
Delaware Register of Regulations

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Volume 28 - Issue 7, Pages 480-557



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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 December 15, 2024.

Cover Photo
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INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

CITATION TO THE DELAWARE REGISTER

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

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

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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

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

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

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

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

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

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
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.
July 1	June 15	4:30 p.m.

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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
PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1517

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del. C. §122(d)****1517 Paraeducator Permit****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§1203, 1205(b), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1517 Paraeducator Permit. The regulation concerns the requirements for a Paraeducator Permit. The proposed amendments in this regulation include revising subsection 4.1.1.1, which concerns the requirements for an applicant for an Instructional Paraeducator Permit to clarify that a secondary credential approved by a state can also be used to qualify for a permit. Identical revisions are found in subsections 5.1.1 concerning the requirements for a Service Paraeducator Permit, and in 7.3.1 and 7.4.1 concerning the application process. The proposed amendments include grammatical and style changes 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, 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 January 31, 2025. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

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

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

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

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

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

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 7.0 and 8.0 apply to individual applicants.

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

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

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

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

*Please Note:

(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/january2025/proposed/28 DE Reg 490RFA 01-01-25.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/january2025/proposed/28 DE Reg 490 01-01-25.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** 1554

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del. C. §122(d)****1554 Family and Consumer Sciences Teacher****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§1203, 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** 1554 Family and Consumer Sciences Teacher. The regulation concerns the requirements for a Family and Consumer Sciences Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising Section 1.0 to specify that as of September 1, 2025 the Department will no longer issue a Family and Consumer Sciences Teacher Standard Certificate, and moving language from Section 9.0, into Section 2.0 and revising its title which concerns recognizing past certificates that were issued by the Department. New language in Section 3.0 addresses the effective date of the proposed amendments.

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 January 31, 2025. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

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

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

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

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

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

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

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14

Del.C. Ch. 12 relating to the licensing and certification of educators.

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

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

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

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

<https://regulations.delaware.gov/register/january2025/proposed/28 DE Reg 492RFA 01-01-25.pdf>

1554 Family and Consumer Sciences Teacher

1.0 Content

This regulation shall apply to the issuance of a Family and Consumer Sciences Teacher Standard Certificate pursuant to 14 ~~Del.C.~~ §1220(a). This Standard Certificate is required to teach family and consumer sciences in grades 5 to 12 in a Delaware public school. Effective September 1, 2025, the Delaware Department of Education no longer issues the Family and Consumer Sciences Teacher Standard Certificate. Applicants who want to become certified to teach family and consumer sciences in grades 5 to 12 in a Delaware public school shall meet the requirements for the issuance of a Skilled and Technical Sciences Teacher Standard Certificate set forth in 14 **DE Admin. Code** 1559 Skilled and Technical Sciences Teacher.

2.0 Definitions

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

"Department" means the Delaware Department of Education.

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

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

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

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

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

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

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

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

3.0 Issuance of a Standard Certificate

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

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 ~~For an applicant who does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.~~
- 4.1.1 ~~The applicant shall have satisfied 1 of the following education requirements:~~
 - 4.1.1.1 ~~Earned a bachelor's degree from a Regionally Accredited college or university with a minimum of 30 semester hours of coursework in family and consumer sciences from an educator preparation program approved or recognized by the Council for the Accreditation of Educator Preparation (CAEP) or a state where the state approval body employed the appropriate standards; or~~
 - 4.1.1.2 ~~Satisfactorily completed an alternative routes for licensure or certification program to teach family and consumer sciences as provided in 14 Del.C. §§1260 – 1266; or~~
 - 4.1.1.3 ~~Satisfactorily completed a Department approved educator preparation program in family and consumer sciences; or~~
 - 4.1.1.4 ~~If the applicant is applying for an Initial License after the applicant completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school as provided in subsection 4.1.3.1 of 14 DE Admin. Code 1510, earned a bachelor's degree from a Regionally Accredited college or university in any content area and also satisfactorily completed 15 college credits related to family and consumer sciences of which at least 6 credits focus on pedagogy or an equivalent number of hours in professional development with 1 credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department.~~
 - 4.1.1.4.1 ~~The applicant, in consultation with the applicant's Employing Authority, shall select the 15 credits or the equivalent number of hours in professional development subject to the Department's approval.~~
 - 4.1.1.4.2 ~~If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the 15 credits or the equivalent number of hours in professional~~

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

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

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

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

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

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

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

~~4.1.2 The applicant shall have achieved a minimum score of 153 on the Praxis Subject Assessment—Family and Consumer Sciences (ETS Test Code # 5122). Notwithstanding the foregoing, if the applicant did not achieve the minimum score, the applicant shall meet the requirements set forth in 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge.~~

~~4.2 For an applicant who holds at least 1 content area Standard Certificate, the applicant shall have achieved a minimum score on the examination as provided in subsection 4.1.2. Notwithstanding the foregoing, if the applicant did not achieve the minimum score, the applicant shall meet the requirements set forth in 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge.~~

5.0 Application Requirements

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

~~5.2 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in 14 **Del.C.** §1219 and it could delay the processing or result in the denial of the application for a Family and Consumer Sciences Teacher Standard Certificate.~~

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

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

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

~~5.3.1.2 Sealed paper transcripts may be submitted.~~

~~5.3.1.3 The Department will not accept copies of transcripts; and~~

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

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

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

~~5.4 For an applicant who holds at least 1 content area Standard Certificate, the following documentation is required with the application for a Family and Consumer Sciences Teacher Standard Certificate:~~

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

5.4.2 Additional documentation as required by the Department.

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

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

5.5.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

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

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

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

7.0 Validity of a Standard Certificate

7.1 A Family and Consumer Sciences Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

7.2 A Family and Consumer Sciences Teacher Standard Certificate is not subject to renewal.

8.0 Disciplinary Action

8.1 An Educator's Family and Consumer Sciences Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 ~~DE Admin. Code~~ 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.

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

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

9.0 Past Certificate Recognized

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

10.0 Contact Information and Change of Name or Address

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

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

~~40.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.~~

2.0 Past Certificate Recognized

The Department shall recognize a Family and Consumer Sciences Teacher Standard Certificate issued prior to September 1, 2025. An educator holding such a Standard Certificate shall be considered certified to teach family and consumer sciences in grades 5 to 12 in a Delaware public school.

3.0 Effective Date

This regulation shall be effective on September 1, 2025.

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** 1572

PUBLIC NOTICE

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

1572 Teacher of Students Who Are Gifted or Talented

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§1203, 1205(b), and 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** 1572 Teacher of Students Who are Gifted or Talented. The regulation concerns the requirements for a Teacher of Students Who Are Gifted or Talented Standard Certificate in accordance with 14 **Del.C.** §1220. Amendments to this regulation include adding subsection 4.1.1.6 which outlines a pathway toward achieving the Teacher of Students Who Are Gifted or Talented Standard Certificate via the completion of Micro-credentials. Additional proposed amendments include, in Section 2.0, revising the definition of "Regionally Accredited" based on the changes the U.S. Department of Education made to its recognition of accrediting bodies, amending the definition of the term "Employing Authority" to eliminate a redundant phrase, adding a definition of Micro-credential; amending subsection 3.2 to eliminate a redundant phrase. The proposed amendments include grammatical and style changes 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, 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 January 31, 2025. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

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

knowledge, and skill requirements in Section 4.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** §1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Teacher of Students Who Are Gifted or Talented Standard Certificate but whose effectiveness is documented by the district or school. The amended regulation does not change a school district or charter school's ability to submit such a request. Section 6.0 is consistent with the statute.

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

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

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

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

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

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

<https://regulations.delaware.gov/register/january2025/proposed/28 DE Reg 497RFA 01-01-25.pdf>

1572 Teacher of Students Who Are Gifted or Talented

1.0 Content

1.1 This regulation shall apply to the issuance of a Teacher of Students Who Are Gifted or Talented Standard Certificate (Category) pursuant to 14 **Del.C.** §1220(a).

