
Delaware Register of Regulations

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Volume 28 - Issue 6, Pages 407-479



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Regulations:
Proposed
Final

General Notices

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 November 15, 2024.

Cover Photo
Killens Pond
Dolores Michels

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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.

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evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its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

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

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

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

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

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

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
January 1	December 15	4:30 p.m.
February 1	January 15	4:30 p.m.
March 1	February 15	4:30 p.m.
April 1	March 15	4:30 p.m.
May 1	April 15	4:30 p.m.
June 1	May 15	4:30 p.m.

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DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 925

ERRATA

925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs

* **Please Note:** The Department of Education regulation, 14 **DE Admin. Code** 925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs, was published as proposed in the *Delaware Register of Regulations*, 28 **DE Reg.** 14 (07/01/24). The following provisions were inadvertently published incorrectly.

Subsection 6.6.5 was published as:

- 6.6.5 Re-evaluation Procedures: For purposes of continued eligibility determination, the IEP ~~team~~ Team shall follow the procedures in 14 **DE Admin. Code** ~~925.3.0 through 925.5.0 and 925.6.6~~ 925. Sections 3.0 through 5.0 and subsection 6.6.

Subsection 6.6.5 should have read:

- 6.6.5 Re-evaluation Procedures: For purposes of continued eligibility determination, the IEP ~~team~~ Team shall follow the procedures in 14 **DE Admin. Code** ~~925.3.0 through 925.5.0 and 925.6.6~~ 925. Sections 3.0 through 5.0 and subsection 6.6.

Subsection 6.9.4.5 was published as:

- 6.9.4.5 *Behavioral observations by teachers and at least ~~one (1)~~ 1 other member of the IEP ~~team~~ Team; and*

Subsection 6.9.4.5 should have read:

- 6.9.4.5 *Behavioral observations by teachers and at least ~~one (1)~~ 1 other member of the IEP ~~team~~ Team; and*

Subsection 6.11.1.3 was published as:

- 6.11.1.3 Pattern of strengths and weaknesses: The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the child's IEP ~~team~~ Team to be relevant to the identification of a Specific Learning Disability, using appropriate assessments, consistent with 14 **DE Admin. Code** ~~925.4.0 and 925.5.0~~ 925, Sections 4.0 and 5.0.

Subsection 6.11.1.3 should have read:

- 6.11.1.3 Pattern of strengths and weaknesses: The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the child's IEP ~~team~~ Team to be relevant to the identification of a Specific Learning Disability, using appropriate assessments, consistent with 14 **DE Admin. Code** ~~925.4.0 and 925.5.0~~ 925, Sections 4.0 and 5.0.

Subsection 6.12.2 was published as:

- 6.12.2 Age of Eligibility: A child is eligible for special education and related services under the Intellectual Disability educational classification from the child's 3rd birthdate until the child's receipt of a regular high school diploma *or the end of the school year in which the child attains the age of 21 22 as per 14 DE Admin. Code 925 subsection 6.5.5.1*, whichever occurs first.

Subsection 6.12.2 should have read:

- 6.12.2 Age of Eligibility: A child is eligible for special education and related services under the Intellectual Disability educational classification from the child's 3rd birthdate until the child's receipt of a regular high school diploma *or the end of the school year in which the child attains the age of 21 22 as per 14 DE Admin. Code 925 subsection 6.5.5.1*, whichever occurs first.

Subsection 6.17.7 was published as:

- 6.17.7 Additional IEP ~~team~~ Team members: In addition to the IEP ~~team~~ Team members required by 14 DE Admin. Code 925.8.0, ~~an orientation and mobility specialist, 925, Section 8.0, teacher of students with visual Impairments, and a certified school psychologist are required to be members of the IEP team Team for the purpose of determining eligibility.~~
- 6.17.7 Additional IEP ~~team~~ Team members: In addition to the IEP ~~team~~ Team members required by 14 DE Admin. Code 925, Section 8.0, teacher of students with visual Impairments, and a certified school psychologist are required to be members of the IEP ~~team~~ Team for the purpose of determining eligibility.

Subsection 6.17.7 should have read:

- 6.17.7 Additional IEP ~~team~~ Team members: In addition to the IEP ~~team~~ Team members required by 14 DE Admin. Code 925.8.0, ~~an orientation and mobility specialist, 925, Section 8.0, teacher of students with visual Impairments, and a certified school psychologist are required to be members of the IEP team Team for the purpose of determining eligibility.~~

Subsection 11.6 was published as:

- 11.6 Amendments: Changes to the IEP may be made either by the entire IEP ~~team~~ Team at an IEP ~~team~~ Team meeting, or as provided in subsection 11.4, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

Subsection 11.6 should have read:

- 11.6 Amendments: Changes to the IEP may be made either by the entire IEP ~~team~~ Team at an IEP ~~team~~ Team meeting, or as provided in subsection 11.4, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.
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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, Sections 121, 122 and 4111 (14 **Del.C.** §§121, 122 & 4111)

14 **DE Admin. Code** 294

PUBLIC NOTICE

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

294 Data Governance

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §§121, 122 and 4111, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 294 Data Governance. The Department reviewed this regulation in compliance with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years. There are no content changes needed, but the regulation was amended to comply with the Delaware Administrative Code Drafting and Style Manual.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before December 31, 2024. 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? No.

2. Will the amended regulation help ensure that all students receive an equitable education? Yes.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? Yes.

Yes.

4. Will the amended regulation help to ensure that all students' legal rights are respected? Yes.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? No.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? No.
7. Will the decision-making authority and accountability for addressing the subject to be regulated be placed in the same entity? No.
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? Yes.
9. Is there a less burdensome method for addressing the purpose of the regulation? No.
10. What is the cost to the State and to the local school boards of compliance with the regulation? Not applicable.

***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/december2024/proposed/28 DE Reg 419RFA 12-01-24.pdf>

294 Data Governance

1.0 Purpose

The purpose of this regulation is to outline the criteria and process for interagency data governance and the conduction of evaluation, ~~audits~~ audits, and studies pursuant to 14 **Del.C.** §§121, 122 and 4111.

2.0 Definitions

The 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.

"~~Educational Record~~" shall mean ~~personally identifiable student information, maintained by an education agency or institution, as defined by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g) and its implementing regulations at 34 CFR part 99, and the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq. and its implementing regulations, and other applicable federal and state privacy and confidentiality laws.~~

"~~Longitudinal Data System~~" data system means a structure and mechanism for the storage, description, management and reporting of discrete data elements and bodies of information over time.

"~~Personally Identifiable Information~~" refers to **identifiable information** means information which, alone or in combination with other information, can be used to distinguish or trace an individual's identity and shall include, ~~but not be limited to~~, the names and addresses of students, parents or other family members, and personal identifiers such as social security or student numbers.

"P-20 Council" means the council established by 14 ~~Del.C.~~, **Del.C.** §107 to coordinate educational efforts of publicly-funded programs from early care through higher education and to foster partnerships among groups concerned with public education.

"~~Research Agenda~~" agenda means a roster of research questions that require shared data elements and subject to periodic review and revision. Research questions may reflect federal and state reporting requirements or may be discretionary.

3.0 Longitudinal Data System Governance

The ~~Longitudinal Data System~~ longitudinal data system developed and administered by the Department is governed by the Delaware P-20 Council Data Governance Handbook, initially approved by the P-20 Council on January 10, 2012, and as may be amended from time to time.

4.0 Acquisition, ~~Use~~ Use, and Disposal of Data

- 4.1 The Department shall collect and maintain data, including ~~Personally Identifiable Information~~ personally identifiable information, in compliance with its rights and obligations under federal and state laws.
- 4.2 The Department shall provide data, including ~~Personally Identifiable Information~~ personally identifiable information, to implement applicable ~~Research Agendas~~ research agendas established by the P-20 Council.
- 4.3 When a ~~Research Agenda~~ research agenda is established by the P-20 Council which requires the use of ~~Personally Identifiable Information~~ personally identifiable information from data collected and maintained or to be collected and maintained by the Department, a written agreement in the form prescribed by the Department shall be entered ~~into~~.
- 4.3.1 If the ~~Research Agenda~~ research agenda is to conduct a study for or on behalf of school, school district or postsecondary institutions it must be for the purpose of: improving instruction; developing, validating, or administering predictive tests; or administering student aid programs. In the case of such a study, the written agreement shall, at a minimum, do the following:
 - 4.3.1.1 Specify the purpose, scope and duration of the study and the information to be disclosed; and
 - 4.3.1.2 Require the organization to: use ~~Personally Identifiable Information~~ personally identifiable information only to meet the ~~purpose(s)~~ purpose of the study; limit access to ~~Personally Identifiable Information~~ personally identifiable information to those with legitimate interests; and destroy any ~~Personally Identifiable Information~~ personally identifiable information upon completion of the study and specify the time period in which the information must be destroyed.
- 4.3.2 If the ~~Research Agenda~~ research agenda is to conduct an audit or evaluation of a Federal or State supported education program or to enforce or comply with Federal legal requirements that relate to those education programs, as defined by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g) and its implementing regulations at 34 CFR part 99, the written agreement shall, at a minimum, do the following:
 - 4.3.2.1 Designate an authorized representative; and
 - 4.3.2.2 Specify what ~~Personally Identifiable Information~~ personally identifiable information will be disclosed and for what purpose, which purpose shall be one allowable under the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g) and its implementing regulations at 34 CFR part 99; and
 - 4.3.2.3 Describe the activity to make clear it falls within an allowable purpose; and
 - 4.3.2.4 Require the authorized representative to destroy ~~Personally Identifiable Information~~ personally identifiable information upon completion of the evaluation and specify the time period in which the information must be destroyed; and
 - 4.3.2.5 Include policies and procedures to protect ~~Personally Identifiable Information~~ personally identifiable information from further disclosure and unauthorized use.
- 4.4 Any written agreement entered ~~into~~ under this regulation shall prohibit modification or amendment except by written agreement duly executed by the parties to that agreement.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 1716E, 1716F, and 1716H (14 Del.C. §§1716E, 1716F, & 1716H)
14 DE Admin. Code 545

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del. C. §122(d)****545 K to 12 Counseling Programs****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1716E, 1716F, and 1716H, the Delaware Department of Education developed amendments to 14 DE Admin. Code 545 K to 12 Counseling Programs. This regulation is being amended to add 14 Del.C. §1716H to Section 1.0 of the regulation. 14 Del.C. §1716H was signed into law on August 7, 2024. 14 Del.C. §1716H concerns mental health unit and funding for high school.

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 December 31, 2024. 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 proposed amendment to the regulation is to add 14 Del.C. §1716H to Section 1.0. 14 Del.C. §1716H concerns mental health unit and funding for high school.

2. Will the amended regulation help ensure that all students receive an equitable education? The proposed amendment to the regulation is to add 14 Del.C. §1716H to Section 1.0. 14 Del.C. §1716H concerns mental health unit and funding for high school.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The proposed amendment to the regulation is to add 14 Del.C. §1716H to Section 1.0. 14 Del.C. §1716H concerns mental health unit and funding for high school.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The proposed amendment to the regulation is to add 14 Del.C. §1716H to Section 1.0. 14 Del.C. §1716H concerns mental health unit and funding for high school.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute, the Department is authorized to promulgate regulations to implement and enforce 14 Del.C. §1716H in addition to 14 Del.C. §§1716E and 1716F.

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

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? By statute, the Department is authorized to promulgate regulations to implement and enforce 14 Del.C. §1716H in addition to 14 Del.C. §§1716E and 1716F.

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

educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

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

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

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 422RFA 12-01-24.pdf>

545 K to 12 Counseling Programs

1.0 Content

Pursuant to 14 ~~Del.C. §§1716E and 1716F~~ §§1716E, 1716F, and 1716H, this regulation sets forth the requirement that Delaware public schools implement a school counseling program and submit a plan to the Department in order to ensure the mental health services unit and funding is used in accordance with the law.

(Break in Continuity of Sections)

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 422 12-01-24.htm>

DEPARTMENT OF FINANCE

OFFICE OF THE STATE LOTTERY

Statutory Authority: 29 Delaware Code, Section 4805 (29 Del.C. §4805)
10 DE Admin. Code 203

PUBLIC NOTICE

203 Video Lottery and Table Game Regulations

A. Type of Regulatory Action Required

Amendment to Existing Regulations

B. Synopsis of Subject Matter of the Regulation

The Delaware State Lottery will seek public comments on the issue of whether certain amendments to its current regulation should be adopted.

The proposed amendments are to subsections 7.15.1.2 and 7.15.6.1 in 10 **DE Admin. Code** 203.

The amendment to these subsections will remove the requirement to appear in-person at the Lottery office during regular business hours to enroll in the self-exclusion program.

Persons wishing to present their views regarding this matter may do so by submitting written comments by the close of business on or before January 2, 2025, at the offices of the Delaware State Lottery at 1575 McKee Road, Suite 102, Dover, DE 19904. A copy of these regulations is available at the Delaware State Lottery office at the same address above. Copies are also published online at the Register of Regulations website: https://regulations.delaware.gov/register/current_issue.shtml.

C. Summary of Proposal

The proposed amendments to subsections 7.15.1.2 and 7.15.6.1 will remove the requirement of problem gamblers appearing in person to enroll themselves in (or remove themselves from) the Lottery's self-exclusion program - an integral part of our Responsible Gambling efforts. The requirement to appear in person at Lottery headquarters in Dover during business hours is a real hardship to those who need our assistance. We are working with Delaware Department of Technology and Information on a virtual option that maintains the necessary confidentiality controls while providing this service online.

***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/december2024/proposed/28 DE Reg 423RFA 12-01-24.pdf>

203 Video Lottery and Table Game Regulations (Break in Continuity of Sections)

7.0 Game Requirements, Voluntary and Involuntary Exclusion

(Break in Continuity Within Section)

7.15 Self-Excluded Players

7.15.1 Request for Self-Exclusion; Form

(Break in Continuity Within Section)

7.15.1.2 Any person requesting placement on the self-exclusion list shall submit ~~in person~~ a completed self-exclusion form to the Delaware State Lottery as required in this regulation. ~~The form must be delivered to the Delaware State Lottery Office, 1575 McKee Road, Dover, DE.~~ Any person submitting a self-exclusion form shall be required to provide valid photo identification ~~credentials containing his or her signature, a photograph of the person, and a general physical description of the person.~~ Any person requesting self-exclusion pursuant to ~~these Regulations~~ this regulation shall be required to ~~have his or her photograph taken by~~ provide a photograph of that person to the lottery office upon submission of the form.

(Break in Continuity Within Section)

7.15.6 Removal from Self-Exclusion List

7.15.6.1 Except for those persons choosing a lifetime self-exclusion, any self-excluded person may, upon the expiration of the period of self-exclusion requested pursuant to subsection ~~7.16~~ 7.15.2, request removal of his or her name from the self-exclusion list by submitting, ~~in person,~~ a completed request for removal as required in subsection 7.15.6.2 ~~below of~~ this regulation. The request shall be ~~delivered~~ submitted to the Delaware State Lottery Office, 1575 McKee Road, Dover, DE. Any person submitting a request for removal from the list shall be required to present valid identification ~~credentials containing his or her signature and a photograph and general physical description.~~

7.15.6.2 A request for removal from the self-exclusion list shall be in a form prescribed by the Lottery, which form shall include:

7.15.6.2.1 The identifying information specified in subsection ~~7.16~~ 7.15.1.1;

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 423 12-01-24.htm>

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

Nursing Facility Rates

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 Attachment 4.19-D page 19, specifically, to modify the rates for nursing facilities.

