 Delaware Code, Section 101 et seq.

~~4-0~~ **2.0 Hotel and Motel**

~~4-1~~ 2.1 **"Hotel"** means any establishment provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to travelers.

2.2 **"Motel"** means the same as the word "hotel" except that a motel may consist of one or more buildings so long as it otherwise qualifies with the requirements set forth in the above definition of "hotel". The provisions of the Liquor Control Act shall likewise apply to applications to sell alcoholic liquor in a motel.

~~4-2~~ 2.3 There shall also be adequate and sanitary kitchen and dining room equipment and an approved storage space where alcoholic liquor may be kept. A hotel and motel shall be advertised as such. A State or County license to operate the premises as a hotel and motel shall also be issued and in possession of the applicant prior to the issuance of the license and at all times thereafter during the term of the license.

~~2-0~~ **Motel**

~~"Motel" shall mean the same as the word "hotel" except that a motel may consist of one or more buildings so long as it otherwise qualifies with the requirements set forth in the above definition of "hotel". The provisions of the Liquor Control Act shall likewise apply to applications to sell alcoholic liquor in a motel.~~

3.0 Restaurant

3.1 **"Restaurant"** means any establishment which is regularly used and kept open principally for the purpose of serving complete meals to persons for consideration, and which has seating at tables for 12

or more persons and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook.

3.2 Additional requirements to operate as a restaurant are:

~~3.2.1~~ 3.2.1 Seats at a bar shall not exceed ~~25%~~ 1/3 of the dining seats.

~~3.2.2~~ 3.2.2 The service of only such food ~~and victuals~~ as sandwiches or salads shall not be deemed to be the service of "meals".

~~3.1.4~~ 3.2.3 Complete meals shall be available at all hours that any restaurant is open for the sale of alcoholic liquor.

~~3.1.2~~ 3.2.4 There shall also be adequate and sanitary kitchen and dining room equipment, and an approved storage space where alcoholic liquor may be kept.

~~3.1.3~~ 3.2.5 A State or County license to operate the premises as a "**restaurant**" shall also be issued and in the possession of the applicant prior to the issuance of the license and at all times thereafter during the term of the license.

4.0 Complete Meals - Hotel, Motel, and Restaurant

4.1 The sale of alcoholic beverages by a hotel, motel, or restaurant shall be considered as a supplement to the original purpose of providing food and lodging and furnishing food, respectively.

4.2 "**Complete Meals**" shall be considered to mean the normal meals provided at breakfast, lunch and dinner, offered from menus consisting of, but not limited to: breakfast foods, soups, appetizers, entrees, salads, vegetables, ~~dessert's~~ desserts, and beverages other than alcoholic.

4.3 Restaurants licensed to sell "Beer Only" and "Wine Only" shall be required to furnish only two out of the four following accompaniments to meals: appetizers, soups, salads and vegetables.

5.0 Dinner Theater

5.1 The dinner theater shall serve at least one meal consisting of, but not limited to, appetizers, entrees, salads, vegetables, desserts and beverages other than alcoholic. There shall also be an adequate and sanitary kitchen and dining equipment with an approved storage space where alcoholic liquor may be kept.

5.2 The dinner theater licensee shall supply to the Commissioner the hours during which the licensee shall permit consumption of alcoholic beverages on its premises. In no event shall the dinner theater licensee allow consumption of alcoholic liquors on its premises at times other than in conjunction with meals served at the theatrical performances and during intermissions or at any other time which is not permitted by the Delaware Liquor Control Act. The hours of consumption of alcoholic liquors shall first be approved by the Commissioner before the issuance of a license.

5.3 Persons not of sufficient age to consume alcoholic liquors shall be allowed and permitted to be on the licensed premises of the dinner theater so long as all of the other provisions of the Liquor Control Act and Rules of this Commissioner are being complied with.

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
Statutory Authority: 4 Delaware Code, Section 304 (4 Del.C. §304)
4 DE Admin. Code 1201 &1202

ORDER

1200 General Establishment Employment

- Rule 1201 (Formerly Rule 7) A Rule Requiring Persons Between the Ages of 16 and 18 to Secure a Work Permit to be Employed by an On-Premises Licensee**
Rule 1202 (Formerly Rule 7.1) Employment of Persons Who Have Reached the Age of 18 Years in Package Stores

SUMMARY OF THE EVIDENCE

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

2. Pursuant to 4 Del. C. § 304, the Alcoholic Beverage Control Commissioner intends to amend 4 DE Admin. C. 1201 and 202. The regulations are being amended to update and reflect: 1) removal of the requirement that youth employees be issued a work permit from the Commissioner, 2) youth 14 years of age and older are permitted to work in clubs with authorized dining facilities, hotels, racetracks and restaurants (provided that no such person be involved in the sale or service of alcoholic liquors; and 3) the change from 19 years of age to 18 years of age as the minimum age for employment to work in a taproom, pursuant to House Bill 463, and the change from 19 years to 18 years of age as the minimum age for employment to work in a retailer provided no one under 21 years sells or services alcoholic beverages.