1.1.1 ~~This Certification~~ The Teacher of Students Who Are Gifted or Talented Standard Certificate is required for an Educator who is assigned to teach in a program that is specific to students who have been identified as gifted or talented as provided in 14 **DE Admin. Code** 902 in Delaware public schools.

1.1.2 ~~This Certification~~ The Teacher of Students Who Are Gifted or Talented Standard Certificate is a category Standard Certificate and does not certify an Educator to practice in a particular area or teach a particular subject. A category Standard Certificate only establishes that an Educator has met the prescribed education, knowledge, or skill to instruct a particular category of students. This Certification is limited to the category of Gifted or Talented Students.

1.1.3 An Educator shall hold at least ~~one~~ 1 content area Standard Certificate.

2.0 Definitions

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

~~“15 Credits or the Equivalent in Professional Development” means college credits or an equivalent number of hours with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a Regionally Accredited college or university or other Department approved provider.~~

“**Certification**” means the issuance of a Standard Certificate, which may occur regardless of a recipient’s assignment or employment status.

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

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

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

“**Gifted or Talented Student**” means the same as a “Gifted or Talented Student” as provided in 14 **DE Admin. Code** 902 Gifted or Talented Education Plan.

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

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

~~“**Major or Its Equivalent**” means a minimum of 30 semester hours of coursework in a particular content area.~~

“**Micro-credential**” means evidence-based professional learning activities that are competency-based, personalized, on-demand, and sharable.

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

“**Professional Development**” means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants’ attitudes, insights, and perspectives and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

~~“**Regionally Accredited**” means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education institutional accreditation from an agency that was designated as a regional accreditor before July 1, 2020, and is currently recognized by the U.S. Secretary of Education as a reliable indicator of the institution’s educational quality.~~

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

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

“**Valid and Current License or Certificate**” means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the educator applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or

jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 Issuance of a Standard Certificate

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

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 An applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 An applicant shall have satisfied ~~one~~ 1 of the following education requirements:
- 4.1.1.1 Obtained and currently maintain an Exceptional Needs Specialist certificate in specialty area of gifted and talented education from the National Board for Professional Teaching Standards; or
- 4.1.1.2 Earned a bachelor's, master's, or doctoral degree from a Regionally Accredited college or university with a ~~Major or Its Equivalent~~ minimum of 30 semester hours of coursework in gifted or talented education, teaching gifted students, or special education with a gifted or talented endorsement or specialization from an educator preparation program approved or recognized by the ~~National Council for the Accreditation of Teacher Education (NCATE); the Council for the Accreditation of Educator Preparation (CAEP); (CAEP)~~ or a state where the state approval body employed the appropriate standards; or
- 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach Gifted or Talented Students as provided in 14 **Del.C.** §§1260 – 1266; or
- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in gifted or talented education; or
- 4.1.1.5 Earned a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactorily completed 15 ~~Credits or the Equivalent in Professional Development with a focus in college credits related to~~ gifted or talented education or in students who are gifted or talented in the following areas or an equivalent number of hours in professional development with 1 credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department:
- 4.1.1.5.1 Foundations of Giftedness, including Cultural and Socioeconomic Equity (3 credits);
- 4.1.1.5.2 Curriculum Design and Instructional Strategies for Gifted Students (3 credits);
- 4.1.1.5.3 Psychology of Gifted Students (3 credits);
- 4.1.1.5.4 Creative and Critical Thinking Skills (3 credits); and
- 4.1.1.5.5 Practicum or Internship (3 credits).

4.1.1.6 Earned a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactorily completed 3 micro-credentials from the National Association for Gifted Children in gifted education in the following areas:

4.1.1.6.1 Curriculum Compacting;

4.1.1.6.2 Identification; and

4.1.1.6.3 Social and Emotional Needs of Gifted Students.

4.1.2 The applicant shall have achieved a minimum score of 157 on the *Praxis* Subject Assessment – Gifted Education (ETS Test Code # 5358) ~~a Passing Score of 157.~~

5.0 Application Requirements

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

5.2 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in 14 Del.C. §1219 and it could delay the processing or result in the denial of the application for a Teacher of Students Who Are Gifted or Talented Standard Certificate.

~~5.2~~ 5.3 The following documentation is required with the application for a Teacher of Students Who Are Gifted or Talented Standard Certificate:

~~5.2.1~~ 5.3.1 Evidence of obtaining and maintaining an Exceptional Needs Specialist certificate in specialty area of gifted and talented education from the National Board for Professional Teaching Standards, if applicable; and

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

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

~~5.2.2.2~~ 5.3.2.2 Sealed paper transcripts may be submitted by the applicant, the applicant's Employing Authority, or the applicant's Regionally Accredited college or university.

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

~~5.2.3~~ 5.3.3 Documents verifying successful completion of Department-approved Professional Development or Micro-credentials, if applicable; and

~~5.2.4~~ An experience form, completed in full and signed by the applicant, if applicable; and

~~5.2.5~~ 5.3.4 Official score on the *Praxis* Subject Assessment as provided in subsection 4.1.2; and

~~5.2.6~~ 5.3.5 Additional documentation as required by the Department.

~~5.3~~ 5.4 For applicants who have met the requirements for licensure as an educator in Delaware and hold a Valid and Current License or Certificate in gifted or talented education or teaching gifted students, the following documentation is required in the application for a Teacher of Students Who Are Gifted or Talented Standard Certificate:

~~5.3.1~~ 5.4.1 An official copy of the Valid and Current License or Certificate; and

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

6.0 Secretary of Education Review

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

6.2 The request shall be approved as provided in subsections 6.2.1 and 6.2.2.

- 6.2.1 For school districts, requests shall be approved by the superintendent of the school district.
- 6.2.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

~~6.0~~ 7.0 Validity of a Standard Certificate

- ~~6.4~~ 7.1 A Teacher of Students Who Are Gifted or Talented Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- ~~6.2~~ 7.2 A Teacher of Students Who Are Gifted or Talented Standard Certificate is not subject to renewal.

~~7.0~~ 8.0 Disciplinary Action

- ~~7.4~~ 8.1 An Educator's Teacher of Students Who Are Gifted or Talented Standard Certificate may be limited, suspended, or revoked for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- ~~7.2~~ 8.2 An Educator's Teacher of Students Who Are Gifted or Talented Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 **Del.C.** §1222.
- ~~7.3~~ 8.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

~~8.0~~ Secretary of Education Review

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

9.0 Past Certificate Recognized

The Department shall recognize a Teacher of Students Who Are Gifted and Talented Standard Certificate or a Teacher of Students Who Are Gifted or Talented Standard Certificate issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to instruct Gifted or Talented Students.

10.0 Contact Information and Change of Name or Address

- 10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 10.2 An Educator who legally changes the Educator's name and wishes to change the name on the Teacher of Students Who Are Gifted or Talented Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.
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DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

DIVISION OF MANAGEMENT SUPPORT SERVICES

Statutory Authority: 29 Delaware Code, Section 9020 (29 Del.C. §9020)
9 DE Admin. Code 501

PUBLIC NOTICE

501 Procedures for Drug Testing Certain Employees

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 29 Del.C. §9020, the Department of Services for Children, Youth & Their Families (DSCYF) is required to promulgate regulations regarding its procedures for drug testing certain employees. DSCYF is proposing to amend Regulation 501 to remove outdated language and to clarify that the only DSCYF employees subject to the random drug testing procedures are those with job duties involving a safety, security-sensitive or childcare position.