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 December 31, 2024. Please identify in the subject line: Nursing Facility Rates

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 Nursing Facility Rates.

Statutory Authority

- 42 CFR § 447

Background

Per the Delaware Medicaid State Plan, the reimbursement methodology for pediatric nursing facility care presently applies only for members up to age 21; the proposed revisions allow for the continuation of the existing reimbursement methodology for a limited number of individuals who were admitted to the pediatric nursing facility as children but have "aged in place" into young adulthood.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to expand the current Medicaid pediatric nursing facility reimbursement structure for pediatric members who have reached young adulthood, and with medical needs best served by them remaining in the pediatric nursing facility.

Summary of Proposed Changes

Effective January 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to modify the rates for nursing facilities.

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 December 31, 2024.

PROPOSED REGULATIONS

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 2025	Federal Fiscal Year 2026
General (State) funds	\$1,404,713	\$1,907,730
Federal funds	\$2,120,288	\$2,792,270

***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/december2024/proposed/28 DE Reg 425RFA 12-01-24.pdf>

Attachment 4.19-D
Page 19

IX. Reimbursement for Pediatric Nursing Facility Care

A Pediatric Nursing Facility is a facility that maintains an average daily census of 80 percent or more serving children under 21 years of age. Such a facility may also serve a limited number of individuals who were admitted to the facility as children but have "aged in place" into young adulthood. The number of such individuals is limited to the remaining 20 percent of the average daily census of the facility.

~~The level of reimbursement of client for clients under 21 years of age in pediatric nursing facilities specialized nursing facilities that serve pediatric clients will be based on one of three levels of care as determined by the DMMA Medical Evaluation Team. A per diem rate shall be established for the three levels as follows:~~

1. Pediatric Skilled Care - the base level
2. Advanced Pediatric Skilled Care - an enhanced level that includes increased services and costs above the base level that are necessary to meet the medical needs of children at this level
3. Advanced Pediatric Skilled Care Plus - a higher level of reimbursement than the previous level that includes increased cost of care for clients who are ventilator dependent.

~~A Pediatric Nursing Facility's reimbursement shall be Until such time as a methodology based on reported facility cost can be developed, Pediatric Nursing Facility reimbursement shall be based on reasonable and allowable cost for comparable DMMA services that have a demonstrated cost history and that serve a similar population, adjusted as necessary to reflect the operation of a specialized inpatient facility. Rates for each level of care shall be computed annually based on prior year actual reasonable allowable costs as reported by the facility and may be inflated as described in Section II.I.3. Such rates shall be prospective and final and not subject to cost settlement. In addition to all nursing and operational costs, per diem rates are inclusive of all services, including but not limited~~

to all therapies, supplies, non-custom durable medical equipment and over-the-counter (OTC) drugs required to treat the child's medical condition but to not include custom durable medical equipment for the individual use of a client or prescription ("legend product") drugs, which may be billed directly to Medicaid by the appropriate medical care provider in accordance with Medicaid policy.

Eligible children in Pediatric Nursing Facilities located outside of Delaware are reimbursed at the rate for the Delaware Pediatric Nursing facility level of care to which they are assigned after being assessed by the DMMA Medical Evaluation Team.

TN No. SPA # 07-004 <u>24-0018</u>	Approval Date December 19, 2008
Supersedes	
TN No. # 443 <u>07-004</u>	Effective Date October 1, 2007 <u>January 1, 2025</u>

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

PUBLIC NOTICE

School Based Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan Attachment 3.1-A page 2b Addendum, Attachment 3.1-A page 2c Addendum, Attachment 4.19-D page 19a, Attachment 4.19-D page 19d, and Attachment 4.19-D page 19e, specifically, to expand services provided in the school setting.

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 December 31, 2024. Please identify in the subject line: School Based Services

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

SUMMARY OF PROPOSAL

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

Statutory Authority

- 42 CFR § 447
- Section 1905(a) of the Social Security Act (SSA)

Background

The school setting provides a unique opportunity to deliver health care services to children and adolescents, especially those enrolled in Medicaid and the Children's Health Insurance Program (CHIP). School-based services (SBS), including but not limited to preventive care, mental health and substance use disorder (SUD) services,

physical and occupational therapy, and disease management have been shown to improve both health and academic outcomes. Schools can play an important role in bridging equity gaps among students in low-income and rural communities where access to health care services may be more limited. To deliver SBS, it is essential that State Medicaid and CHIP agencies (hereafter, "State Medicaid/CHIP agencies"), State Educational Agencies (SEAs), and schools all work together to support students.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to expand Medicaid and CHIP covered school-based services to cover those services also listed in a treatment plan or 504 plan.

Summary of Proposed Changes

Effective January 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to expand services provided in the school setting.

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 December 31, 2024.

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 2025	Federal Fiscal Year 2026
General (State) funds	\$593,447	\$604,467
Federal funds	\$895,755	\$884,735

*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/december2024/proposed/28 DE Reg 427RFA 12-01-24.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/december2024/proposed/28 DE Reg 427 12-01-24.htm>

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 7406 (16 Del.C. §7406)
16 DE Admin. Code 4465

PUBLIC NOTICE

4465 Delaware Radiation Control Regulations

Pursuant to 16 Del.C. §7406, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing revisions to the Delaware Radiation Control Regulation and intends to hold it open for public comment per Delaware law. The revisions include striking Part B, subsection 3.2, and amending Part F, the definition of "Licensed Practitioner".

Copies of the proposed regulations are available for review in the December 1, 2024, issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Comments will be accepted until 4:30 p.m. on Thursday, January 2, 2025, in written form via email to DHSS_DPH_regulations@delaware.gov, or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer
Division of Public Health
417 Federal Street
Dover, DE 19901

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 429RFA 12-01-24.pdf>

4465 Delaware Radiation Control Regulations

(Break in Continuity of Sections)

Part B Registration of Radiation Source Facilities and Services

(Break in Continuity of Sections)

3.0 Prohibitions

- 3-1 All registration permit-holders shall prohibit any person or company from furnishing radiation machine servicing or services to their radiation machine facility until such person provides evidence of registration with the Agency as a provider of services in accordance with Section, 9.0 of this Part.
- 3-2 ~~For the purpose of this regulation, advanced practice registered nurses (APRNs) and physicians assistants (PAs) may order but not supervise the performance of diagnostic or supportive x-ray procedures for patients in accordance with Title 24, Delaware Code.~~

(Break in Continuity of Sections)

PART F - MEDICAL DIAGNOSTIC AND INTERVENTIONAL X-RAY AND IMAGING SYSTEMS

1.0 Purpose and Scope

This Part establishes requirements, for which a registrant is responsible, for use of diagnostic and interventional x-ray equipment and imaging systems by, or under the supervision of, an individual authorized by and licensed in accordance with State statutes to practice medicine, dentistry, podiatry, chiropractic, osteopathy, or veterinary medicine. The provisions of this Part are in addition to, and not in substitution for, other applicable provisions of Parts A, B, D, G, H, J, K and X, of these regulations.

2.0 Definitions

As used in this Part, the following definitions apply:

(Break in Continuity Within Section)

"Licensed Practitioner" means an individual licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathy, or veterinary medicine in this state. For the purpose of this regulation, Advanced Practice Registered Nurses (APRN) and Physicians Assistants (PA) may order ~~but not supervise the performance of~~ diagnostic or supportive x-ray procedures for patients in accordance with Title 24, Delaware Code. APRNs and PAs who supervise, perform, view or interpret x-ray procedures do so within their scope of practice, as governed by Title 24, Delaware Code.

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 429 12-01-24.htm>

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 7406 (16 Del.C. §7406)
16 DE Admin. Code 4466

PUBLIC NOTICE

4466 Radiation Technologists/Technicians (Certification)

Pursuant to 16 Del.C. §7406, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing revisions to the Radiation Technologists/Technicians (Certification) Regulation and intends to hold it open for public comment per Delaware law. The revisions include:

- Amending the definition of "Licensed Practitioner"; and
- Deleting subsection 5.5 regarding legal titles and their scope of practice.

Copies of the proposed regulations are available for review in the December 1, 2024, issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Comments will be accepted until 4:30 p.m. on Thursday, January 2, 2025, in written form via email to DHSS_DPH_regulations@delaware.gov, or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer
Division of Public Health
417 Federal Street
Dover, DE 19901

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 430RFA 12-01-24.pdf>

4466 Radiation Technologists/Technicians (Certification)
(Break in Continuity of Sections)

4.0 Definitions

As used in this regulation:

(Break in Continuity Within Section)

"**Licensed practitioner**" means an individual licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathy, or veterinary medicine in this state. For the purpose of this regulation, advanced practice registered nurses (APRN) and physicians assistants (PA) may order diagnostic or supportive x-ray procedures for patients in accordance with Title 24, Delaware Code. APRNs and PAs who supervise, perform, view, or interpret x-ray procedures do so within their scope of practice, as governed by Title 24, Delaware Code.

(Break in Continuity Within Section)

5.0 Legal Titles

(Break in Continuity Within Section)

5.5 ~~For the purpose of this regulation, advanced practice registered nurses (APRNs) and physicians assistants (PAs) may order but not supervise the performance of diagnostic or supportive x-ray procedures for patients in accordance with Title 24, Delaware Code.~~

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 430 12-01-24.htm>

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 9000

PUBLIC NOTICE

Adjusting Food Benefit EBT Accounts

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 Social Services (DHSS/DSS) is proposing to amend the Division of Social Services Manual (DSSM) to amend adjusting food benefit EBT accounts.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Division of Social Services (DSS), 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2024. Please identify in the subject line: Adjusting Food Benefit EBT Accounts

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 Social Services (DSS) is proposing to amend the Division of Social Services Manual (DSSM) to amend adjusting food benefit EBT accounts.

Statutory Authority

7 CFR 274.4(g)

Background

The Division of Social Services (DSS) is amending DSSM 9093.3 to include requirements for notifying households when adjustments are made to their Electronic Benefit Transfer (EBT) accounts for the Supplemental Nutrition

Assistance Program (SNAP). DSS must notify households if a credit adjustment request to return food benefits is denied or a debit adjustment request to withdraw food benefits is approved. DSSM 9093.3 is also being amended to align with current federal regulations, clarify the text, and update the formatting.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to amend Policy 9093.3 Adjusting Food Benefit EBT Accounts.

Summary of Proposed Changes

Effective for services provided on and after February 11, 2025, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM), Policy 9093.3 Adjusting Food Benefit EBT Accounts.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/ DSS gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 31, 2024.

Fiscal Impact

There is no fiscal impact due to this policy is already in place.

***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/december2024/proposed/28 DE Reg 431RFA 12-01-24.pdf>

9000 Food Stamp Program

9093.3 Adjusting Food Benefit EBT Adjustments Accounts

Statutory Authority

7 CFR ~~274.2~~ 274.2(g)

Food Benefit Electronic Benefit Transfer (EBT) accounts may be adjusted due to errors during benefit posting or redemption. The Division of Social Services (DSS) and the EBT contractor will only make authorized adjustments in accordance with this policy.

1. DSS may adjust benefits posted to household EBT accounts before the benefit availability date to correct errors that occurred during the posting process.

2. The Delaware's EBT contractor makes adjustments to may adjust EBT accounts to correct system errors. A system error is an error resulting from a malfunction at any point in errors that occurred during the redemption process, for example, errors made at the grocery store. Adjustments are initiated may be requested by the client or store retailer and may result in a debit or credit to the household credit or debit to the household's EBT account.

DHSS will emphasize to clients that they should review their transaction slips before leaving the store. If there is a mistake, the client should discuss the problem with the store clerk or manager before leaving the store. Problems discovered later must be resolved through the EBT contractor Customer Service Unit.

A. Client-Initiated Credit Adjustments

i. An EBT A credit adjustment occurs when the EBT contractor returns benefits to a household's EBT account after the store deducted the benefits in error a transaction error is reported by the client or another party. For example, a household member uses an EBT card to purchase groceries. Due to a system error, the store credit adjustment may be issued to a household when a retailer debited the purchase amount same transaction twice from the household's EBT account twice.

ii. The household has Households have 90 days from the date of the problem transaction error to contact the EBT contractor Customer Service at 1-800-526-9099 and inform the customer service

~~representative that a problem has occurred. The household will need to tell the customer service representative the date, time and location of the transaction and the amount of food benefits that were debited in error to report the error and request a credit adjustment. If the error is reported after 90 days, no action is taken by the EBT contractor or DSS.~~

- iii. ~~If the request is a legitimate request, the EBT contractor will return the funds to the household's EBT account within 10 business days from the date the household filed the report with the reported the transaction error to EBT contractor Customer Service Unit. A business day is any calendar day other than a Saturday, a Sunday or a federal holiday. to:~~
 - a. Investigate and verify the transaction error;
 - b. Make a determination on the adjustment request; and
 - c. Credit the household's EBT account if the adjustment request is approved.
- iv. ~~If the household's adjustment request is not legitimate, the EBT contractor will deny the credit adjustment denied, DSS will send an adjustment denial notice advising the household of the denial and their right to a fair hearing.~~
 - a. DSS will send the adjustment denial notice by the 10th business day from the date the error was reported.
 - b. The household may has 90 days from the date of the notice to request a fair hearing.
 - c. The household is not entitled to a provisional credit before the fair hearing.
 - d. The EBT contractor will take no action to credit the household's EBT account unless the only if the fair hearing decision is in the household's favor.

B. Retailer-Initiated Debit Adjustments

- i. ~~A retailer-initiated debit adjustment occurs when the retailer does not receive a credit for an EBT purchase amount when the household made the purchase. The store needs the adjustment to get credit for the purchase made by the household the EBT contractor withdraws benefits from a household's EBT account after a transaction error is reported by a retailer or another party. For example, a household uses the EBT card to purchase \$200 worth of groceries. The credit to the store's account does not go through and the \$200 remains in the household's account debit adjustment may take place when a household makes a purchase, but the retailer's account is not credited correctly for the transaction.~~
- ii. ~~If the retailer does not report the transaction error or the EBT contractor cannot verify the transaction error by the 10th business day from the date the error occurred, the adjustment request must be denied.~~
- iii. ~~DHSS must act upon all adjustments to debit a household's account no later than 10 business days from the date the error occurred, by placing a hold on the adjusted amount in the household's account. The EBT contractor has 10 business days from the date the transaction error occurred to:~~
 - a. Investigate and verify the transaction error; and
 - b. Make a determination on the adjustment request by:
 - 1. Approving the request and placing a hold on the household's EBT account for the debit amount; or
 - 2. Denying the request.
- iv. ~~The EBT contractor may place a hold on the household's current EBT account balance and the next month's benefits only.~~
 - a. ~~If there are insufficient benefits in the household's EBT account to cover the entire adjustment, DHSS the EBT contractor will place a hold on any the remaining account balance that exists and the whole amount will be debited from the household's account when the next month's benefits become available.~~
 - b. If sufficient funds do not become available by the end of the next month, the adjustment request must be denied and the household's EBT account will not be debited.