3. Notice of the proposed regulation change was published in the June 1, 2023 edition of the *Delaware Register of Regulations*, and the public was given thirty (30) days to provide written comment.

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

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

FINDINGS OF FACT

1. The Commissioner finds that it is necessary to adopt the proposed regulations as published previously in order to update and reflect removal of the requirement of a work permit from the Commissioner; youth 14 years and older are permitted to work in clubs with authorized dining facilities, hotels, racetracks and restaurants (provided that no youth is involved in the sale or service of alcoholic liquors); and change from 19 years to 18 years of age as the minimum age for employment to work in a taproom and to work in a retailer provided no one under 21 years sells, prepares or serves alcoholic beverages.

DECISION AND ORDER TO AMEND THE REGULATION

For the foregoing reasons, the Commissioner concludes that it is appropriate to amend 4 DE Admin. Code 1201 and 1202 in which the text of the final regulation shall be in the form referenced herein and remain unchanged as initially published in the June 1, 2023 Delaware Register of Regulations, and therefore the regulation shall be adopted in accordance with this Order. The effective date of this Order shall be ten days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 27th day of July, 2023 by the Office of the Delaware Alcoholic Beverage Control Commissioner.

The Honorable Jacqueline Paradee Mette, Esq.
Commissioner

*Please note that no changes were made to the regulation as originally proposed and published in the June 2023 issue of the *Register* at page 1044 (26 DE Reg. 1044). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 189 09-01-23.htm>

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Veterinary Medicine

Statutory Authority: 24 Delaware Code, Section 3306(a)(1) (24 Del.C. §3306(a)(1))
24 DE Admin. Code 3300

ORDER

3300 Board of Veterinary Medicine

After due notice in the Delaware Register of Regulations and two Delaware newspapers, a public hearing was held on June 13, 2023 at a scheduled meeting of the Delaware Board of Veterinary Medicine ("Board") to receive comments regarding proposed amendments to the Board's rules and regulations. Subsection 6.1.2 addresses requirements for applicants for licensure as veterinarians who did not graduate from an AVMA-accredited veterinary school or college. The proposed amendment adds the Program for the Assessment of Veterinary Education Equivalence ("PAVE") as another method to meet the requirements for licensure.

The proposed changes to the rules and regulations were published in the *Delaware Register of Regulations*, Volume 26, Issue 11, on May 1, 2023. Notice of the June 13, 2023 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 Del.C. § 10118(a), the date to receive final written comments was June 28, 2023, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on August 8, 2023.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

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

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

There were no comments presented by testimony at the public hearing on June 13, 2023. Further, no written comments were submitted.

Findings of Fact and Conclusions

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony on the proposed amendments to the Board's rules and regulations. There were no public comments provided to the Board either in writing or during the public hearing.

Pursuant to 24 **Del.C.** § 3306(a)(1), the Board has the statutory authority to promulgate rules and regulations. Having received no comments, either by testimony or in writing, the Board finds no reason to amend the regulations as proposed.

Decision and Effective Date

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

IT IS SO ORDERED this 8th day of August 2023.

DELAWARE BOARD OF VETERINARY MEDICINE

/s/ Erin Whaley, DVM

/s/ Mary Jo Verdery

/s/ Jennifer Campanicki, DVM

/s/ Emily Thompson

/s/ Autumn Cooper, LVT

***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 May 2023 issue of the *Register* at page 935 (26 DE Reg. 935). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 190 09-01-23.htm>

DEPARTMENT OF TRANSPORTATION

DIVISION OF MOTOR VEHICLES

Driver Services

Statutory Authority: 21 Delaware Code, Sections 302, 304, 2608(a), and 2608(d) (21 **Del.C.** §§302, 304, 2608(a), & 2608(d))

ORDER

2226 Third Party Commercial Driver License Skills Testing

Pursuant to the authority provided by 21 *Del. C.* §302, 21 *Del. C.* §304, and 21 *Del. C.* §2608(a), 21 *Del. C.* §2608(d), 11 *Del. C.*, and 49 CFR Parts 383-384, the Delaware Division of Motor Vehicles (DMV) promulgates this regulation establishing its Third Party Commercial Driver License Skills Testing program.

Findings of Fact and Conclusions of Law

1. The public was given notice and the opportunity to provide comments in writing concerning the proposed regulation.
2. The proposed regulations 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 Third Party Commercial Driver License Skills Testing program as set forth in the version attached, to be effective September

11, 2023.

It is ordered on this 14 day of August, 2023.

Nicole Majeski, Secretary
Delaware Department of Transportation

***Please note that no changes were made to the regulation as originally proposed and published in the July 2023 issue of the *Register* at page 35 (27 DE Reg. 35). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/september2023/final/27 DE Reg 191 09-01-23.htm>

DELAWARE RIVER BASIN COMMISSION**PUBLIC NOTICE**

The Commission's quarterly business meeting will be held on **Thursday, September 7, 2023 commencing at 10:30 a.m.** The business meeting will be held remotely. An agenda will be posted on the Commission's website, <https://www.drbc.gov>, at least ten (10) days prior to the meeting date.

For additional information, including a link to live stream of this event, please visit the DRBC website at <https://www.drbc.gov> or contact Patricia Hausler at patricia.hausler@drbc.gov.