Comments will be accepted until 4:30pm on or before February 3, 2025 in written form via email to Meredith.Seitz@delaware.gov or by U.S. mail to the following address:

Meredith Seitz, Chief of Staff
Department of Services for Children, Youth & Their Families
1825 Faulkland Road
Wilmington, DE 19805

***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/january2025/proposed/28 DE Reg 503RFA 01-01-25.pdf>

501 Procedures for Drug Testing Certain Employees

1.0 Authority

29 Del.C. §9020

2.0 Purpose

The purpose of this ~~policy~~ regulation is to affirm the commitment of the Department of Services for Children, Youth and Their Families (DSCYF) to the protection of children/youth in ~~our~~ its care by requiring all employees in a safety, ~~security-sensitive~~ security-sensitive, or childcare position to undergo testing for commonly abused ~~controlled substances and to establish procedures for the department's drug testing program in order to detect and deter the illegal use of drugs by employees prohibited substances.~~

3.0 Applicability

3-1 This ~~policy~~ regulation applies to all employees in a safety, ~~security-sensitive~~ security-sensitive, or childcare position including merit, merit exempt and casual/seasonals as defined by DSCYF policy. ~~Since all positions within the Department are considered safety, security sensitive or childcare positions this policy is applicable to all employees.~~ If there are any conflicts between this ~~policy~~ regulation and the merit rules, as set forth in Merit Rule 1.2, the merit rules shall prevail unless superseded by a collective bargaining agreement (CBA) in accordance with Merit Rule 1.3.

3.2 All employees will receive a copy of this policy and will sign and return the attached receipt to Human Resources. This policy will act as an official notice for periodic drug testing. No other announcement will be made.

4.0 Definitions

~~“Chain of custody”~~: the method of tracing each urine specimen to maintain control from initial collection to final disposition.

~~“Collection sites”~~: the designated locations where employees present themselves to provide urine specimens.

~~“Confirmation test”~~: an analytical procedure to identify the presence of a specific drug or metabolite, which is independent of the initial test, performed on the same specimen and which uses a different chemical principle from that of the initial test to ensure reliability and accuracy.

~~“Confirmed positive result”~~: the presence of a controlled substance in the pure form or its metabolites, at or above the cutoff level, as identified in two consecutive tests on the same sample which employ different test methods, and which is determined not to have been caused by an alternative medical explanation.

~~“Contractor”~~: entity paid on a contractual basis to maintain a list of employees in the random testing pool, select employees for random testing, collect specimens, conduct reasonable suspicion and incident triggered testing, safeguard specimens, interpret results, notify DSCYF of positive tests and provide training to supervisors regarding bases for reasonable suspicion testing.

~~“Employee”~~: any person receiving compensation as an employee of the DSCYF. **“Employee”** means any person hired by DSCYF and receiving compensation for work performed for DSCYF.

~~“Employee Assistance Program (EAP)”~~: the state of Delaware's employee assistance program that provides services to a benefit covered employee who has tested positive for the use of prohibited drugs.

~~“Employee testing number”~~: the employee id (EMPLID) number assigned to each employee by the Payroll Human Resource Statewide Technology (PHRST) system.

~~“Incident Triggered Testing”~~: Any **triggered testing** means any incident involving death or serious injury to a DSCYF employee, DSCYF resident or client, loss or significant damage to department DSCYF property, including any accident involving a motor vehicle transporting DSCYF clients or residents, or the escape or runaway of a resident where the security sensitive an employee was involved in the incident.

~~“Non-negative test result”~~: Test results that indicate a positive, diluted, adulterated, substituted or similar result. All non-negative test results are reviewed by a Medical Review Officer (MRO).

“Prohibited substance” means drugs and other substances that may affect physical or mental capabilities while working including marijuana, cocaine, alcohol, opiates, phencyclidine, and amphetamines.

“Random Testing”: Tests based upon an appropriate random sampling technique, with significant samples of DSCYF employees in safety, security sensitive or childcare positions being selected on a periodic basis with all such employees having an equal chance of being selected **testing** means drug testing based upon a random sampling technique of regulated employees. Random testing occurs periodically with an equal chance of selection for all regulated employees.

“Reasonable Suspicion Testing”: Includes, but is not limited to, **testing** means testing as a result of observing the employee(s) employee either using, distributing, or possessing a drug prohibited substance, displaying physical symptoms of being under the influence of a drug prohibited substance, or finding drug prohibited substances or related paraphernalia in the workplace.

“Regulated employees” means any employee or prospective employee accepting job duties involving a safety, security-sensitive, or childcare position. Regulated employees include staff who perform 1 or more of the following duties in their role with DSCYF: carry firearms, administer medication, assess the immediate safety of children including risk of suicide, homicide, or child abuse and neglect, regularly transport children or their families or both as part of their job duties, have responsibility for the direct

oversight and supervision of children in facilities and who assess the risk of youth to the safety of the community.

5.0 Policy

- 5.1 The department is committed to maintaining a drug free environment through the use of a reasonable suspicion, return to duty, and random drug testing program. ~~The~~ DSCYF personnel hold positions of public trust and must not place themselves in a position where client safety may be compromised as a result of an employee's drug use. Such misconduct conflicts with their duties, poses a risk to the safety and security of residents, clients, other employees, and the public and jeopardizes the public's confidence. DSCYF shall conduct its drug testing program in accordance with DSCYF policy.
- 5.2 All employees are subject to reasonable suspicion and incident-triggered drug testing as outlined in DSCYF policy. Regulated employees included in DSCYF's safety-sensitive classification are subject to random drug testing.
- 5.2 5.3 Employees on initial probation and casual/seasonal employees who have not satisfied the merit comparable initial probation requirement will be terminated if they receive a positive test result without recourse to the grievance procedure.
- 5.3 5.4 Casual/seasonal employees who have satisfied the merit comparable initial probation requirement may enter into an accredited drug abuse assistance or rehabilitation program at their own expense. ~~Refer to section X. G. for returning to duty.~~
- 5.4 5.5 Employees who seek assistance, prior to being randomly selected for testing, may enter into an accredited drug abuse assistance or rehabilitation program. The employee may not return to work until they have complied with ~~section X. G.~~ the requirements for returning to duty as outlined in DSCYF policy.

6.0 Procedures

- 6.1 Notice of testing:
- 6.1.1 ~~Upon arrival at the worksite, selected employees will be given and acknowledge receipt of a Chain of Custody form. The employee must report to a designated collection site and provide a sample within twenty four (24) hours of notification.~~
- 6.1.2 ~~Employees notified to report must report for testing to the designated collection site. No requests to be excused or rescheduled shall be granted. Any failure to report, refusal to be tested or refusal to cooperate with the testing procedure will result in the removal from the workplace without pay and will be considered as a positive result.~~
- 6.2 Random testing:
- 6.2.1 ~~All employees are subject to random testing.~~
- 6.2.2 ~~Selection is to be based on a computerized random selection of employee testing numbers, not names.~~
- 6.2.3 ~~Monthly, the drug testing contractor will randomly select EMPLIDs equivalent to 25% of the random testing population per quarter. Because the selection process is random, some employees may not be tested within a year, while others may be tested more than once.~~
- 6.3 Reasonable suspicion testing
- 6.3.1 ~~In the event of reasonable suspicion, the facility head will contact human resources, who will make a determination and contact the contractor if a decision is made to test.~~
- 6.4 Incident triggered testing
- 6.4.1 ~~In the event of an incident triggered event, the facility head will contact human resources, who will make a determination and contact the contractor if a decision is made to test.~~
- 6.5 Return to Duty Testing
- 6.5.1 ~~Before any employee is allowed to return to duty, the employee must have a verified negative drug screen performed by the Contractor.~~

7.0 Specimen Collection Procedures

- 7.1 ~~The State will have a federally certified collector who will be responsible for conducting all urine collections.~~
- 7.2 ~~Urine specimens will be collected in accordance with current Federal Department of Transportation standards. Every effort will be made to assure the dignity and privacy of employees being tested.~~
- 7.3 ~~If the Contractor determines that the employee is attempting to substitute or adulterate the specimen, the Contractor shall document the fact and direct the employee to provide another specimen. Both specimens shall be forwarded to the laboratory. Confirmation of a substituted or adulterated specimen will be considered as a positive test result.~~