PROPOSED REGULATIONS

- v. ~~DHSS will send an adequate notice as defined in DSSM 9094 to the household informing it of the account adjustment. If the retailer's adjustment request is approved, DSS will send an adjustment notice advising the household of the error transaction, debit amount, adjustment hold process, and their right to a fair hearing.~~
- a. DSS will send the adjustment notice by the next business day after the hold is placed on the household's EBT account.
- b. The household has 90 days from the date of the notice to request a fair hearing.
- c. ~~If the household disputes the adjustment and requests a fair hearing within 10 days of the notice, DHSS will make a provisional credit to the household's account by releasing the EBT contractor will release the hold on the adjustment balance household's EBT account within 48 hours of the fair hearing request by the household, pending resolution of the fair hearing. The EBT account will not be debited pending a fair hearing decision.~~
- d. ~~If the household does not request for a fair hearing within 10 days of the notice, DHSS the EBT contractor will release the hold on the adjustment balance, debit the adjustment amount from the household's EBT account and credit this amount to the retailer's account the retailer. The EBT contractor will reverse the debit adjustment only if the fair hearing decision is in the household's favor.~~

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
16 DE Admin. Code 3000, 4000

PUBLIC NOTICE

Babies Born to Teen Parents

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 Social Services (DHSS/DSS) is proposing to amend the Division of Social Services Manual (DSSM) to amend babies born to teen parents.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Division of Social Services (DSS), 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2024. Please identify in the subject line: Babies Born to Teen Parents

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 Social Services (DSS) is proposing to amend the Division of Social Services Manual (DSSM) to amend babies born to teen parents.

Statutory Authority

45 CFR 260

31 Del. C.c.5

Background

As part of the A Better Chance welfare reform program, Delaware ended Temporary Assistance for Needy Families (TANF) benefits to babies born after December 31, 1998, to unmarried teens under the age of 18. This policy was

intended to discourage teen pregnancy, and resulted in some households receiving less in TANF benefits than they would have in the absence of Delaware's babies born to teen parent policy.

Current research shows because of their unique circumstances, teens are likely to face additional challenges to meeting their children's needs because of financial insecurity and other factors. Babies of teen mothers face increased health risks throughout their lives. Without positive supports, poor developmental and economic outcomes remain for teen parents and their children.

Delaware is proposing to repeal the babies born to teen parents' policy to help reduce childhood poverty and strengthen family stability. As a result of this policy amendment, children who were previously withheld from receiving TANF benefits, will receive TANF if their parent has not yet reached the age of 18. This change will provide additional financial assistance to Delaware families with limited income.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to amend Policy 4005.4 Income of Minor Parent's Parent of Legal Guardian in the TANF Program and repeal Policy 3008.1.1 Babies Born to Teen Parents and 3008.1.2 Three Generation Households.

Summary of Proposed Changes

Effective for services provided on and after February 11, 2025, Delaware Health and Social Services (DHSS) / Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM), Policy 4005.4 Income of Minor Parent's Parent of Legal Guardian in the TANF Program and repeal Policy 3008.1.1 Babies Born to Teen Parents and 3008.1.2 Three Generation Households.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gives public notice and provides an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 31, 2024.

Fiscal Impact

	Federal Fiscal Year 2025	Federal Fiscal Year 2026
General (State) funds	\$4,392	\$6,588
Federal funds	\$0	\$0

***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/december2024/proposed/28 DE Reg 434RFA 12-01-24.pdf>

3000 Technical Eligibility for Cash Assistance

3008 Eligibility of Certain Minors

3008.1.1 Babies Born To Teen Parents **[Repealed]**

~~This policy applies to both applicants and recipients not covered by family cap rules.~~

~~Babies born after December 31, 1998 to a teenage parent are not eligible for cash assistance (TANF and GA) unless the parent is:~~

- ~~• married; or~~
- ~~• at least eighteen (18) years of age.~~

~~An emancipated minor is considered an adult and therefore, the baby would be eligible for cash assistance. If both parents live in the home, both parents must be at least eighteen (18) years of age or married for the baby to~~

~~be eligible. Once the minor parent turns 18, the parent and the baby are both eligible for cash assistance, if otherwise eligible.~~

~~Babies not receiving cash assistance are eligible for all other DSS services and programs including food stamps, grant related Medicaid, and Welfare Reform child care. In lieu of cash assistance, the Division may provide non-cash assistance services. (See DSSM 3008.1.3)~~

~~Determining financial eligibility and grant amounts for an assistance unit which contains a child(ren) affected by this provision:~~

~~The child(ren) is/are included when determining the assistance unit's need for assistance. The child(ren)'s income and resources are included when determining the assistance unit's income and resources. The child(ren) is/are not included when determining the payment standard for the assistance unit.~~

~~Exception:~~

~~This restriction will not apply when:~~

- ~~• the child is conceived as a result of incest or sexual assault; or~~
- ~~• the child does not reside with his/her parents.~~

9 DE Reg. 1978 (06/01/06)

3008.1.2 Three Generation Households [Repealed]

~~In a three (3) generation household, the grandparent could receive benefits for him/herself and for the teen parent but not for the child of the teen parent. This means that there is not grandparent deeming in these cases.~~

4000 Financial Responsibility

4005.4 Income of a Minor Parent's Parent of Legal Guardian in the TANF Program

To determine the financial eligibility of a TANF unit that consists of a dependent child and the child's minor parent (under age 18), the income of the minor parent's ~~parent(s)~~ parent or legal guardian must be considered if the minor parent and ~~his~~ the minor parent's parent or legal guardian live in the same home.

The resources of a minor parent's parent or legal guardian are not considered in determining the financial eligibility of the assistance unit.

A portion of the minor parent's parent income is used in determining the minor parent's eligibility and the amount of assistance for the minor parent and ~~his/her child(ren)~~ the minor parent's child or children. To determine the portion of the minor parent's income.

~~**NOTE:** For Households in which a minor teen parent has a baby born on January 1, 1999 or later the grandparent may receive benefits for him/herself and the teen parent but not for the child of the teen parent. This means that there is no grandparent deeming in these cases. See 3008 Family Cap~~

Applicants

- Determine the minor parent's income;
- Subtract 100% of the federal poverty level for the family size that includes the minor parent's ~~parent(s)~~ parent and dependents claimed by the minor parent's ~~parent(s)~~ parent from the minor parent's ~~parent(s)~~ parent income;
- Consider the remaining income unearned income to the minor parent; and
- Add together the minor parent's income to the deemed income from the minor parent's ~~parent(s)~~ parent.

Compare the income to the payment standard for the family size that contains the minor parent and ~~his/her child(ren)~~ the minor parent's child or children.

Compare the income to the applicable payment standard for the family size of the assistance unit that contains the minor parent and ~~his/her child(ren)~~ the minor parent's child or children. If the income is less than the payment standard, the case is eligible for benefits. If the income is greater than the payment standard, the case is ineligible for benefits.

Benefit Determination

- Determine the minor parent's income;

- Subtract 200% of the federal poverty level for the family size that includes the minor parent's ~~parent(s) parent~~ and dependents claimed by the minor parent's ~~parent(s) parent~~ from the minor parent's ~~parent(s) parent~~ income; and
- Consider the remaining income as unearned income to the minor parent.
- Add together the minor parent's income to the deemed income from the minor parent's ~~parent(s) parent~~.

Compare the income to the applicable standard of need for the family size of the assistance unit that contains the minor parent and ~~his/her child(ren)~~ the minor parent's child or children.

Recipients

- Determine the minor parent's income;
- Subtract 200% of the federal poverty level for the family size that includes the minor parent's ~~parent(s) parent~~ and dependents claimed by the minor parent's ~~parent(s) parent~~; and
- Consider the remaining income as unearned income to the minor parent.

Compare the income to the applicable standard of need for the family size of the assistance unit that contains the minor parent and ~~his/her child(ren)~~ the minor parent's child or children.

DEPARTMENT OF STATE **DIVISION OF PROFESSIONAL REGULATION**

Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers

Statutory Authority: 24 Delaware Code, Section 3706(a)(1) (24 **Del.C.** §3706(a)(1))
24 **DE Admin. Code** 3700

PUBLIC NOTICE

3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers

The Delaware Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers ("Board"), pursuant to 24 **Del.C.** §3706(a)(1), proposes to amend its rules and regulations. The revisions implement SB No. 320, 152nd General Assembly, enacted September 19, 2024. SB No. 320 creates a licensure category for speech/language pathology assistants. The proposed amendments set forth requirements for licensure and supervision of speech/language pathology assistants.

The Board will hold a public hearing on the proposed regulation changes on January 21, 2025, at 2:00 p.m., virtually and in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Jessica Lobaccaro, Administrative Specialist for the Delaware Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or at jessica.lobaccaro@delaware.gov. Written comments will be accepted until February 5, 2025 pursuant to 29 **Del.C.** § 10118(a).

The Board further has additional regulatory changes pending which were published in the October 1, 2024 *Register of Regulations*, Volume 28, Issue 4. These pending revisions include clarification of the licensure requirements for the professions regulated by the Board, elimination of the cap on the number of times that a hearing aid dispenser applicant may take the licensure examination, and amendment of the continuing education requirements to add two hours in ethics. The hearing will take place on November 19, 2024, and deliberations will be conducted on January 21, 2025.

***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/december2024/proposed/28 DE Reg 437RFA 12-01-24.pdf>

3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers
(Break in Continuity of Sections)

14.0 Speech/Language Pathology Assistants

14.1 Definitions. The following words and terms, when used in Section 14.0 of this regulation, have the following meaning:

"Direct supervision" means in-view observation and guidance while the speech/language pathology assistant (SLPA) is performing a clinical activity. This can include the supervising speech/language pathologist (supervising SLP) viewing and communicating with the SLPA via telecommunication technology as the SLPA provides clinical services which allows the supervising SLP to provide ongoing immediate feedback. Direct supervision does not include reviewing an audio or video recorded session later.

"Indirect supervision" means the monitoring or reviewing of an SLPA's activities outside of observation and guidance during direct services provided to a student, patient, or client. Indirect supervision activities performed by the supervising SLP may include demonstration, records review, review and evaluation of audio or video recorded sessions, and interactive conferences that may be conducted by telephone, email, or other forms of telecommunication, such as virtual platforms.

14.2 Licensure Requirements. To be eligible for a license as a speech/language pathology assistant, the applicant must hold current speech/language pathology assistant's certification (C-SLPA) through ASHA or its successor or another organization acceptable to the Board.

14.3 Scope of Practice for SLPA. The SLPA may only perform tasks as prescribed, directed and supervised by a licensed supervising SLP.

14.4 The SLPA shall not self-identify, either verbally, in writing, or by signage, as an SLP.

14.5 Requirements for Supervising SLP

14.5.1 Prior to beginning supervision of an SLPA, the supervising SLP must meet the following requirements:

14.5.1.1 Hold an active Delaware license in good standing.

14.5.1.2 Complete a minimum of 2 years of post-permanent licensure experience obtained in any state.

14.5.1.3 Complete a minimum of 2 hours of continuing education in clinical supervision obtained prior to beginning supervision.

14.5.2 Throughout supervision of an SLPA, the supervising SLP must comply with the following standards:

14.5.2.1 Adhere to the principles and rules of the ASHA Code of Ethics (ASHA, 2016a).

14.5.2.2 Adhere to applicable licensure laws and rules and regulations regarding the practice of speech/language pathology.

14.5.2.3 Conduct ongoing competency evaluations of the SLPA.

14.5.2.4 Provide ongoing education and training opportunities for the SLPA consistent with competency and skills required to meet the needs of the clients served.

14.5.2.5 Develop, review, and modify treatment plans for clients that the SLPA implements under the supervision of the SLP.

14.5.2.6 Make all case management decisions.

14.5.2.7 Adhere to the supervisory responsibilities for SLPs.

14.5.2.8 Retain legal and ethical responsibility for all students, patients, and clients served.

14.6 Supervision Requirements

14.6.1 The supervising SLP is responsible for providing appropriate and adequate supervision of the SLPA to ensure that services are appropriate, meet practice standards and are administered competently.

14.6.2 The supervising SLP must consider client needs and the SLPA's knowledge and skills to determine what constitutes appropriate supervision, which may be more than the minimum state requirements.

- 14.6.3 The supervising SLP must ensure that the SLPA only performs those activities that are defined as appropriate for the level of training and experience and in accordance with applicable state requirements.
 - 14.6.4 If the SLPA exceeds the practice role that has been defined for them, the supervising SLP must intervene to correct the actions of the SLPA as needed.
 - 14.6.5 The supervising SLP must accurately document and regularly record all supervisory activities, both direct and indirect.
 - 14.6.6 Minimum ongoing supervision must include documentation, at the discretion of the SLP and SLPA, of direct supervision provided by the supervising SLP for each student, patient, or client at least every 90 days (depending on frequency of visits/sessions and setting).
 - 14.6.7 The SLP can adjust the amount of supervision if they determine that the SLPA has met appropriate competencies and skill levels in treating students, patients, and clients who have a variety of communication disorders.
 - 14.6.8 Supervision of the SLPA may be indirect, at the discretion of the supervising SLP, except that 100% direct supervision of SLPAs for medically fragile students, patients, or clients is required.
 - 14.6.9 The supervising SLP is responsible for designing and implementing a written supervisory plan, which ensures that the SLP maintains the highest standard of quality care for students, patients, and clients.
 - 14.6.10 An SLPA may not perform tasks when a supervising SLP cannot be reached by personal contact, that is, phone, pager, or other immediate or electronic means. If a supervising SLP is not available, then the SLPA may not perform assigned tasks until an ASHA-certified or state-licensed SLP with experience and training in supervision has been designated as the new supervising SLP.
 - 14.6.11 A supervising SLP who will be unable to supervise an SLPA for more than 1 week will need to inform the SLPA of the planned absence and notify the employer or site administrator that other arrangements need to be made for the SLPA's supervision of services while the supervising SLP is unavailable.
- 14.7 Supervision ratio. A supervising SLP may supervise no more than 1 SLPA at any given time.

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

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 437 12-01-24.htm>

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF SOCIAL WORK EXAMINERS**

Statutory Authority: 24 Delaware Code, Section 3906(a)(1) (24 **Del.C.** §3906(a)(1))
24 **DE Admin. Code** 3900

PUBLIC NOTICE

3900 Board of Social Work Examiners

Pursuant to 24 **Del.C.** §3906(a)(1), the Delaware Board of Social Work Examiners ("Board") has proposed revisions to its regulation. Subsection 2.2.1 has been revised to provide that there will be no limit to the number of times that an applicant may take the licensure examination. In addition, the revisions implement SB 314, 152nd General Assembly, which removed "supervision" from the scope of practice of a master's social worker and prohibits a master's social worker from providing supervision to a licensed clinical social worker applicant.

A public hearing will be held on January 13, 2025 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Social Work Examiners, 861 Silver Lake

Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at alison.warren@delaware.gov.

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be January 28, 2025. The Board will deliberate on all public comments at its next regularly scheduled meeting.

***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/december2024/proposed/28 DE Reg 439RFA 12-01-24.pdf>

3900 Board of Social Work Examiners (Break in Continuity of Sections)

2.0 Licensure Requirements for All Applicants

- 2.1 Transcript. The applicant's degree in social work shall be documented by an official transcript from the accredited educational institution granting the degree.
- 2.2 Examination
 - 2.2.1 The applicant shall have obtained the passing score, ~~in no more than 6 attempts,~~ on the national clinical examination approved by the Association of Social Work Boards (ASWB), or other examination acceptable to the Board. The Board shall accept the passing grade as determined by the ASWB. ~~After 6 failed attempts to pass the examination, the applicant may petition the Board in writing, and appear before the Board, to request permission to take the examination 1 final time. The Board may grant this request upon good cause shown.~~
 - 2.2.2 A master's or baccalaureate social work student may take the examination up to 45 days prior to graduation.