Pamela M. Bush, J.D., M.R.P.
Commission Secretary and Assistant General Counsel

DEPARTMENT OF EDUCATION**PUBLIC NOTICE**

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

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

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

DEPARTMENT OF FINANCE**DIVISION OF REVENUE****PUBLIC NOTICE****Regulations Governing Tax Refund Intercept Claims of Other States**

In accordance with 29 **Del.C.** §8303(7), the Delaware Department of Finance submits proposed regulations governing the tax refund intercept claims of other states authorized under 30 **Del.C.** §558.

Members of the public may receive a copy of the proposed regulations at no charge by sending a letter via U.S. mail or by emailing or calling the following Revenue contact person:

Donna Owens
820 N. French St., Eighth Floor
Wilmington, Delaware 19801
Donna.owens@delaware.gov
(302) 577-8682

Members of the public may present written comments on the proposed regulations by submitting such comments to Donna Owens as provided above. Written comments must be received on or before October 2, 2023.

The Director of Revenue is required under 30 **Del.C.** §558 to take certain steps to intercept a taxpayer's refund if a claimant government submits a proper certification to Revenue that details the taxpayer's tax debt owed to the claimant government. The proposed regulations impose certification and other requirements on claimant governments that request intercept of tax refunds. The proposed regulations also establish procedures for Revenue and claimant governments to follow in connection with the program and protest procedures for taxpayers.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF MEDICAID AND MEDICAL ASSISTANCE****PUBLIC NOTICE****Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD)**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware**

Code) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD), specifically, to align state plan with current reimbursement and provide for future flexibility.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on October 1, 2023. Please identify in the subject line: Pharmacy Over the Counter (OTC) & Physician Administered Drugs (PAD).

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 MEDICAID AND MEDICAL ASSISTANCE
PUBLIC NOTICE
Ground Emergency Medical Transportation (GEMT)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Ground Emergency Medical Transportation (GEMT), specifically, to increase Medicaid reimbursement for emergency transportation providers.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs, or other written materials concerning the proposed new regulations must submit same to, Planning and Policy Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on October 1, 2023. Please identify in the subject line: Ground Emergency Medical Transportation (GEMT)

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.

DEPARTMENT OF INSURANCE
OFFICE OF THE COMMISSIONER
PUBLIC NOTICE
1406 Third Party Administrators

Regulation 1406 implements 18 **Del.C.** §102(12) by setting forth regulations pertaining to third-party administrators. The purpose of the proposed amendment is to revise the responsibilities of insurers with respect to on-site audits of their contracted third-party administrators. Subsection 7.3 of Regulation 1406, in part, requires insurers to conduct semiannual reviews, including at least one on-site review, of the operations of their administrators. The purpose of the proposed update to this regulation is to allow for the required review of the operations of the administrator to be completed virtually or on-site.

The Department is also taking the opportunity of this proposal to make grammatical and formatting edits throughout the regulation.

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

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

EST, the 2nd day of October 2023. Any such requests and any questions concerning connecting to the public hearing should be directed to:

Alisa L. Pritchard, Regulatory Specialist
Delaware Department of Insurance
1351 West North Street, Suite 101
Dover, DE 19904
(302) 674-7379
Email: doi-legal@delaware.gov

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

PUBLIC NOTICE

3801 Shellfish Aquaculture

The Shellfish Aquaculture regulation, 7 **DE Admin. Code** 3801, was approved prior to the initiation of shellfish aquaculture leasing as it was required in order to establish a legal framework for the leasing of state-owned subaqueous lands for aquaculture businesses. The proposed amendments 7 **DE Admin. Code** 3801 will update the regulation to incorporate current aquaculture practices, simplify compliance with the regulation for Inland Bays shellfish growers, and increase the efficiency of DNREC's administrative oversight of shellfish aquaculture leasing. Specifically, the proposed amendments include additions, modifications or deletions regarding: definitions, lease issuance and application procedures, aquaculture gear and lease area marking requirements, shellfish aquaculture species, shellfish cultivation, planting and harvesting requirements and timelines, reporting requirements, lease transfer, and prohibited activities.

The hearing record on the proposed changes to **3801 Shellfish Aquaculture** opens September 1, 2023 (Hearing Docket No. 2022-R-F-0014). The virtual public hearing will be held on Wednesday, September 27, 2023, beginning at 6:00 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://dnrec.alpha.delaware.gov/public-hearings/>. If prompted, use Meeting ID: 875 4107 2704 Passcode: 884733. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID and Passcode noted above. Closed captioning is available in over 20 languages, including English and Spanish, to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing. The designated page for this Pre-Registration process can be found here: <https://dnrec.alpha.delaware.gov/public-hearings/comments/registration/>

The proposed amendments may be inspected online starting September 1, 2023 at https://regulations.delaware.gov/services/current_issue.shtml, or in-person, by appointment only, by contacting John Clark by phone at 302-739-9914 or by email at John.Clark@delaware.gov.

Public comments will be received until close of business Thursday, October 12, 2023. Comments will be accepted in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnreccomments>, or by U.S. mail to the following address:

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