8.0 Laboratory Procedures

- 8.1 ~~The laboratory will test for marijuana, cocaine, opiates, phencyclidine and amphetamines. The initial procedure employed will be the Enzyme Multiplied Immunoassay Testing (EMIT) or similar federally approved procedure. Cutoff levels will be consistent with current Federal Department of Transportation standards, which are subject to change.~~
- 8.2 ~~All positive specimens shall be confirmed using the Gas Chromatography/Mass Spectrometry (GC/MS), which shall be conducted from the same specimen.~~
- 8.3 ~~The confirmation test results are reviewed and interpreted by a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a non-negative result to the MRO, the MRO contacts the employee and conducts an interview to determine if there is an alternative explanation for the. If the employee provides appropriate documentation and the MRO determines that it is legitimate explanation and/or medical documentation, the drug test result is reported as negative to the employer.~~
- 8.4 ~~The MRO will contact the DSCYF Designated Employer Representative (DER) within the Human Resource Office.~~

9.0 Preservation Procedures

~~Specimens determined to contain drugs will be preserved at the laboratory for a minimum of twelve (12) months. Employees testing positive may, upon written request to Human Resources, arrange to have their specimen retested. All costs, including lab fees and transportation shall be paid by the employee requesting the retest.~~

10.0 Post Testing Procedures

- 10.1 ~~If the lab results are negative, the sample shall be destroyed.~~
- 10.2 ~~If the lab results are positive, the report will be forwarded to Human Resources by the MRO.~~
- 10.3 ~~The Human Resource Office will then notify the appropriate Division Director or designee. They will, in turn, notify the employee and immediately remove him/her from the workplace without pay.~~
- 10.4 ~~The employee is then directed to participate in an accredited drug abuse assistance or rehabilitation program. Refusal to do so may result in dismissal. All benefit covered employees will be referred to the State's EAP program for assistance in enrollment.~~
- 10.5 ~~Once the employee makes contact with an accredited drug abuse assistance or rehabilitation program, and provides documentation of same, the employee will be allowed to use accrued leave, rescheduled holidays or compensatory time previously earned.~~
- 10.6 ~~Before being allowed to return to duty, the employee must:~~
 - 10.6.1 ~~Provide documentation to Human Resources showing that the drug abuse assistance or rehabilitation program was successfully completed and the employee has been released to return to work. "Successful completion" means the employee has achieved a drug-free state as determined by the program counselor, and~~
 - 10.6.2 ~~The employee will then be required to pass a "return to duty" drug test paid for by the DSCYF before being cleared to return to work.~~

40.7 ~~Any employee who tests positive on a drug test for a second time within five (5) years from the date of program completion will be terminated without the option to participate in a treatment program.~~

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

Board of Pharmacy

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

PUBLIC NOTICE

2500 Board of Pharmacy

Pursuant to 24 Del.C. §2506(a)(1), the Delaware Board of Pharmacy ("Board") has proposed revisions to its regulation.

On June 1, 2024, proposed revisions to the regulation were published in the *Delaware Register of Regulations*, Volume 27, Issue 12. The Board proposed to amend subsection 5.1.6, pertaining to compounding; a new Section 21.0 was added concerning work conditions for pharmacists; and a new Section 22.0 was added to set forth the parameters where a pharmacist may decline to fill a prescription based on professional judgment.

A public hearing was held on June 26, 2024 before the Board. The Board deliberated on the evidence presented at its meeting on August 21, 2024. Based on those deliberations, the Board has proposed further revisions to the regulation. Therefore, the Board withdraws the proposed regulation published June 1, 2024, and submits a revised proposed regulation attached as Exhibit A.

A public hearing will be held on February 19, 2025 at 9:30 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 Pharmacy, 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 ruthm.dixon@delaware.gov.

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be March 6, 2025. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

Summary of the Evidence and Information Submitted

Following publication of the Public Notice in the *Delaware Register of Regulations* on June 1, 2024, a public hearing was held on June 26, 2024. The written comment period was held open for thirty days, and an additional fifteen days following the public hearing. At the hearing, the Board accepted as evidence and marked the following as the Board's Exhibits:

Board Exhibit 1: Affidavit of publication of the public hearing notice in the *News Journal*.

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

Board Exhibit 3: July 10, 2024 letter from Nichole Cover, Walgreens.

Board Exhibit 4: July 9, 2025 letter from Deeb Eid, CVS Health supporting changes to subsection 5.1.6.2 exempting flavoring from the definition of "compounding."

Board Exhibit 5: Undated written comment from Julie Miro Wenger, Delaware Association of Chain Drug Stores.

Board Exhibit 6: July 11, 2024 letter from Robert Varipapa, MD and Richard Henderson, MD, Medical Society of Delaware.

Board Exhibit 7: July 10, 2024 letter from Meredith Stewart Tweedie, Christiana Care.

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 regulation.

2. Nichole Cover of Walgreens requested revisions to subsection 21.1 to strike the prohibition against the permit holder overriding the control of the pharmacist regarding appropriate working environments needed to protect the health, safety and welfare of patients. Ms. Cover requested the addition of language that the permit holder shall work in collaboration with the pharmacist to protect the public. Similarly, Ms. Cover requested that subsections 21.2.1 and 21.2.4, which place responsibility on the permit holder for scheduling and training of staff, be revised to add that both the permit holder *and* the pharmacist-in-charge are responsible for scheduling and training staff. She further addressed subsection 21.3 which states that the permit holder shall not override the control of the pharmacist on duty with respect to the safe administration of vaccines. Ms. Cover suggested the addition of language that the pharmacist must first communicate with the immediate supervisor or the permit holder prior to making a determination that vaccines cannot be administered safely. The Board declined to accept these suggested revisions on the basis that the intent of proposed Section 21.0 is to ensure that the permit holder acts in the best interests of patients and not solely in the best interests of the pharmacy. The Board noted that the permit holder and the pharmacist-in-charge may work in collaboration, but that the ultimate responsibility for the overall safety of the pharmacy rests with the permit holder. The Board found no basis to change the proposed regulation pursuant to Ms. Cover's comments on these specific subsections.

3. Ms. Cover also addressed subsections 21.4 and 21.4.3 which concern the communication of staffing concerns to the permit holder. Proposed subsection 21.4.3 provides that the pharmacist may report staffing issues directly to the Board if warranted. Ms. Cover requested revision to state that the pharmacist must first communicate concerns directly to the immediate supervisor or the permit holder. The Board declined to adopt this proposed change on the basis that the pharmacist must have the option of communicating with the Board in a pressing or emergency situation impacting patient care where the permit holder may not be adequately responsive to protect the public. Ms. Cover similarly requested striking subsections 21.5.1 - 21.5.4 addressing the permit holder's required response to pharmacist-reported staffing concerns which includes communicating corrective action to the pharmacist. The Board again found that these subsections will serve to protect the public and removal will only allow the permit holder to avoid responding to staffing concerns. However, the Board agreed to revise subsection 21.5.3, at Ms. Cover's request, to provide that the permit holder must have any response to pharmacist staffing concerns available for inspection by a Board representative within 72 hours, rather than 48 hours, of the request. The Board also agreed with Ms. Cover's suggestion as to subsection 21.4 which references use of a Board form for making reports to the Board. Subsection 21.4 has been amended to permit written or electronic reports.

4. Ms. Cover in addition suggested striking 21.2.2 which requires that the permit holder provide "sufficient" tools and equipment in the pharmacy on the basis that the term "sufficient" is subjective. Ms. Cover similarly objected to subsection 21.2.6, which states that the permit holder must provide "adequate" time for the pharmacist to complete professional duties and responsibilities, on the grounds that "adequate" is subjective. The Board rejected the arguments as to the subjective nature of these terms. Whether conduct meets the requirements of these subsections will present questions of fact for Board determination. However, in reviewing subsection 21.2.6, the Board determined that revision was warranted for different reasons. The Board decided that the list of "professional duties and responsibilities" was unnecessarily detailed and has revised this subsection accordingly as set forth in Exhibit A.

5. Finally, Ms. Cover requested that the Board strike subsection 21.6 which provides that the permit holder must ensure that there is at least 1 fully trained technician "immediately available in the facility." Ms. Cover stated that the appropriate amount of staffing should be determined by the pharmacist. The Board disagreed on the basis that the permit holder should be responsible for ensuring that the pharmacy is properly staffed in the interests of public protection. However, the Board decided to revise subsection 21.6 on other grounds. Subsection 21.6 has been amended in the interests of clarity to provide that the technician must be fully trained pursuant to subsection 19.1 and on the premises to assist the pharmacist.