3.0 Licensure of Licensed Clinical Social Workers

(Break in Continuity Within Section)

- 3.2 Acceptable supervisors
 - 3.2.1 Supervision provided by an LCSW in any state or U.S. territory is acceptable to the Board.
 - 3.2.2 When professional supervision by an LCSW is not available, the applicant may be supervised by a licensed master's level social worker (LMSW), a licensed psychologist, or a licensed psychiatrist. ~~The applicant must provide a compelling clinical reason for utilizing a non-LCSW supervisor. To establish that an LCSW is or was not available to provide supervision, an applicant must submit a notarized statement, on a form provided by the Board, explaining the efforts made to obtain such supervision. The Board has the discretion to accept or reject the applicant's statement that supervision by an LCSW is or was not available.~~
 - 3.2.2.1 Grandfathering. Subject to subsection 3.2.2.2, an applicant who started or completed supervision by a licensed master's level social worker (LMSW) on or before September 26, 2024 will meet the Board's supervision requirements, except that an applicant who will not complete the supervision requirements on or before March 26, 2025 must continue any necessary supervision under the supervision of an LCSW, licensed psychologist, or licensed psychiatrist. An LMSW who is supervising an applicant as of September 26, 2024 may continue to supervise the applicant until March 26, 2025.
 - 3.2.2.2 The applicant must provide a compelling clinical reason for utilizing a non-LCSW supervisor. To establish that an LCSW is or was not available to provide supervision, an applicant must submit a notarized statement, on a form provided by the Board, explaining the efforts made to obtain such supervision. The Board has the discretion to accept or reject the applicant's statement that supervision by an LCSW is or was not available.

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

regulation is available at:

<https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 439 12-01-24.htm>

DIVISION OF PROFESSIONAL REGULATION

Delaware Manufactured Home Installation Board

Statutory Authority: 24 Delaware Code, Section 4416(b)(1) (24 **Del.C.** §4416(b)(1))
24 **DE Admin. Code** 4400

PUBLIC NOTICE

4400 Delaware Manufactured Home Installation Board

Pursuant to 24 **Del.C.** §4416(b)(1), the Delaware Manufactured Home Installation Board (the "Board") has the authority to promulgate rules and regulations that carry out the objectives of Chapter 44 of Title 24.

The proposed addition of subsection 5.4 provides that the Board proposes to accept a passing score on the United States Department of Housing and Urban Development's certification course final examination in lieu of the State's otherwise-designated examination. Proposed amendments to section 7.0 modify the process and requirements for entering and maintaining inactive licensure status. The other proposed amendments reflect corrections to embedded links and technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on the proposed regulation changes on January 13, 2025, at 9:00 a.m. in the second-floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Manufactured Home Installation Board, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at Maya.Echols@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be January 28, 2025. The Board will deliberate on the public comments at its next regularly scheduled meeting thereafter.

***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/december2024/proposed/28 DE Reg 441RFA 12-01-24.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/december2024/proposed/28 DE Reg 441 12-01-24.htm>

DIVISION OF SMALL BUSINESS

Statutory Authority: 29 Delaware Code, Section 8705A (29 **Del.C.** §8705A)

PUBLIC NOTICE

The Delaware Grocery Initiative

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 29 **Del.C.** §8705A, the Division of Small Business ("Division") proposes to promulgate new regulations regarding criteria and procedures governing The Delaware Grocery Initiative.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and

compilations of data or other written materials concerning the proposed modifications should direct them to the following address:

Business Finance Unit
Division of Small Business
99 Kings Highway
Dover, DE 19901

Comments may also be directed via electronic mail to business_finance@delaware.gov. Any written submission in response to this notice and relevant to the proposed rules must be received by the above contact at the Division of Small Business no later than 4 p.m. EST, January 3, 2025.

The action concerning determination of whether to adopt the proposed regulations will be based upon the Division's consideration of the written comments and any other written materials filed by the public.

Statutory Authority 29 Del.C. §8705A.

29 Del.C. §8705A enables the Division of Small Business to establish and promulgate such rules and regulations governing the administration and operation of the Division as may be deemed necessary by the Director and which are not inconsistent with the laws of the State of Delaware.

Background

Senate Substitute No.1 for Senate Bill No. 254 of the 152nd General Assembly created the Delaware Grocery Initiative (the "Initiative"). The purpose of the Initiative is to expand access to healthy foods in food deserts in Delaware and areas at risk of becoming food deserts in Delaware by providing grants and other forms of financial assistance to an eligible food resource, nonprofit food resource, local governmental unit food resource, or specialty grocer. The Initiative will be administered by the Division of Small Business, a division within the Department of State. 29 Del.C. §8703A.

***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/december2024/proposed/28 DE Reg 441aRFA 12-01-24.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/december2024/proposed/28 DE Reg 441a 12-01-24.htm>

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Sections 209(a)(1), 1014(d) and 1014(e) (26 **Del.C.** §§209(a)(1), 1014(d) & 1014(e))
26 **DE Admin. Code** 3012

PUBLIC NOTICE

3012 Rules for Regulation of Net Metering

IN THE MATTER OF THE ADOPTION OF
RULES AND REGULATIONS TO
IMPLEMENT THE PROVISIONS OF *TITLE*
26 §1014 OF THE DELAWARE CODE
RELATING TO NET METERING
(OPENED OCTOBER 25, 2023)

PSC REGULATION DOCKET NO. 65

The Delaware Public Service Commission ("Commission" or "PSC") proposes to issue amendments to the regulations governing its regulation of net energy metering, which is currently codified in the *Rules for Regulation of Net Metering*, at 26 **DE Admin. Code** 3012. In summary, the Commission proposes to amend the regulations to comply with the requirements set forth by Senate Bill 298, Senate Bill 54 and Senate Bill 111 codified at 26 **Del.C.** §§209(a)(1), 1014(d) & 1014(e).

You can review the proposed regulations in the December 2024 issue of the *Delaware Register of Regulations*. You can also review the Commission Order and the proposed regulations in the PSC's electronic filing system, Delafile, located at <http://delafile.delaware.gov/> (for docket #, input "Reg. 65"). If you wish to obtain written copies of the Order and proposed regulations, please contact the PSC at (302)736-7500. Copies in excess of the first twenty (20) pages are \$0.25 per page. Payment is expected prior to copying (if you wish the copies to be mailed) or at the time the copies are retrieved (if you retrieve them in person).

Pursuant to 29 **Del.C.** §10118(a), written comments on the proposed regulations will be accepted until January 2, 2025. Comments should be submitted via email to PSC@delaware.gov with the subject line "Regulation Docket No. 65" or mailed to: Crystal Beenick, Public Service Commission, Cannon Building, 861 Silver Lake Blvd., Suite 100, Dover, DE 19904.

IN THE MATTER OF THE ADOPTION OF
RULES AND REGULATIONS TO
IMPLEMENT THE PROVISIONS OF *TITLE*
26 §1014 OF THE DELAWARE CODE
RELATING TO NET METERING
(OPENED OCTOBER 25, 2023)

PSC REGULATION DOCKET NO. 65

ORDER NO. 10576

AND NOW, this 30th day of October 2024, the Delaware Public Service Commission ("Commission") determines and orders as follows:

WHEREAS, on July 22, 2022, the Governor of the State of Delaware signed into law Senate Bill 298, which amended provisions in 26 *Del. C.* § 1014 relating to net energy metering including: (1) removing the charges for societal benefits programs from those charges against which a commission-regulated utility applies a net energy metering customer's "Excess kWh Credits" in subsequent monthly billing periods (and to define "societal benefits programs"); (2) providing that electric utilities shall not reimburse or credit net energy metering customers for any "Excess kWh Credits" at the end of the annualized billing period, and that "Excess kWh Credits" shall revert to the electric distribution company at the end of the annualized billing period; and

WHEREAS, Delmarva Power & Light Company ("Delmarva") advised the Staff of the Delaware Public Service Commission ("Staff") that implementing some of the provisions of Senate Bill 298 would require changes to the

billing system;¹ and

¹ PSC Order No. 10291 (August 23, 2023) p. 6.

WHEREAS, on March 30, 2023, the Governor of the State of Delaware signed into law Senate Bill 54, which extended the effective date of certain provisions in Senate Bill 298 and thus amended provisions in 26 *Del. C.* § 1014 subsection (d) and (e)(1) relating to net energy metering including: (1) providing that excess kWh Credits at the end of the annualized billing period shall revert to the EDC providing electric distribution to the customer on May 31, 2023; and (2) providing that a commission-regulated utility may continue to make payments for Annual Excess kWh until May 31, 2023; and (3) providing that effective January 1, 2024, for commission-regulated utilities for existing and future Net Energy Metering Customers, both residential and nonresidential, the monthly Excess kWh Credit shall be valued at the sum of the volumetric (kWh) components of the supply service charges and the distribution service charges, not including the charges for Societal Benefits Programs, according to each participating Customer account's rate schedule; and

WHEREAS, on August 23, 2023, the Commission issued Order No. 10291 to approve the uncontested changes to the *Net Metering Rules* in PSC Regulation Docket No. 49 (the *Net Metering Rules* were later moved to PSC Regulation Docket No. 65) and advised the Commission may consider a petition to propose amendments "to align with Senate Bill 54 at a future time;"² and

WHEREAS, on July 27, 2023, the Governor of the State of Delaware signed into law Senate Bill 111, which amended provisions in 26 *Del.C.* § 1014 relating to net energy metering, including: (1) increasing the capacity for net metered farm customers from 100 kW to 150 kW; and (2) setting rules for power supply agreements between farms and Delmarva; and

WHEREAS, Commission Staff ("Staff") has drafted amendments to the Commission's *Rules for Regulation of Net Metering*, codified at 26 *Del. Admin. C.* § 3012 ("*Net Metering Rules*"); and

WHEREAS, Staff asks the Commission to re-open Regulation Docket No. 65, as Staff found that amendments to the *Net Metering Rules* were necessary for compliance with the remaining requirements set forth by Senate Bill 298, Senate Bill 54 and the new requirements set forth by Senate Bill 111 which are specifically detailed as follows;

- (1) to update the capacity from 100kW to 150kW for farm customers in section 2.2.1.3 in accordance with Senate Bill 111 (1)(b); and
- (2) to update subsection 2.2.3 to state that the section applies to the electric distribution company's transmission and distribution facilities instead of the suppliers facilities in accordance with Senate Bill 54 (4); and
- (3) to update subsection 2.2.4 to reflect new rules regarding power supply agreements with farm customers in accordance with Senate Bill 111 (5); and
- (4) to update subsection 2.4.1 to reflect changes to the calculation for excess kWh credits in accordance with Senate Bill 298 (1)(b) and to insert an effective date in accordance with Senate Bill 54 (1)(b); and
- (5) to update subsection 2.4.1 to include the definition of societal benefits programs in accordance with Senate Bill 298 (1)(b); and
- (6) to update subsection 2.4.2 to reflect the new rule that the utility will not reimburse customers for excess kWh credits at the end of the annualized billing period in accordance with Senate Bill 298 (5).

WHEREAS, the Commission has reviewed the proposed regulation as required by 29 *Del. C.* § 10118(b)(3)³ and has determined that if promulgated, the regulation will support the State's resiliency to climate change by promoting the use of solar energy and installation of solar facilities, giving customers more energy source options and contributing to the State's greenhouse gas emissions reduction targets; and,

WHEREAS, Staff now recommends that the Commission issue the attached proposed amendments to the *Net Metering Rules* for publication in the *Delaware Register of Regulations*;

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

1. That, for the reasons set forth above, and pursuant to 26 *Del. C.* §§ 209 and 1014(e) and 29 *Del. C.* § 10114, the Commission proposes to revise its *Net Metering Rules*, which were last revised by PSC Order No. 10431 (April 18, 2024) and published at 27 DE Reg. 985 (June 1, 2024), in compliance with Senate Bill 298, Senate bill 54 and Senate Bill 111 relating to net energy metering. A marked-up version of the proposed amendments to the *Net Metering Rules* is attached to this Order as Exhibit "A."

2. That, pursuant to 29 *Del. C.* § 10115(a), the Secretary shall transmit a copy of this Order, with the attached exhibits, to the Registrar of Regulations for publication in the December 2024 edition of the *Delaware Register of Regulations*.

3. That, pursuant to 26 *Del. C.* § 102A, the Secretary shall cause the form of public notice attached as Exhibit "B" to be published on the Commission's website located at <https://dep.sc.delaware.gov> on or before December 19, 2024.

4. Pursuant to 29 *Del. C.* § 10116, interested persons or entities may submit written suggestions, compilations of data, briefs, or other written materials concerning these proposed amendments on or before January 2, 2025.

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

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman

Joann Conaway, Commissioner

Harold Gray, Commissioner

Manubhai "Mike" Karia, Commissioner

ATTEST: Crystal Beenick, Commission
Secretary

/s/ Kim F. Drexler, Commissioner

(Voted via Teleconference pursuant to 29 *Del. C.* §10006(A)(d))

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

² PSC Order No. 10291 (August 23, 2023) p. 12.

³ 29 *Del. C.* §10118(b)(3) requires the Commission to include in the order a brief narrative assessment of the impact, if any, of the regulation on the achievement of the State's greenhouse gas emissions reduction targets, as specified in § 10003 of Title 7, and the impact of the regulation on the State's resiliency to climate change, or a statement that any such impact will be de minimis or that such assessment is not practical for the regulation. If prepared, the narrative assessment should include a brief description of the agency's efforts to consider climate change, resiliency, and the State's greenhouse gas emissions reduction targets in developing the 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/december2024/proposed/28 DE Reg 443RFA 12-01-24.pdf](https://regulations.delaware.gov/register/december2024/proposed/28%20DE%20Reg%20443RFA%2012-01-24.pdf)

**3012 Rules for Regulation of Net Metering
(Break in Continuity of Sections)**

2.0 Net Metering General Provisions

(Break in Continuity Within Section)

2.2 Each electric supplier providing electric supply service shall offer customers the option of net metering if a customer generates electricity at the customer's premises, subject to all of the following requirements:

2.2.1 The customer owns and operates; leases and operates; or contracts with a third party who owns and operates the electric generation facility with a capacity that:

(Break in Continuity Within Section)

2.2.1.3 Will not exceed ~~400~~ 150 kW per DP&L meter for farm customers, as those customers are described in 3 *Del. C.* §902(3); provided, however, that DNREC may grant exceptions to this limitation in accordance with 26 *Del. C.* §1014(d)(1)b;

(Break in Continuity Within Section)

2.2.3 Is interconnected and operated in parallel with an electric supplier's distribution company's transmission and distribution facilities; and

PROPOSED REGULATIONS

- 2.2.4 Is designed to produce no more than 110% of the host customer's expected aggregate electrical consumption, calculated on the average of the 2 previous 12-month periods of actual electrical usage at the time of installation of energy generating equipment and subject to the capacity limits specified in subsections 2.2.1.1 through 2.2.1.3 of 26 **DE Admin. Code** 3012. For new building construction or in instances where less than 2 previous 12-month periods of actual usage is available, electrical consumption will be estimated at 110% of the consumption of units of similar size and characteristics at the time of installation of energy generating equipment and subject to the capacity limits specified in subsections 2.2.1.1 through 2.2.1.3 of 26 **DE Admin. Code** 3012. However, any utility may enter into a power supply agreement with a farm customer described in 3 **Del.C.** §902(3): provided that nothing in 26 **Del.C.** §1014(d) or 26 **Del.C.** §1014(e) shall prohibit electric distribution companies from entering into contracts with farm customers that allow or provide for the procurement, crediting, or carryover of excess kWh credits at the end of an annualized billing period.

