

DEPARTMENT OF EDUCATION

1500 Professional Standards Board (Licensure, Certification and Professional Development)

1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits

1.0 Content

This regulation shall apply to limiting, suspending, and revoking licenses and certificates for educators pursuant to 14 Del.C. §1218 and permits for paraprofessionals pursuant to 14 Del.C. §1205(b).

7 DE Reg. 161 (08/01/03)

7 DE Reg. 627 (11/01/03)

12 DE Reg. 1311 (04/01/09)

22 DE Reg. 481 (12/01/18)

2.0 Definitions

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

"Advanced License" means a license issued as part of the three-tiered licensure system set forth in 14 Del.C. §1213 and §1214.

"Continuing License" means a license issued as part of the three-tiered license system set forth in 14 Del.C. §1211 and §1212.

"Department" means the Delaware Department of Education.

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

"Initial License" means a license issued as part of the three-tiered licensure system set forth in 14 Del.C. §1210.

"Nolo Contendere" means a plea by a defendant in a criminal prosecution that, without admitting guilt, subjects him or her to conviction but does not preclude him or her from denying the truth of the charges in a collateral proceeding.

"Nolle Prosequi" means an entry on the record of a legal action denoting that the prosecutor or plaintiff will proceed no further in his or her action or suit either as a whole or as to some count or as to one or more of several defendants.

"Permit" means a document issued by the Department that verifies an individual's qualifications and training to serve as a Title I, Instructional, or Service Paraeducator.

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

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

7 DE Reg. 161 (08/01/03)

7 DE Reg. 627 (11/01/03)

9 DE Reg. 542 (10/01/05)

12 DE Reg. 1311 (04/01/09)

22 DE Reg. 481 (12/01/18)

3.0 Causes for Limiting, Suspending, and Revoking Licenses, Certificates, and Permits

3.1 The Secretary, or the Standards Board after a hearing, may limit, suspend, or revoke an Initial License, a Continuing License, an Advanced License, a Standard Certificate, or a Permit for any of the following causes:

3.1.1 Obtaining or attempting to obtain a license, certificate, or permit by fraudulent means or through misrepresentation of material facts;

3.1.2 Falsifying official school records, documents, statistics, or reports;

3.1.3 Knowingly violating any of the provisions of the state assessment system set forth in 14 Del.C. §172;

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- 3.1.4 Pleading guilty or Nolo Contendere with respect to, or is convicted of, any crime against a child constituting a misdemeanor, except for unlawful sexual contact in the third degree in violation of 11 **Del.C.** §767;
 - 3.1.5 Pleading guilty or Nolo Contendere with respect to, or is convicted of, possession of a controlled substance or a counterfeit controlled substance classified as such in Schedule I, II, III, IV, or V of 16 **Del.C.** Ch. 47;
 - 3.1.6 Immorality, incompetence, misconduct in office, wilful neglect of duty, disloyalty, or misconduct involving any cause for suspension or revocation of a license or permit;
 - 3.1.7 Having a license, certificate, or permit suspended, revoked, or voluntarily surrendered in another jurisdiction for cause which would be grounds for suspension or revocation;
 - 3.1.8 Failing to comply with any of the mandatory notice provisions set forth in 14 **Del.C.** §1218(g); or
 - 3.1.9 Failing to comply with any of the statutory or regulatory requirements for maintaining a license, certificate, or permit.
 - 3.2 The Secretary, or the Board after a hearing, shall revoke an Initial License, a Continuing License, an Advanced License, a Standard Certificate, or a Permit for the following causes:
 - 3.2.1 Pleading guilty or Nolo Contendere with respect to, or is convicted of, any of the following:
 - 3.2.1.1 Any crime constituting the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance or counterfeit controlled substance as classified in Schedule I, II, II, IV, or V of 16 **Del.C.** Ch. 47;
 - 3.2.1.2 Any crime constituting a violent felony as defined in 11 **Del.C.** 4201(c);
 - 3.2.1.3 Any crime against a child constituting a felony, or unlawful sexual contact in the third degree in violation of in violation of 11 **Del.C.** §767;
 - 3.2.1.4 Any crime constituting a felony sexual offense;
 - 3.2.1.5 Any crime constituting a felony offense against public administration involving bribery, improper influence, or abuse of office; or
 - 3.2.2 Committing a sexual offense against a child.
- 7 DE Reg. 161 (08/01/03)**
7 DE Reg. 627 (11/01/03)
9 DE Reg. 553 (10/01/05)
12 DE Reg. 1311 (04/01/09)
22 DE Reg. 481 (12/01/18)