6. Ms. Miro Wenger first asserted that the Board failed to comply with 29 *Del. C.* § 10404A(a) which provides that: "Any agency that proposes to adopt or amend any regulation under the Administrative Procedures Act, § 10101 et seq. of this title, that is substantially likely to impose additional costs or burdens upon individuals and/or small businesses shall submit a regulatory impact statement to be published by the Registrar of Regulations." The regulatory impact statement must include:

- (3) An identification of the individuals and/or small businesses that would be subject to compliance under the regulation;

- (4) A good-faith estimate by the agency of the potential cost of compliance for individuals and/or small businesses, which at minimum shall include the projected reporting, recordkeeping, and other administrative costs required to comply with the proposed regulation; and
- (5) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation, to the extent such methods are not otherwise described herein.

29 **Del.C.** § 10404A(a). Section 10404A(b) provides for exemptions from the requirements listed above including: "Regulations that define standards of conduct or qualifications of individuals applying for licensure or as licensed professionals." 29 **Del.C.** § 10404A(b)(4). As set forth in the Board's Regulatory Flexibility Analysis and Regulatory Impact Statement, the proposed regulation, specifically Section 21.0, sets forth standards of conduct for pharmacy permit holders, who are licensed by the Board. Therefore, the proposed regulation falls within the exemption set forth in Section 10401A(b)(4).

7. Ms. Miro Wenger further requested revisions to Section 21.0. First, she requested that subsection 21.1 be amended to state that a permit holder's decision that is outside of policies and procedures shall not override the control of the pharmacist. The Board rejected this requested revision on the basis that the referenced "policies and procedures" are not identified and may vary from pharmacy to pharmacy. Ms. Miro Wenger also requested that the Board strike the first sentence of subsection 21.2.1, which mandates that the permit holder ensure that sufficient personnel are scheduled to work to prevent "fatigue, distraction, or other conditions which interfere with a pharmacist's ability to practice with reasonable competence and safety." The Board rejected this requested change on the basis that the language serves to protect the public. Ms. Miro Wenger also suggested revision to subsection 21.2.3 requiring a permit holder to avoid the introduction of productivity quotas. She argued that the language impeded on free market principles. While the Board did not accept this rationale, the Board determined to use the term "thresholds" rather than "quotas." Ms. Miro Wenger also offered comments on subsections 21.2.5.1, 21.2.5.3, and 21.2.5.6, pertaining to breaks for pharmacists. The Board declined to accept these requested revisions on the basis that the proposed language serves to protect the public by ensuring that pharmacists are afforded breaks from practice. Finally, Ms. Miro Wenger requested revision to subsections 21.2.6, 21.3, 21.4 and 21.6. These subsections were addressed by the Board in the context of Ms. Cover's comments. The Board has made certain revisions, reflected in Exhibit A, and further amendment is not warranted.

8. Dr. Varipapa and Dr. Henderson requested revision to the last sentence of proposed Section 22.0 which sets forth a pharmacist's right to refuse to fill a prescription based on professional judgment. The last sentence provides that the pharmacist "shall attempt to discuss the decision with the practitioner." The requested change would provide that the pharmacist "make every attempt to contact" the practitioner for a discussion prior to notifying the patient that the prescription has been refused. The Board declined to make this requested change on the basis that the proposed language gives the pharmacist the necessary authority to exercise professional judgment in the best interests of patients.

9. Ms. Tweedie requested that the Board revise several subsections of proposed Section 21.0. First, she asked that the Board clarify whether subsection 21.2.1, concerning staffing, applies to hospital pharmacies. The Board found that the subsection is sufficiently clear, and the comment does not require revision. Ms. Tweedie also requested clarification as to use of the term "sufficient" in subsection 21.2.4, a comment addressed and rejected by the Board in Paragraph 4 herein. Ms. Tweedie further commented on subsection 21.2.5, pertaining to rest periods and meal breaks, in light of Delaware labor laws. The Board found no need to revise the proposed language based on Ms. Tweedie's comment. Ms. Tweedie objected to inclusion of "patient testing" in proposed subsection 21.2.6. The Board decided to strike this language, as set forth in Paragraph 4 herein. Ms. Tweedie also requested an amendment to proposed subsection 21.3, concerning the safe administration of vaccines, to add reference to "biologicals, and injectable medications" to be consistent with existing Section 14.0. The Board agreed and made this revision. Finally, Ms. Tweedie asked that proposed subsection 21.4.3 be amended to allow for anonymous reports concerning staffing concerns. The Board concluded that this revision was not warranted.

10. At the hearing on June 26, 2024, Alison Panicola, Albertson's Pharmacy, addressed the Board to state concerns regarding possible unintended consequences of proposed Section 21.0. Specifically, she requested amendment to subsection 21.3 to state 1 immunizer on duty instead of 1 pharmacist, so that technicians can continue to support the immunization process in the pharmacy. The Board declined to make this revision on the basis that administration of immunizations requires the presence of a pharmacist. The Board did, however, revise the subsection to state "certified immunizer pharmacist." For subsections 21.4 and 21.5 she offered the following suggestion: strike these subsections to allow the permit holder to have policies and procedures in place to respond

appropriately to staff members regarding additional staff support needs. The Board declined to make this requested revision on the basis that the proposed language provides greater protection to the public. She further commented that 21.6 lacked clarity regarding "fully trained" technician and "immediately available." The Board addressed and rejected similar comments as set forth in Paragraph 4 herein.

11. Pursuant to 24 Del.C. § 2506(a)(1), the Board has the statutory authority to promulgate rules and regulations. 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. The Board considered both written comments and testimony presented by various stakeholders. On the basis of public comment, the Board made certain revisions to the proposed regulation. Therefore, the proposed regulation, published on June 1, 2024, is withdrawn. The Board's proposed regulation is attached hereto as Exhibit A.

***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/january2025/proposed/28 DE Reg 507RFA 01-01-25.pdf>

2500 Board of Pharmacy (Break in Continuity of Sections)

3.0 Pharmacy Requirements

3.1 Pharmacist in Charge

3.1.1 Application for permit to operate a pharmacy in the State of Delaware must be on a form approved by the Board. The form shall include the statement to be signed by the pharmacist in charge, "I understand that I am responsible for conducting and managing the prescription department in compliance with applicable State and Federal laws."

3.1.2 The Board interprets the responsibilities of the Pharmacist-in-Charge to include, but not be limited to the following:

(Break in Continuity Within Section)

3.1.2.4 Establish procedures ~~within operation that maintain standard of practice as it relates to the dispensing of pharmaceuticals and refusal to dispense pharmaceuticals based on the religious, moral, or ethical beliefs of the dispensing pharmacist. These procedures shall include for~~ proper supervision of supportive personnel and delegation of authority to another pharmacist when not on duty.

(Break in Continuity Within Section)

~~3.8 Technician Support. The pharmacy permit holder shall ensure that, at all times that the pharmacy department is open for business, there shall be at least 1 fully trained technician immediately available in the facility to assist in the pharmacy at the pharmacist's request. A schedule of technician support shall be readily available to the pharmacists at all times.~~

~~3.9~~ 3.8 A conspicuous sign with letters not less than 3/4 inches in height, reading "patients may request the lot numbers and expiration dating for their dispensed medication at the time of prescription drop-off" or words of similar import, must be posted in the front section of the operation or in front of the prescription area, room or partitioned-off section where it can be seen by the public.

(Break in Continuity of Sections)

5.0 Dispensing

5.1 The practice of dispensing shall include, but not be limited to the following acts which shall be performed only by a pharmacist, or a pharmacy intern or student participating in an approved College of Pharmacy coordinated, practical experience program under the direct supervision of a pharmacist.

(Break in Continuity Within Section)

5.1.6 Compounding

5.1.6.1 Compounding is the responsibility of the pharmacist. All compounding must be in compliance with FFDC Section 503A and any regulations promulgated by FDA

concerning compounding pertaining to this section. The pharmacist may utilize the assistance of a certified pharmacy technician, or a pharmacy technician who has completed a Board-approved program for sterile compounding, under the direct supervision of a pharmacist if:

~~5.1.6.4~~ 5.1.6.1.1 The formulation is developed by a pharmacist before proceeding with the compounding.