(Break in Continuity Within Section)

- 2.4 Electric suppliers and EDCs shall credit excess kWh credits to the customer's subsequent monthly billing periods to offset the customer's consumption in those billing periods.
- 2.4.1 Excess kWh credits shall be credited to subsequent billing periods to offset a customer's consumption in those billing periods until all credits are used. During any subsequent billing period prior to the end of the annualized billing period, the crediting of excess energy kWh will result in the reduction of cost paid by the customer for the equivalent volumetric energy kWh of delivery service charges, if applicable, and supply service charges. Effective January 1, 2024, for both residential and non-residential customers, the monthly excess kWh credit shall be valued at the sum of the volumetric (kWh) components of the supply service charges and distribution service charges, not including the charges for societal benefits programs, according to each participating customer account's rate schedule. Societal benefits programs include the Green Energy Fund under 26 **Del.C.** §1014(a), the Low-Income Fund under 26 **Del.C.** §1014(b), charges incurred by the utility in complying with the state mandated renewable energy portfolio standard under 26 **Del.C.** §358(f)(1), the charge imposed under 26 **Del.C.** §364 for qualified fuel cells, and energy efficiency programs under 29 **Del.C.** §8059(h)(1)e.
- 2.4.2 At the end of the annualized billing period, a customer may request a payment from the electric supplier for any excess kWh credits. The payment for residential customer accounts shall be calculated by multiplying the excess kWh credits by the customer's supply service charges based on a weighted average of the first block of the summer (June through September) and winter supply service charges (October through May) in effect at the end of the customer's annualized billing period and the preceding 11 billing periods, excluding non-volumetric charges, such as the transmission capacity charge or demand charges. The payment for non-residential customer accounts shall be calculated by multiplying the excess kWh credits by the customer's supply service charges that would otherwise be applicable at the end of the customer's annualized billing period. If such payment would be less than \$25, the electric supplier may credit the customer's account through monthly billing. Effective January 1, 2023, a net metering customer may elect to change the end of the annualized billing period on 1 occasion, in order to better utilize excess generation even if they have changed it 1 time in the past. Effective on May 31, 2023, at the end of the annualized billing period, excess kWh credits shall revert to the electric distribution company providing electric distribution service to the customer. The electric utility shall not reimburse, credit, or otherwise remunerate the net energy metering customer for any excess kWh credits at the end of the annualized billing period.

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

[https://regulations.delaware.gov/register/december2024/proposed/28 DE Reg 443 12-01-24.htm](https://regulations.delaware.gov/register/december2024/proposed/28%20DE%20Reg%20443%2012-01-24.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 EDUCATION

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** 1591

ORDER

1591 School Principal and Assistant School Principal

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** 1591 School Principal and Assistant School Principal. The regulation concerns the requirements for a School Principal and Assistant School Principal Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include amending Section 1.0 to add language concerning the Charter School Leader Standard Certificate; revise and strike defined terms in Section 2.0; revise Sections 4.0 and 5.0 to remove outdated language and assessments and decrease the number of years of experience required; add subsection 6.2, which concerns the disclosure of criminal convictions; move the section concerning Secretary of Education review; remove School Leader I from Section 10.0; and add Section 11.0, which concerns applicant's and educators' contact information.

Notice of the proposed regulation was published in the *Register of Regulations* on September 1, 2024. The Professional Standards Board received written submittals from Lindsay Williams, Julia Tulloch, and Emily Curtain concerning the proposed regulation. All three commented against the proposed regulation because "it excludes Speech-Language Pathologists working in schools and employed by districts from ever obtaining a principal or assistant school principal certificate." They further commented that "Speech-Language Pathologists working in schools have experience educating students, lesson planning and collaborating with others" and that they "should be afforded the same career advancement opportunities as any other educator, and be permitted to complete a

principal certificate program and advance in their career."

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

III. FINDINGS OF FACTS

On October 7, 2024, the Professional Standards Board considered the written submittals. The Professional Standards Board found that speech-language pathologists are related services professionals who are licensed through the Division of Professional Regulation and are not licensed as educators through the Department. The Professional Standards Board reviewed data regarding leadership certificates after amendments from 2020. The Professional Standards Board also found that there is a pathway for a speech-language pathologist to be issued a Principal and Assistant School Principal Standard Certificate because they can become licensed and certified as special education directors and later become certified as principals and assistant school principals. The Professional Standards Board determined not to make any changes as a result of the written submittals and voted to propose 14 **DE Admin. Code** 1591 School Principal and Assistant School Principal, 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** 1591 School Principal and Assistant School Principal.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1591 School Principal and Assistant School Principal subject to the State Board of Education's approval. On October 17, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1591 School Principal and Assistant School Principal. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1591 School Principal and Assistant School Principal, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1591 School Principal and Assistant School Principal amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1591 School Principal and Assistant School Principal in the *Administrative Code of Regulations* for the Department.

VI. 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 17th day of October, 2024.

Department of Education

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

Approved this 17th day of October, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rajalakshmi Lodhavia

/s/ Meredith L. Griffin, Jr.

/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 September 2024 issue of the *Register* at page 177 (28 DE Reg. 177). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 447 12-01-24.htm>

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 1592

ORDER

1592 Certified Central Office Personnel

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 1592 Certified Central Office Personnel. The regulation concerns the requirements for a Certified Central Office Personnel Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments in this regulation include amending Section 1.0 to remove administrative assistants; revise and strike defined terms in Section 2.0; revise Sections 4.0 and 5.0 to remove outdated language and assessments and decrease the number of years of experience required; add subsection 6.2, which concerns the disclosure of criminal convictions; move the section concerning Secretary of Education review; add School Leader I to Section 10.0; and add Section 11.0, which concerns applicant's and educators' contact information.

Notice of the proposed regulation was published in the *Register of Regulations* on September 1, 2024. The Professional Standards Board did not receive any written submittals concerning the proposed regulation.

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

III. FINDINGS OF FACTS

On October 7, 2024, the Professional Standards Board voted to propose 14 DE Admin. Code 1592 Certified Central Office Personnel, 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 1592 Certified Central Office Personnel.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1592 Certified Central Office Personnel subject to the State Board of Education's approval. On October 17, 2024, the State Board of Education approved amending 14 DE Admin. Code 1592 Certified Central Office Personnel. Therefore, pursuant to 14 Del.C. §§1203, 1205(b), and 1220, 14 DE Admin. Code 1592 Certified Central Office Personnel, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 DE Admin. Code 1592 Certified Central Office Personnel amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 DE Admin. Code 1592 Certified Central Office Personnel in the *Administrative Code of Regulations* for the Department.

VI. 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 17th day of October, 2024.

Department of Education

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

Approved this 17th day of October, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rajalakshmi Lodhavia

/s/ Meredith L. Griffin, Jr.

/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 September 2024 issue of the *Register* at page 183 (28 DE Reg. 183). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 449 12-01-24.htm>

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** 1593

ORDER**1593 Superintendent and Assistant Superintendent****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 amendments to 14 **DE Admin. Code** 1593 Superintendent and Assistant Superintendent. The regulation concerns the requirements for a Superintendent and Assistant Superintendent Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising and striking defined terms in Section 2.0; revising Sections 4.0 and 5.0 to remove outdated language and assessments and decrease the number of years of experience required; adding subsection 6.2, which concerns the disclosure of criminal convictions; moving the section concerning Secretary of Education review; adding Superintendent and Assistant Superintendent to Section 10.0; and adding Section 11.0, which concerns applicant's and educators' contact information.

Notice of the proposed regulation was published in the *Register of Regulations* on September 1, 2024. The Professional Standards Board did not receive any written submittals concerning the proposed regulation.

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

III. FINDINGS OF FACTS

On October 7, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1593 Superintendent and Assistant Superintendent, 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** 1593 Superintendent and Assistant Superintendent.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1593 Superintendent and Assistant Superintendent subject to the State Board of Education's approval. On October 17, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1593 Superintendent and Assistant Superintendent. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1593 Superintendent and Assistant Superintendent, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1593 Superintendent and Assistant Superintendent amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1593 Superintendent and Assistant Superintendent in the *Administrative Code of Regulations* for the Department.

VI. 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 17th day of October, 2024.

Department of Education

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

Approved this 17th day of October, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rajalakshmi Lodhavia

/s/ Meredith L. Griffin, Jr.

/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 September 2024 issue of the *Register* at page 189 (28 DE Reg. 189). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 450 12-01-24.htm>

FINAL REGULATIONS

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** 1594

ORDER

1594 Special Education Director

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 amendments to 14 **DE Admin. Code** 1594 Special Education Director. The regulation concerns the requirements for a Special Education Director Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising who is required to hold a Special Education Director Standard Certificate in Section 1.0; revising and striking defined terms in Section 2.0; revising Sections 4.0 and 5.0 to remove outdated language and assessments and decrease the number of years of experience required; amending the experience options in subsection 4.1.3; adding subsection 6.2, which concerns the disclosure of criminal convictions; moving the section concerning Secretary of Education review; and adding Section 11.0, which concerns applicant's and educators' contact information.

Notice of the proposed regulation was published in the *Register of Regulations* on September 1, 2024. The Professional Standards Board received one written submittal concerning the proposed regulation from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"). Ms. Fisher commented that GACEC endorses the proposed regulation.

II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

III. FINDINGS OF FACTS

On October 7, 2024, the Professional Standards Board considered GACEC's written submittal, determined not to make any changes as a result of the written submittal, and voted to propose 14 **DE Admin. Code** 1594 Special Education Director, 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** 1594 Special Education Director.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1594 Special Education Director subject to the State Board of Education's approval. On October 17, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1594 Special Education Director. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1594 Special Education Director, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1594 Special Education Director amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1594 Special Education Director in the *Administrative Code of Regulations* for the Department.

VI. 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 17th day of October, 2024.

Department of Education

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

Approved this 17th day of October, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rajalakshmi Lodhavia

/s/ Meredith L. Griffin, Jr.

/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 September 2024 issue of the *Register* at page 195 (28 DE Reg. 195). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 452 12-01-24.htm>

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Vaccines

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XIX Medicaid State Plan regarding Vaccines, specifically, to modify the reimbursement methodology for vaccines and vaccine administration. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the October 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2024, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

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 Vaccines.

Background

On June 27, 2023, the Centers for Medicare & Medicaid Services (CMS) issued guidance on section 11405 of the IRA (Pub. L. 117-169). Statutory amendments made by section 11405 of the IRA require Medicaid coverage and payment for approved adult vaccines recommended by the Advisory Committee on Immunization Practices (ACIP)

and their administration, without cost sharing.

Vaccines administered to recommended populations at recommended intervals can reduce morbidity, hospitalizations, and deaths, and save costs. Vaccines may reduce the overall burden of infections, which remain high in the United States. For example, the Centers for Disease Control and Prevention (CDC) estimates that influenza has resulted in between 140,000 to 710,000 hospitalizations and 12,000 to 52,000 deaths annually between 2010 and 2020. An estimated 150,000 individuals per year are hospitalized because of pneumococcal pneumonia. In 2020, there were 5 newly reported cases of hepatitis B per 100,000 persons. The human papillomavirus (HPV) causes more than 37,000 cases of cancer each year.

Vaccination rates are suboptimal for all adults, regardless of health coverage, but for adults enrolled in Medicaid, the vaccination rates for a range of vaccinations are lower than for adults with private health insurance coverage, including influenza, tetanus, herpes zoster, hepatitis A, hepatitis B, and HPV vaccinations. Additionally, the COVID-19 public health emergency (PHE) had a negative impact on the rate of children receiving routine childhood vaccinations. Although child vaccination rates have rebounded since the beginning of the COVID-19 PHE, there is still a gap in child vaccinations compared to prior years.

DMMA will pay for vaccines that are recommended by the Advisory Committee on Immunization Practices (ACIP) and will be covered for adults 18 and older with no cost share.

Statutory Authority

- Inflation Reduction Act (IRA)
- Section 1905(r)(1)(B)(iii) and (5) of the Act
- 42 CFR § 438.4(a)
- 42 CFR § 438.6(c)

Purpose

The purpose of this regulation is to comply with the Inflation Reduction Act (IRA) requirement to attest to the coverage of all Advisory Committee on Immunization Practices (ACIP) recommended vaccines and their administration.

Summary of Proposed Changes

Effective October 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to modify the reimbursement methodology for vaccines and vaccine administration.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on October 31, 2024.

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 to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://>

medicaid.dhss.delaware.gov/provider

Fiscal Impact Statement

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$16,061	\$8,335
Federal funds	\$0	\$0

Summary of Comments Received with Agency Response and Explanation of Changes

There were no public comments received.

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

The DMMA Division Director has reviewed the proposed regulation as required by 29 Del. C. §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the October 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding Vaccines, specifically, to modify the reimbursement methodology for vaccines and vaccine administration and shall be final effective December 11, 2024.

11/13/2024 | 9:15 AM EST

Date of Signature

Josette D. Manning Esq., Secretary, DHSS

***Please note that no changes were made to the regulation as originally proposed and published in the October 2024 issue of the *Register* at page 274 (28 DE Reg. 274). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 453 12-01-24.htm>

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)(h) (16 Del.C. §122(3)(h))
16 DE Admin. Code 4106

ORDER

4106 Practice of Non-Nurse Midwifery

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS"), Division of Public Health initiated proceedings to repeal regulation 4106 Practice of Non-Nurse Midwifery. These proceedings were initiated pursuant to 29 Del.C. Ch. 101 and the authority as prescribed by 16 Del.C. §122(3)(h).

On September 1, 2024 (28 DE Reg. 202), DHSS published in the *Delaware Register of Regulations* its notice of the proposed repeal, pursuant to 29 Del.C. §10115. The Division of Public Health requested that written materials and suggestions from the public concerning the proposed regulation be delivered to DHSS by October 1,

2024, after which time DHSS would review information, factual evidence, and public comment to the proposed regulation.

SUMMARY OF EVIDENCE:

In accordance with Delaware Law, public notice regarding proposed Department of Health and Social Services (DHSS) regulation 4106 Practice of Non-Nurse Midwifery was published in the *Delaware Register of Regulations*. Written comments were accepted on the proposed repeal of the regulation during the public comment period (September 1, 2024, through October 1, 2024).

No comments were received during the public comment period.

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

NOTE: Please be aware of Section 10118 (b)(3) of Title 29 of the Delaware Code which requires that each agency address impact on the State's greenhouse gas emissions reduction targets and resiliency to climate change.

Division of Public Health Director Steven Blessing has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

FINDINGS OF FACT:

No changes were made to the regulation since publication as proposed. The Department finds that the proposed repealed regulation, as set forth in the attached copy, should be adopted in the best interest of the public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed repeal to regulation 4106 Practice of Non-Nurse Midwifery shall become effective December 11, 2024, 10 days after publication of the final regulation in the *Delaware Register of Regulations*.