4.0 Limitation of Licenses and Permits

- 4.1 If any of the causes listed in Section 3.0 are determined, the Secretary or the Standards Board after a hearing, may put limitations on a license, certificate or permit that include:
 - 4.1.1 Restrictions on the ages of students with whom the license, certificate, or permit holder may work; or
 - 4.1.2 Additional supervision requirements; or
 - 4.1.3 Education, counseling or psychiatric examination requirements.
- 7 DE Reg. 161 (08/01/03)**
7 DE Reg. 627 (11/01/03)
9 DE Reg. 542 (10/01/05)
12 DE Reg. 1311 (04/01/09)
22 DE Reg. 481 (12/01/18)

5.0 Suspension of Licenses and Permits

- 5.1 A license, certificate or permit may be suspended for a period of time not to exceed five (5) years.
 - 5.1.1 The license, certificate or permit may be reinstated by the Secretary, upon written request, with verification that the license or permit holder has satisfied all of the requirements for license or permit renewal in effect at the time of the request.
 - 5.1.2 If the license or permit expired during the period of suspension, the holder of the former license or permit may reapply for the same tier license or type of permit that was suspended but shall meet the license or permit requirements that are in effect at the time of the application.
- 7 DE Reg. 161 (08/01/03)**

7 DE Reg. 627 (11/01/03)

9 DE Reg. 542 (10/01/05)

12 DE Reg. 1311 (04/01/09)

22 DE Reg. 481 (12/01/18)

6.0 Automatic Suspension after Arrest or Indictment

- 6.1 The Secretary may automatically suspend any license or permit without a prior hearing if the license or permit holder is arrested or indicted by a grand jury for a violent felony as defined in 11 **Del.C.** §4201(c) or for any crime against a child constituting a felony. The suspension is effective on the date of the license or permit holder's arrest or indictment.
- 6.2 Temporary Order
 - 6.2.1 The Secretary shall issue a written temporary order of suspension to the license or permit holder at his or her last known address.
 - 6.2.1.1 The order of suspension shall remain in effect until the Secretary or the Standards Board, after a hearing, issues a final order.
- 6.3 Expedited Hearing
 - 6.3.1 A license or permit holder may request an expedited hearing before the Standards Board within 20 calendar days from the date the notice of the Secretary's decision to temporarily suspend the holder's license or permit was mailed. The request shall be mailed by certified mail to the Standards Board's Executive Director.
 - 6.3.2 In the event that the license or permit holder requests an expedited hearing, the Standards Board shall convene a hearing within 90 calendar days of the receipt of such a request.
 - 6.3.3 The order of suspension is temporary pending resolution of the criminal charges. Therefore, an expedited hearing under this subsection shall be limited to whether the license or permit holder had been arrested or indicted for a violent felony or for any crime against a child constituting a felony.
- 6.4 Revocation after Conviction
 - 6.4.1 If the license or permit holder pleads guilty or Nolo Contendere with respect to, or is convicted of, a violent felony as defined in 11 **Del.C.** §4201(c) or any crime against a child constituting a felony, the Secretary shall proceed with revocation.
- 6.5 Resolution of Charges without Conviction
 - 6.5.1 If the license or permit holder is found not guilty of the underlying criminal charges, a Nolle Prosequi is entered on the record by the State, or the charges are otherwise dismissed by the Court, the license or permit holder may file a written request for license or permit reinstatement, including documentation of the final status of the judicial proceeding, and his or her license or permit shall be reinstated if still valid.
 - 6.5.2 If the license or permit expired during the period of suspension, the holder of the former license or permit may reapply for the same tier license or type of permit that was suspended but shall meet the license or permit requirements that are in effect at the time of the application.
 - 6.5.3 The Secretary may limit, suspend, or revoke the license or permit for any of the following causes set forth in Section 3.0 of this regulation.

12 DE Reg. 1311 (04/01/09)

22 DE Reg. 481 (12/01/18)

7.0 Right to Hearing, Burden of Proof, and Standards Board Hearings and Procedures

- 7.1 The Secretary shall not take action to limit, suspend, or revoke a license, certificate, or permit under Section 3.0 without providing the person with written notice of the charges and an opportunity for a full and fair hearing before the Standards Board.
 - 7.1.1 The notice shall be personally delivered or sent by certified mail to the person's last known address.
- 7.2 The burden of proof in a license, certificate, or permit disciplinary action shall be on the Department to establish by preponderance of the evidence that the license, certificate, or permit holder has engaged in misconduct as provided in Section 3.0.
- 7.3 Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

12 DE Reg. 1311 (04/01/09)

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19 DE Reg. 498 (12/01/15)

22 DE Reg. 481 (12/01/18)