~~5.1.6.2~~ 5.1.6.1.2 The compounding ingredients are checked by the pharmacist before proceeding with the compounding.

~~5.1.6.3~~ 5.1.6.1.3 Every weight and measurement is checked by the pharmacist before proceeding with the compounding.

~~5.1.6.4~~ 5.1.6.1.4 The finished product is checked by the pharmacist before dispensing.

~~5.1.6.5~~ 5.1.6.1.5 A log is maintained showing the identity of the person actually compounding the medication and the identity of the pharmacist who has performed each of the checks indicated above for each step of the procedure. If policies and procedures are in place ensuring adequate checks by the pharmacist per regulation, the requirement for a log will be waived.

5.1.6.2 The definition of "compounding" does not include the flavoring of conventionally manufactured medications provided that the flavors used are inert, tested, and do not alter a medication's concentration beyond USP's accepted level of variance.

(Break in Continuity of Sections)

21.0 Pharmacy Working Conditions

21.1 A pharmacy permit holder shall protect the health, safety, and welfare of patients by consulting with the pharmacist-in-charge or pharmacist on duty and other pharmacy staff to ensure patient care services are safely provided in compliance with applicable standards of patient care. A permit holder's decision shall not override the control of the pharmacist-in-charge or other pharmacist on duty regarding appropriate working environments for all pharmacy personnel necessary to protect the health, safety, and welfare of patients.

21.2 To provide a safe working environment in a pharmacy, a permit holder shall, at a minimum:

21.2.1 Ensure sufficient personnel are scheduled to work at all times in order to prevent fatigue, distraction, or other conditions which interfere with a pharmacist's ability to practice with reasonable competence and safety. Staffing levels shall not be solely based on prescription volume but shall consider any other requirements of pharmacy staff during working hours.

21.2.2 Provide sufficient tools and equipment in good repair and minimize excessive distractions to support a safe workflow for a pharmacist to practice with reasonable competence and safety to address patient needs in a timely manner.

21.2.3 Avoid the introduction of external factors, such as productivity or production thresholds, or other programs to the extent that they interfere with the pharmacist's ability to provide appropriate professional services to the public.

21.2.4 Ensure staff are sufficiently trained to safely and adequately perform their assigned duties, ensure staff demonstrate competency, and ensure that pharmacy technician trainees work closely with pharmacists and pharmacy technicians with sufficient experience as determined by the pharmacist-in-charge.

21.2.5 Provide appropriate opportunities for uninterrupted rest periods and meal breaks:

21.2.5.1 A pharmacist who works 6 continuous hours or longer per day shall be allowed to take, at a minimum, 1 30-minute uninterrupted meal break and 1 15-minute break during that 6-hour period.

21.2.5.2 If a pharmacist is required to work 12 continuous hours per day, at a minimum, the pharmacist qualifies for an additional 15-minute break.

PROPOSED REGULATIONS

- 21.2.5.3 A pharmacist who is entitled to take breaks shall not be required to work more than 5 continuous hours, excluding a 15-minute break, before being given the opportunity to take a 30-minute uninterrupted meal break.
- 21.2.5.4 If the pharmacy has a private break room available, or if there is a private break room in the establishment or business in which the pharmacy is located, a pharmacist who is entitled to breaks must be given access to the private break room and allowed to spend break time in that room.
- 21.2.5.5 A pharmacy may close when a pharmacist is on break based on the professional judgment of the pharmacist on duty.
- 21.2.5.6 If a pharmacy does not close while the pharmacist is on break, the pharmacist must ensure adequate security of drugs by taking their break within the prescription department or on the premises. The pharmacist on duty must determine if pharmacy technicians or pharmacy interns may continue to perform duties and if the pharmacist is able to provide adequate supervision.
- 21.2.5.7 If the pharmacy remains open, only prescriptions verified by a pharmacist may be dispensed while the pharmacist is on break. An offer to counsel any person filling a new prescription must be offered pursuant to subsection 5.2. Persons who request to speak with the pharmacist shall be told that the pharmacist is on break and that they may wait to speak with the pharmacist.
- 21.2.6 Provide adequate time for a pharmacist to complete professional duties and responsibilities required under Chapter 25 of Title 24 of the Delaware Code and the Board's rules and regulations.
- 21.2.7 Ensure that pharmacy technicians shall never perform duties otherwise restricted to a pharmacist.
- 21.3 A pharmacy permit holder shall not override the control of the pharmacist on duty regarding all aspects of the practice of pharmacy, including the decision of the certified immunizer pharmacist not to administer vaccines, biologicals, and injectable medications when 1 pharmacist is on duty and, in the pharmacist's professional judgment, vaccines, biologicals, and injectable medications cannot be administered safely.
- 21.4 Staffing requests or concerns shall be communicated by the pharmacist-in-charge or pharmacist on duty to the permit holder in written or electronic format.
 - 21.4.1 Signed staffing forms shall be provided to the immediate supervisor of the pharmacist-in-charge or pharmacist on duty, with 1 copy maintained in the pharmacy for at least 3 years and available for inspection upon request by a representative of the Board.
 - 21.4.2 The pharmacist-in-charge or pharmacist on duty may report any staffing issues directly to the Board if the pharmacist-in-charge or pharmacist on duty believes the situation warrants immediate Board review.
 - 21.4.3 Under no circumstances shall a good faith report of staffing concerns by the professional-in-charge, pharmacist on duty, or notification of such issues by pharmacy personnel to the professional-in-charge or pharmacist on duty result in workplace discipline against the reporting staff member.
- 21.5 Permit holders shall review completed staffing reports and shall:
 - 21.5.1 Respond to reporting staff member to acknowledge receipt of the staffing request or concern.
 - 21.5.2 Resolve any issues listed in a timely manner to ensure a safe working environment for pharmacy staff and appropriate medication access for patients.
 - 21.5.3 Document any corrective action taken, steps taken towards corrective action as of the time of inspection, or justification for inaction, which documentation shall be maintained on-site for at least 3 years and produced for inspection by a representative of the Board within 48 hours of the request.
 - 21.5.4 Communicate corrective action taken or justification for inaction to the professional-in-charge or reporting pharmacist on duty.
- 21.6 Technician Support. The pharmacy permit holder shall ensure that, at all times that the pharmacy department is open for business, there shall be at least 1 technician, who is fully trained pursuant to

subsection 19.1, on the premises to assist in the pharmacy at the pharmacist's request. A schedule of technician support shall be readily available to the pharmacists at all times.

22.0 Professional Judgment in Dispensing Drugs

The pharmacist shall have the right to refuse to fill a prescription if, in their professional judgment, the prescription is outside the scope of practice of the practitioner; or if the pharmacist has sufficient reason to question the validity of the prescription; or to protect the health and welfare of the patient. If necessary, the pharmacist shall attempt to discuss the decision with the practitioner.

***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/january2025/proposed/28 DE Reg 507 01-01-25.htm>

DIVISION OF SMALL BUSINESS

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

PUBLIC NOTICE

The STEM Talent Advancement and Retention ("STAR") Fund

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 STEM Talent Advancement and Retention Fund.

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 31, 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

The STEM Talent Advancement and Retention Fund ("STAR Fund") was established pursuant to Section 37 of the Fiscal Year 2025 Grants-in-Aid Act, S.B. 327 of the 152nd General Assembly, for the purpose of incentivizing, retaining, and attracting graduates from an accredited post-secondary institution of higher education who are employed or considering employment in Delaware in the STEM fields by providing awards for reimbursement of their education loans. The STAR Fund will be administered by the Division of Small Business, a division within the Department of State. 29 **Del.C.** §8703A.

*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/january2025/proposed/28 DE Reg 513RFA 01-01-25.pdf>

The STEM Talent Advancement and Retention ("STAR") Fund

1.0 Statutory Authority and Enabling Legislation

The STAR Fund was established pursuant to Section 37 of the Fiscal Year 2025 Grants-in-Aid Act, Senate Bill 327 of the 152nd General Assembly, which directs the Division of Small Business (the "Division") to prescribe such regulations as may be necessary to administer the STAR Fund.