10/24/2024 | 1:23 PM EDT
Date

Josette D. Manning, Esquire
Cabinet Secretary
Delaware Department of Health and Social Services

4106 Practice of Non-Nurse Midwifery

~~These regulations replace regulations previously adopted on April 17, 1978; amended September 19, 1978, December 22, 1982, and May 15, 1985, by the Delaware State Board of Health. Effective Date: April 10, 2002.~~

1.0 Purpose

~~The purpose of these Regulations is to establish and define conditions under which individuals may be granted permits to practice direct entry/non nurse midwifery in the State of Delaware. The Department of Health and Social Services, through the Division of Public Health, will recognize and issue a permit to practice midwifery for direct entry/non nurse midwives.~~

2.0 Authority

~~Title 16, Del.C. Ch. 1, §122(3)h.~~

3.0 Definitions

~~“**Collaborative Agreement**” Written verification of health care facility approved clinical privileges; or health care facility approved job description; or a written document that outlines the process for consultation and referral between a direct entry/non nurse midwife and a Delaware licensed physician with obstetrical hospital privileges.~~

~~“Direct Entry /non-nurse Midwife” A midwife that has entered the profession directly through midwifery education and training and not through a prerequisite program of nursing and has met the qualifications and received a permit from the Delaware Division of Public Health to practice midwifery in DE.~~

~~“Guidelines/Protocols” Suggested pathways to be followed by direct entry/non-nurse midwives for managing a particular medical problem. These guidelines/protocols shall be developed collaboratively by the midwife and a Delaware licensed physician with obstetrical hospital privileges.~~

~~“Midwifery Practice” is the management of women’s health care, focusing particularly on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women, including the prescription of appropriate medications and devices within this defined scope of practice. The midwife practices within a health care system that provides for consultation, collaborative management or referral as indicated by the health status of the client.~~

~~“Nationally Certified Midwife” a direct entry midwife that has met national certification from North American Registry of Midwives (Certified Professional Midwife CPM) or American College of Nurse Midwives (Certified Midwife)~~

~~“Referral” The process whereby a direct entry/non-nurse midwife directs the client to a physician or another health care professional for management of a particular problem or aspect of the client’s care.~~

4.0 Qualifications

To receive a permit to practice direct entry/non-nurse midwifery in the State of Delaware, an applicant must submit documentation to the Division of Public Health that they meet the following qualifications:

- 4.1 Demonstration of completion of an accredited midwifery education program and is a Nationally Certified Midwife as demonstrated by possessing a valid certification of Certified Professional Midwives (CPM) from the North American Registry of Midwives or Certified Midwife (CM) from the American College of Nurse Midwives Certification Council or an equivalent certification.
- 4.2 Submits a sworn statement that he/she has not been convicted of a felony; been professionally penalized or convicted of substance addiction; had a professional midwifery license suspended or revoked in this or another state; been professionally penalized or convicted of fraud; and is physically and mentally capable of engaging in the practice of midwifery.
- 4.3 Establishes a collaborative agreement with a Delaware licensed physician with obstetrical hospital privileges which includes at a minimum:
 - 4.3.1 a minimum number of medical provider prenatal visits.
 - 4.3.2 guidelines and protocols that must include access and use of oxygen, medications (including Intravenous medications), emergency protocols for labor, delivery, and postpartum for both mother and neonate.
- 4.4 Submits to the Division of Public Health a sample contract between the midwife and the pregnant women outlining the scope of practice and potential risk factors and complications.

5.0 Application

Any person who wishes to obtain a permit to practice direct entry/non-nurse midwifery shall make a written application to the Division of Public Health. Such application shall be accompanied by the necessary documents demonstrating that the applicant possesses the qualifications in Section IV. If, after investigation of the application by the Division of Public Health, it appears the applicant is qualified to practice direct entry/non-nurse midwifery, a permit to practice midwifery in the State of Delaware will be issued.

6.0 Maintenance of Permit

No person granted a permit under these regulations shall engage in active practice of direct entry/non-nurse midwifery without continuously meeting the qualifications in Section IV. Changes that occur during the permit period (one year) must be reported to the Division of Public Health.

7.0 Renewal of Permit

~~Any permit granted to practice direct entry/non-nurse midwifery in the State of Delaware shall terminate annually on December 31. The fee for such annual permit shall be determined annually (in July) by the Division of Public Health and not be less than \$15.00. Permits shall be renewable annually with the filing of an application and documentation setting forth continued qualifications as specified in Section IV. Should a permit not be renewed by January 31, the permit is considered lapsed and the direct entry/non-nurse midwife shall apply according to Section V.~~

8.0 Complaints

~~Any person may make a complaint in writing to the Division of Public Health concerning failure to comply with these regulations. The Division of Public Health will investigate complaints about direct entry/non-nurse midwives.~~

9.0 Illegal Practice

~~Any person who practices as a direct entry/non-nurse midwife, as defined in Section III, in the State of Delaware without a permit issued by the Division of Public Health shall be subject to a fine pursuant to 16 Del.C. 107.~~

10.0 Severability

~~Should any section, sentence, clause, or phase of these Rules and Regulations be legally declared unconstitutional or invalid for any reason, the remainder of these Rules and Regulations shall not be affected.~~

DEPARTMENT OF JUSTICE**FRAUD AND CONSUMER PROTECTION DIVISION**

Statutory Authority: 29 Delaware Code, Section 2521 (29 Del.C. §2521)
6 DE Admin. Code 104

ORDER**104 Privacy Policies for Commercial Online Sites, Services, and Applications****Background and Findings of Fact**

The Consumer Protection Unit of the Delaware Department of Justice ("the Consumer Protection Unit") has the authority to enforce and publish regulations with respect to the Online and Personal Privacy Protection Act (6 Del.C. § 1201C et seq.) pursuant to 6 Del.C. § 1203C and 29 Del.C. § 2521.

Regulation 104 Privacy Policies for Commercial Online Sites, Services, and Applications was adopted on July 1, 2016 (the "Regulation") shortly after the adoption of the Online and Personal Privacy Protection Act (6 Del.C. § 1201C et seq.) (the "Online Act"). The Online Act mandated certain online businesses post a privacy policy with specified information. The purpose of the Regulation was to provide operators of commercial Internet websites, online or cloud computing services, online applications, or mobile applications with optional "safe harbor" language that they may, but are not required to, use in their privacy policies that the Consumer Protection Unit would comply with the disclosure requirements of 6 Del.C. §1205C(b) at that time. The Delaware Personal Data Privacy Act was adopted in 2023 (6 Del.C. § 12D-101 et seq.) (the "DPDPA") and requires certain business include "reasonably accessible, clear, and meaningful privacy notice" with additional information compared to the Online Act. The "safe harbor" language in the Regulation may not satisfy the DPDPA requirements in certain circumstances and risks causing confusion for businesses about their privacy notice obligations. Accordingly, the Consumer Protection Unit has determined that the "safe harbor" language in the Regulation is no longer appropriate under the Online Act or

the DPDPA and has proposed repealing the Regulation.

The Consumer Protection Unit proposed repeal of Regulation 104 on October 1, 2024, and requested public comment by November 1, 2024. No public comments were received.

The Consumer Protection Unit has reviewed the proposed repeal of the regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed repeal of the regulation on the achievement of the State's greenhouse gas emission reduction targets or on the State's resiliency to climate change is not practical in view of the nature of the proposed repeal.

Decision to Repeal the Regulation and Effective Date

THEREFORE, IT IS ORDERED, that the proposed repeal of Regulation to the Online and Personal Privacy Protection Act is adopted and shall be final effective December 11, 2024.

November 15, 2024
Date of signature

John Allen Eakins
Deputy Attorney General
Designee of the Director of the Division
of Fraud and Consumer Protection

104 Privacy Policies for Commercial Online Sites, Services, and Applications

4.0 Introduction and Purpose

~~The purpose of this regulation is to provide operators of commercial Internet websites, online or cloud computing services, online applications, or mobile applications with optional "safe harbor" language that they may, but are not required to, use in their privacy policies that the Consumer Protection Unit has determined will comply with the disclosure requirements of 6 **Del.C.** §1205C(b).~~

2.0 Effective Date

~~The effective date of this regulation is Friday, July 15, 2016.~~

3.0 Definitions

3.1 ~~The following terms are defined in 6 **Del.C.** §1202C and have the same meaning when used in this regulation:~~

~~"Content"~~

~~"Internet"~~

~~"Operator"~~

~~"Personally identifiable information"~~

~~"Post"~~

~~"User"~~

3.2 ~~For purposes of this regulation, the term "site, service, or application" means an Internet website, online or cloud computing service, online application, or mobile application.~~

4.0 Optional Safe Harbor Language for Privacy Policies

4.1 ~~Use of the language and format in this Section 4.0 is not mandatory. Operators are free to use alternative language and formats of their choosing that comply with 6 **Del.C.** §1205C(b).~~

4.2 ~~Identification of the Categories of Personally Identifiable Information Collected and the Third Party Persons to Whom Such Information May Be Disclosed~~

4.2.1 ~~Under 6 **Del.C.** §1205C(b)(1), an operator of a commercial site, service, or application is required to identify in its privacy policy the categories of personally identifiable information it collects from users of its site, service, or application, and the categories of third party persons to whom such information may be disclosed.~~

4.2.2 An operator shall be deemed to have identified “the categories of personally identifiable information” required by 6 Del.C. §1205C(b)(1), when the operator provides the following disclosures in its privacy policy, if the operator collects, stores, or uses the specified kind of personal information:

Collecting Personally Identifiable Information

We may collect, store, and use the following kinds of personal information:

- Information you provide to us when you register with our [site/service/application], including your [describe the personal information provided by the user upon registration that you collect, store, and use—examples might include first and last names, e-mail address, physical address, telephone number, social security number].
 - Information you provide when completing a profile on our [site/service/application], including your [describe the personal information provided by the user upon registration that you collect, store, and use—examples might include first and last names, gender, age, date of birth, education status, employment status, relationship status, hobbies and other interests].
 - Information you provide when you subscribe to a newsletter or other periodic report or notification that we provide, including [describe the personal information provided by the user when they subscribe that you collect, store, and use—such as first and last names and an e-mail address].
 - Information about your device or computer, including [your IP address, geolocation, browser type, browser version, device type, operating system, referring [site/service/application]].
 - Information about your visits to and use of the [site/service/application], including how you use the [site/service/application], such as [describe the type of information—examples might include the timing, length, frequency, and pattern of use, and the pages, screens, or other displays of information looked at by the user].
 - Information relating to any purchases you make of our [goods/services] or any other transactions that you enter into through our [site/service/application], including [describe the information—examples might include first and last names, e-mail address, physical address, telephone number, and payment card information].
 - Information that you post to our [site/service/application] for publication on the Internet, including [describe the information—examples might include first and last names, user names, profile pictures, and the actual content of what a user posts].
 - Information contained in or relating to any communication that you send to us or send through our [site/service/application], including [describe the information—examples might include the content of the communication and metadata associated with it].
 - [Identify and describe any other any other personal information that is collected by the site, service, or application, including when or how the operator collects it.]
- 4.2.3 An operator shall be deemed to have identified “the categories of third-party persons” required by 6 Del.C. §1205C(b)(1), when the operator provides the following disclosures in its privacy policy, if the operator shares a user’s personally identifiable information with the specified third-party persons:

Disclosing Personally Identifiable Information With Third Parties

We may disclose personally identifiable information we collect from you to the following third parties, for the purposes specified:

- **Agents.** [Describe the types of agents to whom the operator may disclose the information, why the operator may disclose it to them, and whether those agents can retain, store, or use the information for any other purposes—examples might include an outside shipping company used to fulfill and deliver orders, or a credit card company that processes sales transactions].
- **Service Providers.** We use third parties to provide [describe the services provided] on our [site/service/application]. If [or When] you sign up for [specified services], we will share [describe the information that will be shared] to the extent necessary in order for the third party to provide that service. [State whether the service providers can retain, store, or use the information for any other purposes.]

- ~~**Affiliates.** We may disclose your personal information to our affiliates, including [describe the types of affiliates, such as the operator's employees, officers, and directors, the operator's subsidiaries, the operator's ultimate parent company, and any other subsidiary of the operator's ultimate parent company, as appropriate], in order to [describe why the operator might disclose the information to affiliates, and whether the affiliates can retain, store, or use the information for any other purposes].~~
- ~~**Other Third Parties.** We may disclose to [describe any other types of third parties to whom the operator may disclose a user's personal information] your [describe what information is disclosed], in order to [describe why the operator may disclose the information to these other types of third parties, and whether these other third parties can retain, store, or use the information for any other purposes].~~
- ~~**Other Disclosures.** We may also disclose personally identifiable information we collect from you when we are required to do so by law, or when we believe that disclosure is necessary to protect our rights or to comply with a judicial proceeding, court order, or legal process served on our [site/service/application].~~

4.3 ~~Description of Process to Review and Request Changes to Personally Identifiable Information Collected~~

4.3.1 ~~Under 6 **Del.C.** §1205C(b)(2), an operator of a commercial site, service, or application is required to describe in its privacy policy whether it maintains a process that allows users of the site, service, or application to request changes to their personally identifiable information collected by the operator through the site, service, or application, and, if it maintains such a process, the operator must also describe that process.~~

4.3.2 ~~An operator that maintains a process that allows users of its site, service, or application to request changes to their personally identifiable information collected by the operator through the site, service, or application, shall be deemed to have made disclosure required by 6 **Del.C.** §1205C(b)(2) when the operator provides the following disclosure in its privacy policy:~~

~~**Making Changes To Your Information**~~

~~This [site/service/application] permits you to review and make changes to the personally identifiable information we collect from you. You can make changes by [describe process for a user to review and make changes—examples of such processes could include logging in to the site, service, or application and using available tools, contacting customer support, or by contacting the operator by specified telephone, postal mail, or email].~~

4.3.3 ~~An operator that does not maintain a process that allows users of its site, service, or application to request changes to their personally identifiable information collected by the operator through the site, service, or application, shall be deemed to have made disclosure required by 6 **Del.C.** §1205C(b)(2) when the operator provides the following disclosure in its privacy policy:~~

~~**Making Changes To Your Information**~~

~~This [site/service/application] does not maintain a process by which you can review and make changes to the personally identifiable information we collect from you.~~

4.4 ~~Description of Process for Notifying Users of Material Changes~~

4.4.1 ~~Under 6 **Del.C.** §1205C(b)(3), an operator of a commercial site, service, or application is required to describe in its privacy policy how it notifies users of its site, service, or application of material changes to its privacy policy.~~

4.4.2 ~~An operator shall be deemed to have made the disclosure required by 6 **Del.C.** §1205C(b)(3) when the operator provides the following disclosure in its privacy policy:~~

~~We may modify this privacy policy at any time. If we do, we will [post the revised version here/notify you via email/describe other method of notifying users]. You should periodically check here for the most up-to-date version of this privacy policy. Any changes to the privacy policy will not be retroactively applied and will not alter how we handle personally identifiable information we previously collected from you.~~