2.0 Purpose and Intent

- 2.1 The purpose of the STAR Fund is to incentivize, retain, and attract graduates from an accredited post-secondary institution of higher education who are employed or considering employment in Delaware in the STEM fields by providing awards for reimbursement of their higher education loans.
- 2.2 This regulation contains procedures governing the process for applying to the Division for an award under the STAR Fund and criteria for the Division's approval or disapproval of an application for an award under the STAR Fund.

3.0 Definitions

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

"Applicant" means any individual with an associate's, bachelor's, graduate, or post-graduate degree from an accredited post-secondary institution of higher learning, with accompanying education loan repayment expenses, who is employed or has an offer of employment as a full-time employee (minimum of 35 hours per week) with a Delaware-based employer, filling a position located in the State.

"Application" means an application made to the Division of Small Business on such form or forms, together with all relevant attachments, and signed by the applicant.

"Award" means funding provided from the STAR Fund to applicants for the reimbursement of higher education loans.

"Awardee" means an applicant who has been selected by the Fund Committee to receive an award from the STAR Fund.

"Award letter" means a letter from the Fund Committee notifying applicants who have been selected to receive an award from the STAR Fund.

"Division" means the Division of Small Business created by § 8703A of Title 29 of the Delaware Code.

"Eligibility period" means a term of up to 4 consecutive service periods beginning on the date that an awardee receives initial notice of an award from the STAR Fund and ending at the conclusion of the fourth service period.

"Eligible expenses" means annual higher education loan repayment expenses, including principal, interest, and fees (excluding late fees or other penalties for late payment).

"Fund Committee" means the group of individuals designated by the Delaware Division of Small Business and the Delaware Center for Life Science Education and Training, including the Director of the Delaware Division of Small Business and the Executive Director of the Delaware Center for Life Science Education and Training, or their designees, to review applications and select awardees.

"Service Period" means 1 calendar year of education loan repayments.

"State" means the State of Delaware.

4.0 Eligibility

- 4.1 The applicant shall have graduated from an accredited post-secondary institution of higher learning with an associate's, bachelor's, graduate, or post-graduate degree with accompanying education loan repayment expenses.
- 4.2 The applicant shall be offered employment as a full-time employee (minimum of 35 hours per week) with a Delaware-based employer filing a position located in this State throughout the eligibility period. Employment must be in 1 or more of the following fields:
 - 4.2.1 Life, natural, or environmental sciences;
 - 4.2.2 Computer information or software technology;
 - 4.2.3 Advanced mathematics or finance;
 - 4.2.4 Engineering; or
 - 4.2.5 Medical device technology.
- 4.3 Preference will be given to applicants who are permanent residents of the State or who attended an institution of higher education located in the State when they incurred the eligible expenses.

5.0 Timeline

The Fund Committee shall complete its review of the applications within 60 days from the application deadline.

6.0 Application Process

- 6.1 The application will be available through an application portal located on the Delaware Center for Life Science Education and Training's website. Every application that includes all required responses and attachments will be reviewed and evaluated by the Fund Committee. All applicants will be notified of the Fund Committee's decision upon the conclusion of the Fund Committee's review of all applications.
- 6.2 Applicants are required to submit the following documents in addition to the application:
 - 6.2.1 Employer Endorsement Form.
 - 6.2.2 Resume, including applicant's current position and current employer.
 - 6.2.3 Transcripts from post-secondary educational institution. Transcripts do not need to be "official" transcripts, but must include the college or university's name, student's name, course work and grades, and GPA.
 - 6.2.4 Twelve months of individual loan statements and proof of payment for the entire service period to prove the applicant's minimum monthly payment amount for all lenders.
 - 6.2.5 Documentation for each student loan account that includes the following information:
 - 6.2.5.1 Account holder information (name, address, account number).
 - 6.2.5.2 Loan provider information.
 - 6.2.5.3 Loan terms and payment schedule, including minimum required payment amount.
 - 6.2.5.4 Total loan amount and interest rate.
 - 6.2.5.5 Evidence of other loan repayment programs, if applicable, including income based repayment letters and employer-run program agreements.

7.0 Selection Process

- 7.1 Applications will be reviewed and evaluated by the Fund Committee, which shall consist of 5 members chosen by the Delaware Division of Small Business and the Delaware Center for Life Science Education and Training. The Director of the Delaware Division of Small Business and the Executive Director of the Delaware Center for Life Science Education and Training, or their designees, must be members of the Fund Committee.
- 7.2 The remaining 3 members of the Fund Committee shall be selected based on their knowledge and expertise in STEM employment trends and STEM hiring needs in Delaware. The Fund Committee may include representatives from STEM industries, a representative from a Delaware higher education institution, and a representative from a workforce development organization.
- 7.3 The Fund Committee will review applications on a name-blind basis.

PROPOSED REGULATIONS

- 7.4 Upon receipt of an application from an eligible applicant, the Fund Committee shall select applicants, on a competitive basis, to receive an award for the service period for which the applicant is applying, as follows:
- 7.4.1 A maximum award of \$1,000 for an associate degree holder.
 - 7.4.2 A maximum award of \$4,000 for a bachelor's degree holder.
 - 7.4.3 A maximum award of \$6,000 for a graduate or post-graduate degree holder.
- 7.5 The Fund Committee shall email an award letter to each applicant selected for an award. The applicant shall have 30 days from the date the award letter is emailed to accept the award by countersigning the award letter and delivering an executed copy to the Division. An award shall be deemed withdrawn if not timely accepted by an applicant.
- 7.6 In addition to the terms provided by subsections 7.4, 7.5, and 8.2 of this regulation, the award letter shall require that the applicant:
- 7.6.1 Submit annual reports, in the form and on the dates as required, in order to confirm that the applicant continues to meet all of the eligibility requirements contained in this regulation; and
 - 7.6.2 Consent to the public disclosure of the receipt of any award, including disclosure of the applicant's:
 - 7.6.2.1 Name;
 - 7.6.2.2 Post-secondary institution of higher learning; and
 - 7.6.2.3 Employer.

8.0 Annual Certification

- 8.1 Within 6 months after the end of each service period, awardees shall submit documentation certifying the following information:
- 8.1.1 The amount of eligible expenses the awardee has actually incurred and paid.
 - 8.1.2 That the awardee continues to meet the eligibility requirements throughout the service period.
 - 8.1.3 That the award amount does not exceed the original student loan amount, plus any capitalized interest, excluding any award previously received from the STAR Fund.
 - 8.1.4 That the awardee is current on their student loan repayment obligations.
- 8.2 Awardee shall submit a notarized certification attesting to the truth and accuracy of the information provided in response to subsections 8.1.1 through 8.1.4, in the form to be provided with the award letter. The Division reserves the right to request additional documentation, in its sole discretion.

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

PUBLIC NOTICE

507 Licensing Third-party Delivery of Alcoholic Beverages

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 Del.C. §304, the Delaware Alcoholic Beverage Control Commissioner proposes to establish a new regulation related to permitting and licensing third-party delivery of alcoholic beverages in the State.

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 regulations should direct them to the following address:

Doug Denison
Deputy Commissioner
Office of the Delaware Alcoholic Beverage Control Commissioner

820 N. French St., 10th Floor
Wilmington, DE 19801

Comments may also be directed via electronic mail to OABCCrulescomments@delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Delaware Alcoholic Beverage Control Commissioner no later than 4 p.m. EST, February 3, 2025.

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

Background

The Delaware Alcoholic Beverage Control Commissioner ("Commissioner" or "Office") is authorized by the General Assembly of the State of Delaware, to establish, by rules and regulations, an effective control of the business of manufacture, sale, dispensation, distribution and importation of alcoholic liquors within and into the State of Delaware, including the time, place and manner in which alcoholic liquors shall be sold and dispensed, not inconsistent with Title 4 of the Delaware Code, known as the Delaware Liquor Control Act ("DLCA") or with any other law of the State. The Commissioner is further authorized to adopt and promulgate rules and regulations not inconsistent with Title 4 or of any other law of the State, and such rules and regulations shall have the force and effect of law; provided, however that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof; and provided further, however, that such rules and regulations, as established by the Commissioner, shall focus primarily on public safety and the best interests of the consumer and shall not unduly restrict competition within the alcoholic beverage industry.