4.5 ~~Identification of the Effective Date~~

- 4.5.1 Under ~~6 Del.C. §1205C(b)(4)~~, an operator of a commercial site, service, or application is required to identify the effective date of its privacy policy.
- 4.5.2 An operator shall be deemed to have made the disclosure required by ~~6 Del.C. §1205C(b)(4)~~ when the operator provides the following disclosure in its privacy policy:
This privacy policy is effective as of *[month day, year]*.
- 4.6 Description of Response to Web Browser “Do Not Track” Signals
- 4.6.1 Under ~~6 Del.C. §1205C(b)(5)~~, an operator of a commercial site, service, or application is required to disclose how the site, service, or application responds to web browser “do not track” signals or other mechanisms that are intended to give users the ability to exercise choice regarding the collection of personally identifiable information about a user’s activities, through the use of persistent identifiers such as “cookies,” “pixel tags,” and “web beacons,” over time and across third party sites, services, or applications. This applies to all persistent identifiers used on the operator’s site, service, or application, regardless of whether those persistent identifiers are placed on the site, service, or application by the operator or a third party such as an advertising service.
- 4.6.2 An operator shall be deemed to have made the disclosure required by ~~6 Del.C. §1205C(b)(5)~~ when the operator provides the following disclosure in its privacy policy:
Certain web browsers may provide an option by which you may have the browser inform websites or internet services you visit that you do not wish to have personally identifiable information about your activities tracked by cookies or other persistent identifiers across time and across third party Internet websites, online or cloud computing services, online applications, or mobile applications. These are commonly called “do not track” signals. Our *[site/service/application]* responds to such signals by *[if the site, service, or application takes action in response to such signals, describe the action taken and explain the basis for it; if the site, service, or application is unable to take action, state so and explain why; if the site, service, or application is able to take action but does not take action, state so and explain why]*.
- 4.7 Disclosure of Third Party Collection of Personally Identifiable Information
- 4.7.1 Under ~~6 Del.C. §1205C(b)(6)~~, an operator of a commercial site, service, or application is required to disclose in its privacy policy whether anyone other than the operator may collect personally identifiable information about a user’s online activities, over time and across different sites, services, and applications, when a user uses the operator’s site, service, or application.
- 4.7.2 An operator shall be deemed to have made the disclosure required by ~~6 Del.C. §1205C(b)(6)~~ when the operator provides the following disclosure in its privacy policy:
We [do not allow/may allow] allow third parties to collect personally identifiable information about a user’s online activities, over time and across different sites, services, and applications, when that user uses our site, service, or application. [If “may allow,” the operator must describe the kinds of third parties who may be permitted to engage in such collection, the purpose for permitting such collection, and what those third parties may do with the information collected such as, for example, collection of a user’s personally identifiable information by an advertising service for the purpose of directing targeted advertising to the user while using the operator’s or a third party’s site, service, or application.]

5.0 ~~Alternative Safe Harbor to Comply with the Content Requirements of 6 Del.C. §1205C(b)~~

An operator of a commercial site, service, or application shall be deemed to have made the disclosures required by ~~6 Del.C. §1205C(b)~~ if the operator has a privacy policy that complies with the requirements of the California Online Privacy Protection Act (CalOPPA), Cal. Bus. & Prof. Code §§22575-22579.

DEPARTMENT OF LABOR DIVISION OF EMPLOYMENT AND TRAINING

Statutory Authority: 19 Delaware Code, Section 1908(a) (19 Del.C. §1908(a))

ORDER

1103 Worker Adjustment and Retraining Notification (WARN) Regulations

SUMMARY OF THE EVIDENCE

1. Title 19, Sections 105 and 1908 of the Delaware Code authorize the Department of Labor ("Department") to establish, amend and repeal regulations necessary for the internal administration of the Department, and for the proper conduct of any necessary hearings before the Department or its authorized agents, including the Division of Employment and Training (the "Division"), and in relation to the administration and enforcement of the Delaware Worker Adjustment and Retraining Notification Act, 19 Del.C. §§1901-11 (the "WARN Act").
2. The Department's purpose in proposing these regulations was to protect workers by requiring employers to provide notification of mass layoffs, plant closings, or relocations at least 60 calendar days in advance. Advance notice allows workers time to adjust, to seek and obtain new employment, and to take advantage of services and benefits offered by the Department of Labor and other service providers, if necessary. These regulations establish basic definitions and standards for giving notice under the State WARN Act, as well as the administrative procedures for the Department to enforce it. The Department's objective is to establish clear principles, broad guidelines, and simple but robust procedures for hearing alleged violations. These regulations are prescribed pursuant 19 Del.C. §1908(a) to carry out the State WARN Act.
3. Notice of the proposed regulation was published in the August 1, 2024 edition of the *Delaware Register of Regulations*.
4. The Department invited a period of at least 30 days, until September 3, 2024, for written comment from the public.
5. The Department did not receive any comments regarding the proposed regulation.
6. Having solicited and requested public comment on the proposed regulations in accordance with the Delaware Administrative Procedures Act, 29 Del.C. Ch. 101, et. seq., and determining that no substantive changes are required to the proposed regulations, this is the Department's Decision and Order adopting the proposed regulations with the proposed non-substantive edits set forth herein and with the rest of the proposed rules as published remaining unchanged.

FINDINGS OF FACT AND CONCLUSIONS

The public was given notice and an opportunity to provide the Department with comments in writing on the proposed amendments to the WARN Act regulation. The Department did not receive any comments regarding the proposed regulation.

The Department reviewed the proposed regulation as required by 29 Del. C. § 10118(b)(3) and determined that if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

Accordingly, the Department finds that it is appropriate to adopt the proposed regulation, 19 DE Admin. Code 1103, pursuant to 19 Del.C. § 1908. The text of 19 DE Admin. Code 1103 shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 19 DE Admin. Code 1103 Worker Adjustment and Retraining Notification

(WARN) in the Administrative Code of Regulations for the Division.

ORDER

AND NOW this 31st day of October, 2024, it is hereby ordered that:

1. The proposed regulations are hereby adopted;
2. The effective date of this order is 10 days from the date of its publication in the *Delaware Register of Regulations* in accordance with 29 Del. C. §10118(e); and
3. The Department reserves to itself the authority to issue such order and further orders concerning its Regulations as it deems appropriate.

IT IS SO ORDERED.

Department of Labor
Karryl Hubbard, Secretary of Labor

1103 Worker Adjustment and Retraining Notification (WARN) Regulations

1.0 Purpose and Scope

- 1.1 The Delaware Worker Adjustment and Retraining Act, 19 Del.C. Ch. 19, protects workers by requiring employers to provide notification of mass layoffs, plant closings, or relocations at least 60 calendar days in advance. Advance notice allows workers time to adjust, to seek and obtain new employment, and to take advantage of services and benefits offered by the Department of Labor and other service providers, if necessary. ~~These regulations are~~ This regulation is] prescribed pursuant 19 Del.C. §1908(a) to carry out the State WARN Act.
- 1.2 ~~These regulations establish~~ This regulation establishes] basic definitions and standards for giving notice under the State WARN Act, as well as the administrative procedures for the Department to enforce it. The Department's objective is to establish clear principles, broad guidelines, and simple but robust procedures for hearing alleged violations.

(Break in Continuity of Sections)

3.0 Provision and Contents of Notice

- 3.1 Determining Whether and When Notice Is Required
(Break in Continuity Within Section)
- 3.1.5 Notice may be given ~~conditional~~ conditionally] upon the occurrence or non-occurrence of an event only when the event is definite and the consequences of its occurrence or non-occurrence will necessarily, in the normal course of business, lead to a plant closing, mass layoff, or relocation that will cause an employment loss. For example, if the non-renewal of a major contract will lead to the closing of a plant that produces the articles supplied under the contract 30 days after the contract expires, the employer may give notice at least 60 days in advance of the projected plant closing date, which states that if the contract is not renewed, the plant closing will occur on the projected date.

(Break in Continuity Within Section)

4.0 Exceptions

(Break in Continuity Within Section)

- 4.5 For the natural-disaster exception, the Code requires that the mass layoff or plant closing be "due to any form of natural ~~disaster," disaster".]~~

- 4.5.1 The term "due to" means that the mass layoff or plant closing would not have occurred but for the natural disaster, and the natural disaster was a substantial factor in bringing about the mass layoff or plant closing.
- 4.5.2 The term "natural disaster" includes floods, earthquakes, droughts, wildfires, storms, tidal waves, tsunamis, any form of a pandemic declared by the Centers for Disease Control and Prevention, and similar effects of nature.

***Please note that no additional changes were made to the regulation as originally proposed and published in the August 2024 issue of the *Register* at page 92 (28 DE Reg. 92). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 463 12-01-24.htm>

**DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Electrical Examiners**

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

ORDER

1400 Board of Electrical Examiners

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on October 2, 2024 at a scheduled meeting of the Delaware Board of Electrical Examiners ("Board") to receive comments regarding proposed amendments to the Board's rules and regulations.

Amendments are proposed to Section 8.0 to clarify that journeyman, residential, and apprentice electricians' continuing education must be related to the National Electric Code. The amendments also propose to allow master electricians who prepare, and present continuing education courses based upon the National Electric Code to claim continuing education credit in the amount of hours for which the continuing education course is approved by the Board and to allow licensed electricians on the Board to claim a portion of their biennial continuing education credits for Board service. The Board's powers and duties, as articulated in 24 **Del.C.** §1406(a)(7), include to establish continuing education standards.

Additional revisions are technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The proposed changes to the rules and regulations were published in the *Delaware Register of Regulations*, Volume 28, Issue 3 on September 1, 2024, giving notice of an October 2, 2024 public hearing at 8:30 a.m. Notice was also published in the *News Journal* (Board Exhibit 1) and the *Delaware State News* (Board Exhibit 2). Pursuant to 29 **Del.C.** § 10118(a), the date to receive final written comments was October 17, 2024, 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on November 6, 2024.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

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

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

At the public hearing on October 2, 2024, no public comment was received.

No written comments were submitted by the public.

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 comments provided to the Board in writing.

Pursuant to 24 **Del.C.** § 1406(a)(1), the Board has the statutory authority to promulgate rules and regulations in accordance with the procedures specified in the Administrative Procedures Act. The Board finds reason to amend the regulations as proposed and hereby takes action to do so.

The Board has reviewed the proposed regulation as required by 29 **Del.C.** § 10118(b)(3) and has determined that any assessment of the impact of the proposed regulation on the achievement of the State's greenhouse gas emission reduction targets or on the State's resiliency to climate change is not practical in view of the nature of the proposed amendments.

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*.

IT IS SO ORDERED this 6th day of November, 2024.

Board of Electrical Examiners

/s/ James Murphy, President,
Professional Member

/s/ David Smagala, Secretary,
Professional Member

/s/ Patricia Ennis, Public Member

(ABSENT) Victor Kyler, Public Member
(VACANT), Public Member

/s/ Karl Segner, Vice President,
Professional Member

/s/ Donald King, Compliance Officer,
Professional Member

(ABSENT) Jacob Good, Education Officer,
Professional Member

(VACANT), Public Member

***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 September 2024 issue of the *Register* at page 208 (28 DE Reg. 208). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 465 12-01-24.htm>

DIVISION OF PROFESSIONAL REGULATION

Board of Mental Health and Chemical Dependency Professionals

Statutory Authority: 24 Delaware Code, Section 3006(a)(1) (24 Del.C. §3006(a)(1))
24 DE Admin. Code 3000

ORDER

3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals

NATURE AND STAGE OF THE PROCEEDINGS

On July 1, 2024, the Delaware Board of Mental Health and Chemical Dependency Professionals published proposed changes to its regulations in the Delaware Register of Regulations, Volume 28, Issue 1. This notice further indicated that written comments would be accepted by the Board for thirty days, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the Register of Regulations and two Delaware newspapers, a public hearing was held on August 28, 2024 at a regularly scheduled meeting of the Delaware Board of Mental Health and Chemical Dependency Professionals to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the time of the deliberations, the Board considered the following documents:

Board Exhibit 1 - Affidavit of publication of the public hearing notice in the News Journal; and

Board Exhibit 2 - Affidavit of publication of the public hearing notice in the Delaware State News.

There was no verbal testimony given at the public hearing on August 28, 2024. No written comments were received by the Board during the initial thirty-day or second 15-day public comment periods.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the first written public comment period, the public hearing, or the 15 days following the hearing.
3. Pursuant to 24 Del. C. § 3006(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. The proposed changes seek to clarify what is required of a master's degree that is not in clinical mental health counseling in order for that degree to be deemed acceptable to the Board under 24 Del.C. § 3032(a)(1). The proposed regulations also clarify that face-to-face supervision or counseling includes live video conferencing.
5. The Board has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.
6. The Board finds no reason to amend the regulations as proposed.

DECISION AND EFFECTIVE DATE

Having found that the proposed changes to the regulations are necessary as outlined herein, the Board finds that the regulations shall be adopted as final in the form as proposed. The exact text of the regulations, as amended, are attached to this order as Exhibit A. These changes will become effective ten days following publication of this order in the Delaware Register of Regulations.

SO ORDERED this 23rd day of October 2024.

By the Delaware Board of Mental Health and Chemical Dependency Professionals

/s/ Wade Jones, LPCMH/LCDP, President

/s/ Mary Caroselli, LMFT, Vice President

/s/ Dr. Todd Grande, LCDP, LPCMH

(did not sign) Yvette Aviles, LPCMH

/s/ Brandy Walker, LPCMH

/s/ Margaret Prouse, Ed.D., Public Member

*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 2024 issue of the *Register* at page 34 (28 DE Reg. 34). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 467 12-01-24.htm>

DIVISION OF PROFESSIONAL REGULATION

BOARD OF EXAMINERS OF PSYCHOLOGISTS

Statutory Authority: 24 Delaware Code, Section 3506(a)(1) (24 Del.C. §3506(a)(1))

24 DE Admin. Code 3500

ORDER

3500 Board of Examiners of Psychologists

NATURE AND STAGE OF THE PROCEEDINGS

On September 1, 2024, the Delaware Board of Examiners of Psychologists published proposed changes to its regulations in the Delaware Register of Regulations, Volume 28, Issue 3. This notice further indicated that written comments would be accepted by the Board for thirty days, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the Register of Regulations and two Delaware newspapers, a public hearing was held on October 7, 2024 at a regularly scheduled meeting of the Delaware Board of Examiners of Psychologists to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the time of the deliberations, the Board considered the following documents:

Board Exhibit 1 - Affidavit of publication of the public hearing notice in the *News Journal*; and

Board Exhibit 2 - Affidavit of publication of the public hearing notice in the *Delaware State News*.

There was no verbal testimony given at the public hearing on October 7, 2024. No written comments were received by the Board during the initial thirty-day public comment period; nor were any written comments received after the public hearing during the fifteen-day 29 Del. C. § 10118(a) second public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the two written public comment periods, or the public hearing.
3. Pursuant to 24 Del. C. § 3506(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. The proposed changes to the Rules and seek to eliminate the requirement that inactive licensees be renewed while inactive. In addition, the proposed regulations propose to amend the continuing education requirements for pro-rated licensure period and amend the amount of credit licensees receive for self-study education such as authoring a book or taking a graduate level course.
5. The Board has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.
6. Having received no public comments, the Board finds no reason to amend the regulations as proposed.

DECISION AND EFFECTIVE DATE

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

SO ORDERED this 4th day of November 2024.

BY THE DELAWARE BOARD OF EXAMINERS OF PSYCHOLOGISTS

(absent) Dr. Robert Mapou, President	/s/ Dr. Elizabeth Kuneman, Vice President
/s/ Dr. Debbie Harrington, Public Member	/s/ Dr. Meghan Cohen
/s/ Dr. Laura Cooney-Koss	/s/ Dr. Katherine Elder
/s/ Dr. Michael Harpe, Public Member	/s/ Rachel Sandy, Public Member

***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 September 2024 issue of the *Register* at page 214 (28 DE Reg. 214). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 468 12-01-24.htm>

DIVISION OF PROFESSIONAL REGULATION

Board of Massage and Bodywork

Statutory Authority: 24 Delaware Code, Section 5306(a)(1) (24 **Del.C.** §5306(a)(1))
24 **DE Admin. Code** 5300

ORDER

5300 Board of Massage and Bodywork

After due notice in the Delaware Register of Regulations and two Delaware newspapers, a public hearing was held on September 19, 2024 at a scheduled meeting of the Delaware Board of Massage and Bodywork ("Board") to receive comments regarding proposed amendments to the Board's regulation. The revision to subsection 12.3.2 adds a new requirement for the application process for massage establishments. The application will require a copy of the massage establishment's current business license issued by the Delaware Division of Revenue and a copy of any business license required by a county or municipality, as applicable. Further, additional revisions were made to ensure compliance with regulation drafting requirements.

The proposed changes to the regulation were published in the *Delaware Register of Regulations*, Volume 28, Issue 2, on August 1, 2024. Notice of the September 19, 2024 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 October 4, 2024, 15 days following the public hearing. The Board deliberated on the proposed revisions at its

regularly scheduled meeting on October 17, 2024.

Summary of the Evidence and Information Submitted

The following exhibits were made 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 September 19, 2024. 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 regulation. There were no public comments provided to the Board either in writing or during the public hearing.

Pursuant to 24 **Del.C.** § 5306(a)(1), the Board has the statutory authority to promulgate regulations. Having received no comments, either by testimony or in writing, the Board finds no reason to amend the regulation as proposed.

Decision and Effective Date

The Board has reviewed the proposed regulation as required by 29 **Del.C.** § 10118(b)(3) and has determined that any assessment of the impact of the proposed regulation on the State's resiliency to climate change is not practical. The Board further finds that the regulation shall be adopted as final in the form proposed. These changes will become effective ten days following publication of this Final Order in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 17th day of October 2024.

DELAWARE BOARD OF MASSAGE AND BODYWORK

/s/ Kathy Sherwin, President

/s/ Jermaine Cannon

/s/ Elvis Amadi, Vice President

/s/ Ethel Loesche

/s/ Sandra Jachimowski

/s/ Valarie Lacey

***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 August 2024 issue of the *Register* at page 110 (28 DE Reg. 110). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/december2024/final/28 DE Reg 469 12-01-24.htm>

DEPARTMENT OF TRANSPORTATION
DIVISION OF TRANSPORTATION SOLUTIONS
Bridge & Structures Section

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

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Bridge 1417 025

10/17/2024

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

Ms. Smallwood,

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

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

§4505. Traffic control devices.

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

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

Bridge 1417 025 that carries Caldwell Corner Road over a Tributary to the Sassafras River:

S335: 3 Axle Single Unit Vehicle at 16 tons
S437: 4 Axle Single Unit Vehicle at 17 tons
T435: 4 Axle Semi Unit Vehicle at 27 tons
T540: 4 Axle Semi Unit Vehicle at 31 tons
SU5: 5 Axle Single Unit Vehicle at 23 tons
SU6: 6 Axle Single Unit Vehicle at 26 tons
SU7: 7 Axle Single Unit Vehicle at 29 tons

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

Thank you,
Jason Hastings
Chief of Bridge & Structures

GENERAL NOTICES

DIVISION OF TRANSPORTATION SOLUTIONS

Bridge & Structures Section

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

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Bridge 1684 028

10/17/2024

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

Ms. Smallwood,

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

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

§4505. Traffic control devices.

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

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

Bridge 1684 028 that carries South Heald Street over Norfolk Southern Railroad:
20 Ton Posting Limit

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

Thank you,
Jason Hastings
Chief of Bridge & Structures

DIVISION OF TRANSPORTATION SOLUTIONS
Traffic Engineering Section

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

GENERAL NOTICE

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Dove Road (S526A)

November 12, 2024

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

Ms. Smallwood,

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

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

§4505. Traffic control devices.

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

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

"No Trucks Over 2 Axles Except Local Services" on Dove Road (S526A) from Old Furnace Road (S46) to King Road (S525)

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

Thank you,
Peter Haag
Chief of Traffic Engineering

DELAWARE RIVER BASIN COMMISSION
PUBLIC NOTICE

The Commission's quarterly business meeting will be held on **Thursday, December 5, 2024**, commencing at 10:30 a.m. The business meeting will be held remotely. An agenda, along with details about the remote platform and how to attend, 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 the 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
OFFICE OF THE STATE LOTTERY
PUBLIC NOTICE**203 Video Lottery and Table Game Regulations****A. Type of Regulatory Action Required**

Amendment to Existing Regulations

B. Synopsis of Subject Matter of the Regulation

The Delaware State Lottery will seek public comments on the issue of whether certain amendments to its current regulation should be adopted.

The proposed amendments are to subsections 7.15.1.2 and 7.15.6.1 in 10 **DE Admin. Code** 203.

The amendment to these subsections will remove the requirement to appear in-person at the Lottery office during regular business hours to enroll in the self-exclusion program.

Persons wishing to present their views regarding this matter may do so by submitting written comments by the close of business on or before January 2, 2025, at the offices of the Delaware State Lottery at 1575 McKee Road, Suite 102, Dover, DE 19904. A copy of these regulations is available at the Delaware State Lottery office at the same address above. Copies are also published online at the Register of Regulations website: https://regulations.delaware.gov/register/current_issue.shtml.

C. Summary of Proposal

The proposed amendments to subsections 7.15.1.2 and 7.15.6.1 will remove the requirement of problem gamblers appearing in person to enroll themselves in (or remove themselves from) the Lottery's self-exclusion program - an integral part of our Responsible Gambling efforts. The requirement to appear in person at Lottery headquarters in

Dover during business hours is a real hardship to those who need our assistance. We are working with Delaware Department of Technology and Information on a virtual option that maintains the necessary confidentiality controls while providing this service online.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF MEDICAID AND MEDICAL ASSISTANCE****PUBLIC NOTICE****Nursing Facility Rates**

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 Attachment 4.19-D page 19, specifically, to modify the rates for nursing facilities.

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 December 31, 2024. Please identify in the subject line: Nursing Facility Rates

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****School Based Services**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of 31 **Del.C.** §512, Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DHSS/DMMA) is proposing to amend Title XIX Medicaid State Plan Attachment 3.1-A page 2b Addendum, Attachment 3.1-A page 2c Addendum, Attachment 4.19-D page 19a, Attachment 4.19-D page 19d, and Attachment 4.19-D page 19e, specifically, to expand services provided in the school setting.

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 December 31, 2024. Please identify in the subject line: School Based Services

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

DIVISION OF PUBLIC HEALTH**PUBLIC NOTICE****4465 Delaware Radiation Control Regulations**

Pursuant to 16 **Del.C.** §7406, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing revisions to the Delaware Radiation Control Regulation and intends to hold it open for public comment per Delaware law. The revisions include striking Part B, subsection 3.2, and amending Part F, the definition of "Licensed Practitioner".

Copies of the proposed regulations are available for review in the December 1, 2024, issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Comments will be accepted until 4:30 p.m. on Thursday, January 2, 2025, in written form via email to DHSS_DPH_regulations@delaware.gov, or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer
Division of Public Health
417 Federal Street
Dover, DE 19901

DIVISION OF PUBLIC HEALTH
PUBLIC NOTICE
4466 Radiation Technologists/Technicians (Certification)

Pursuant to 16 **Del.C.** §7406, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing revisions to the Radiation Technologists/Technicians (Certification) Regulation and intends to hold it open for public comment per Delaware law. The revisions include:

- Amending the definition of "Licensed Practitioner"; and
- Deleting subsection 5.5 regarding legal titles and their scope of practice.

Copies of the proposed regulations are available for review in the December 1, 2024, issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Comments will be accepted until 4:30 p.m. on Thursday, January 2, 2025, in written form via email to DHSS_DPH_regulations@delaware.gov, or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer
Division of Public Health
417 Federal Street
Dover, DE 19901

DIVISION OF SOCIAL SERVICES
PUBLIC NOTICE
Adjusting Food Benefit EBT Accounts

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 Social Services (DHSS/DSS) is proposing to amend the Division of Social Services Manual (DSSM) to amend adjusting food benefit EBT accounts.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Division of Social Services (DSS), 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2024. Please identify in the subject line: Adjusting Food Benefit EBT Accounts

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

DIVISION OF SOCIAL SERVICES**PUBLIC NOTICE****Babies Born to Teen Parents**

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 Social Services (DHSS/DSS) is proposing to amend the Division of Social Services Manual (DSSM) to amend babies born to teen parents.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Division of Social Services (DSS), 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to DHSS_DMMA_Publiccomment@Delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on December 31, 2024. Please identify in the subject line: Babies Born to Teen Parents

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 STATE**DIVISION OF PROFESSIONAL REGULATION****PUBLIC NOTICE****3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers**

The Delaware Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers ("Board"), pursuant to 24 **Del.C.** §3706(a)(1), proposes to amend its rules and regulations. The revisions implement SB No. 320, 152nd General Assembly, enacted September 19, 2024. SB No. 320 creates a licensure category for speech/language pathology assistants. The proposed amendments set forth re-quirements for licensure and supervision of speech/language pathology assistants.

The Board will hold a public hearing on the proposed regulation changes on January 21, 2025, at 2:00 p.m., virtually and in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Jessica Lobaccaro, Administrative Specialist for the Delaware Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or at jessica.lobaccaro@delaware.gov. Written comments will be accepted until February 5, 2025 pursuant to 29 **Del.C.** § 10118(a).

The Board further has additional regulatory changes pending which were published in the October 1, 2024 *Register of Regulations*, Volume 28, Issue 4. These pending revisions include clarification of the licensure requirements for the professions regulated by the Board, elimination of the cap on the number of times that a hearing aid dispenser applicant may take the licensure examination, and amendment of the continuing education requirements to add two hours in ethics. The hearing will take place on November 19, 2024, and deliberations will be conducted on January 21, 2025.

DIVISION OF PROFESSIONAL REGULATION**PUBLIC NOTICE****3900 Board of Social Work Examiners**

Pursuant to 24 **Del.C.** §3906(a)(1), the Delaware Board of Social Work Examiners ("Board") has proposed revisions to its regulation. Subsection 2.2.1 has been revised to provide that there will be no limit to the number of times that an applicant may take the licensure examination. In addition, the revisions implement SB 314, 152nd General Assembly, which removed "supervision" from the scope of practice of a master's social worker and prohibits a master's social worker from providing supervision to a licensed clinical social worker applicant.

A public hearing will be held on January 13, 2025 at 9:00 a.m. in the second floor conference room A of the

Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Social Work Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at alison.warren@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be January 28, 2025. The Board will deliberate on all public comments at its next regularly scheduled meeting.

DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE

4400 Delaware Manufactured Home Installation Board

Pursuant to 24 **Del.C.** §4416(b)(1), the Delaware Manufactured Home Installation Board (the "Board") has the authority to promulgate rules and regulations that carry out the objectives of Chapter 44 of Title 24.

The proposed addition of subsection 5.4 provides that the Board proposes to accept a passing score on the United States Department of Housing and Urban Development's certification course final examination in lieu of the State's otherwise-designated examination. Proposed amendments to section 7.0 modify the process and requirements for entering and maintaining inactive licensure status. The other proposed amendments reflect corrections to embedded links and technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on the proposed regulation changes on January 13, 2025, at 9:00 a.m. in the second-floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Manufactured Home Installation Board, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at Maya.Echols@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be January 28, 2025. The Board will deliberate on the public comments at its next regularly scheduled meeting thereafter.

DIVISION OF SMALL BUSINESS
PUBLIC NOTICE

The Delaware Grocery Initiative

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 29 **Del.C.** §8705A, the Division of Small Business ("Division") proposes to promulgate new regulations regarding criteria and procedures governing The Delaware Grocery Initiative.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed modifications should direct them to the following address:

Business Finance Unit
Division of Small Business
99 Kings Highway
Dover, DE 19901

Comments may also be directed via electronic mail to business_finance@delaware.gov. Any written submission in response to this notice and relevant to the proposed rules must be received by the above contact at the Division of Small Business no later than 4 p.m. EST, January 3, 2025.

The action concerning determination of whether to adopt the proposed regulations will be based upon the Division's consideration of the written comments and any other written materials filed by the public.

Statutory Authority 29 Del.C. §8705A.

29 Del.C. §8705A enables the Division of Small Business to establish and promulgate such rules and regulations governing the administration and operation of the Division as may be deemed necessary by the Director and which are not inconsistent with the laws of the State of Delaware.

Background

Senate Substitute No.1 for Senate Bill No. 254 of the 152nd General Assembly created the Delaware Grocery Initiative (the "Initiative"). The purpose of the Initiative is to expand access to healthy foods in food deserts in Delaware and areas at risk of becoming food deserts in Delaware by providing grants and other forms of financial assistance to an eligible food resource, nonprofit food resource, local governmental unit food resource, or specialty grocer. The Initiative will be administered by the Division of Small Business, a division within the Department of State. 29 Del.C. §8703A.

PUBLIC SERVICE COMMISSION**PUBLIC NOTICE****3012 Rules for Regulation of Net Metering**

IN THE MATTER OF THE ADOPTION OF
RULES AND REGULATIONS TO
IMPLEMENT THE PROVISIONS OF *TITLE*
26 §1014 OF THE DELAWARE CODE
RELATING TO NET METERING
(OPENED OCTOBER 25, 2023)

PSC REGULATION DOCKET NO. 65

The Delaware Public Service Commission ("Commission" or "PSC") proposes to issue amendments to the regulations governing its regulation of net energy metering, which is currently codified in the *Rules for Regulation of Net Metering*, at 26 **DE Admin. Code** 3012. In summary, the Commission proposes to amend the regulations to comply with the requirements set forth by Senate Bill 298, Senate Bill 54 and Senate Bill 111 codified at 26 **Del.C.** §§209(a)(1), 1014(d) & 1014(e).

You can review the proposed regulations in the December 2024 issue of the *Delaware Register of Regulations*. You can also review the Commission Order and the proposed regulations in the PSC's electronic filing system, Delafile, located at <http://delafile.delaware.gov/> (for docket #, input "Reg. 65"). If you wish to obtain written copies of the Order and proposed regulations, please contact the PSC at (302)736-7500. Copies in excess of the first twenty (20) pages are \$0.25 per page. Payment is expected prior to copying (if you wish the copies to be mailed) or at the time the copies are retrieved (if you retrieve them in person).

Pursuant to 29 **Del.C.** §10118(a), written comments on the proposed regulations will be accepted until January 2, 2025. Comments should be submitted via email to PSC@delaware.gov with the subject line "Regulation Docket No. 65" or mailed to: Crystal Beenick, Public Service Commission, Cannon Building, 861 Silver Lake Blvd., Suite 100, Dover, DE 19904.