Senate Bill 166, passed by the 152nd General Assembly and signed by the Governor in 2024, created a new license type permitting persons or business entities that are registered to do business in this state to deliver alcoholic beverages under certain circumstances if licensed by this Office. The bill did not authorize retail licensees to deliver alcoholic beverages. Senate Bill 166 authorized the Commissioner to draft appropriate regulations governing the new license. Proposed 4 **DE Admin. Code** 507 creates the requirements necessary for licensure. Licensees, such as restaurants, taprooms and package stores may not, themselves deliver alcoholic beverages, but instead must contract with a third party licensed by this Office that is authorized to deliver alcoholic beverages. A Third-Party Delivery Licensee may not hold another liquor license in Delaware.

Summary of Proposal

4 **DE Admin. Code** 507 is a new proposed regulation that sets forth criteria to permit and license third-party delivery service of alcoholic beverages purchased by a customer in this State who is 21 years or older and not intoxicated from an on-premise licensee also in this State as authorized by the Commissioner in accordance with the Delaware Liquor Control Act. 4 **Del.C.** §512(a)(1).

Statutory Authority

 4 **Del.C.** §304, 4 **Del.C.** §512(a)

4 **Del.C.** §304 enables the Delaware Alcoholic Beverage Control Commissioner to adopt and promulgate rules and regulations not inconsistent with Title 4 of the Delaware Code and all such rules and regulations shall have the force and effect of law; provided, that no such rule or regulation shall extend, modify or conflict with any law of the State of Delaware or the reasonable implications thereof.

4 **Del.C.** §512(a) enables the Delaware Alcoholic Beverage Control Commissioner to authorize a person or entity to provide third-party delivery service to a customer in this State who is 21 years or older and not intoxicated and purchases alcoholic liquors from an on-premise licensee in the State.

***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/january2025/proposed/28 DE Reg 516RFA 01-01-25.pdf>

PROPOSED REGULATIONS

500 Initial and Temporary Licensure

507 Licensing Third-party Delivery of Alcoholic Beverages

1.0 Purpose, Applicability and Findings

- 1.1 The purpose of this regulation is to establish procedures for the issuance of third-party delivery licenses under 4 Del.C. §512(a).
- 1.2 Only on-premise licensees with a license identified in 4 Del.C. §512(a) may contract with third-party delivery licensees to deliver alcoholic beverages to persons 21 years and older and not otherwise intoxicated. On-premise licensees, licensed pursuant to 4 Del.C. §512(a), may not themselves deliver alcoholic beverages to persons 21 years and older.
- 1.3 The Commissioner finds that certification cards issued by server training providers are revocable permits under the Delaware Liquor Control Act, as licenses, and may be subject to administrative sanctions, including suspension or revocation.

2.0 Definitions

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

"Commissioner" means the Alcoholic Beverage Control Commissioner.

"Delivery worker" means an independent contractor or payroll employee of a third-party delivery licensee who performs alcohol-delivery services at the direction and control of that third-party delivery licensee.

"Fixed fee" means a pre-determined fee that is not dependent, directly or indirectly, on the sales, profits, or revenues earned by the on-premise licensee.

"Office" means the Office of the Alcoholic Beverage Control Commissioner.

"On-premise licensee" means, for purposes of this regulation, a licensee licensed at all times to sell and serve alcoholic beverages for consumption on the premises where sold pursuant to 4 Del.C. §512(a) that has entered into a written agreement with a third-party delivery licensee to deliver alcoholic beverages.

"Third-party delivery licensee" or "TPDL" means a third-party delivery vendor with a license issued by the Commissioner, authorizing it to arrange for the delivery of alcoholic beverages in original containers and cocktails-to-go in containers securely closed, as further defined by this regulation to customers on behalf of on-premise licensees.

"Third-party delivery vendor" or "TPDV" means an entity that arranges for delivery of food or beverages or both to customers.

3.0 Procedure and Requirements for Licensure

- 3.1 A third-party delivery vendor or TPDV shall pay the \$1,000 non-refundable application processing fee and submit a completed application form to be licensed as a third-party delivery licensee or TPDL, submit other documentation as required by the Commissioner, and submit the following:
 - 3.1.1 Sample agreement between TPDV applicant and on-premise licensee that shall include, at a minimum:
 - 3.1.1.1 All fees, costs, commissions, and other forms of compensation; and
 - 3.1.1.2 Responsibility for insurance and indemnity.
 - 3.1.2 Sample agreement between TPDV applicant and delivery worker that shall include, at a minimum:
 - 3.1.2.1 Delivery worker consent to background check; and
 - 3.1.2.2 Delivery worker consent to maintain a valid driver's license and adequate vehicle insurance coverage.
 - 3.1.3 Detailed description of all forms of compensation (e.g., delivery fees, delivery worker tips, etc.) from on-premise licensees and receiving customers, including routing or remitting payments.
 - 3.1.4 Proposed server training program for delivery workers for review and approval by the Commissioner.

- 3.2 Any and all fees and other forms of compensation paid or anticipated to be paid to a TPDV by an on-premise licensee must be disclosed during the license application process.
- 3.3 Once approved as a TPDL, all executed agreements with on-premise licensees who wish to have alcoholic beverages delivered lawfully pursuant to 4 Del.C. §512(a) must be provided to the Office by the TPDL within 10 business day of execution. Any future contracts with on-premise licensees entered into after application approval shall also be filed with the Office by the TPDL within 10 business days of execution.
- 3.4 All TPDs shall verify delivery worker eligibility, including that:
 - 3.4.1 Every delivery worker is 21 years or older, holds a valid driver's license and vehicle registration, and has adequate vehicle insurance coverage;
 - 3.4.2 All delivery workers undergo a criminal background check and driver history check by the TPDL or a vendor designated by the TPDL to conduct background checks;
 - 3.4.3 All delivery workers complete alcohol server training approved by this Office before delivering alcoholic beverages. The alcohol server training must be renewed in accordance with the Office's protocols.
- 3.5 Proof of general liability insurance with liquor liability endorsement. The TPDL must maintain sufficient general liability insurance with a liquor liability endorsement, which endorsement shall provide coverage for employees and independent contractors of the TPDL.
- 3.6 All records of delivery worker eligibility shall be maintained by the TPDV for 3 years.

4.0 Requirements for Delivery

- 4.1 Deliveries of alcoholic beverages are limited to 2 750-milliliter bottles of wine with each bottle limited to 750 milliliters, 6 servings of beer, and mixed cocktails which are made in the restaurant, brewpub, tavern, taproom, or other entity with a valid on-premise license that has entered into a delivery agreement with the TPDL. Canned, premixed cocktails are not permitted to be delivered. All alcoholic beverages provided for delivery must be in sealed containers, securely closed, and in a container that does not include a lid with sipping holes, pursuant to the Delaware Liquor Control Act and the Commissioner's regulations.
 - 4.1.1 TPDL must have a valid, executed written agreement with an on-premise licensee on file with this Office before the TPDL may make any deliveries of alcoholic beverages.
 - 4.1.2 TPDL must have a valid, executed written employment agreement with each delivery worker before the delivery worker may make any deliveries of alcoholic beverages.
- 4.2 Deliveries are prohibited to the following locations:
 - 4.2.1 State-operated facility;
 - 4.2.2 Correction and prison facilities;
 - 4.2.3 Hospital;
 - 4.2.4 Locker mailbox;
 - 4.2.5 Post office box;
 - 4.2.6 Package shipping or storage facility;
 - 4.2.7 Retail licensee licensed by this Office;
 - 4.2.8 All schools, including public, private, and charter schools through and including the 12th grade;
 - 4.2.9 Undergraduate housing at an institution of higher learning;
 - 4.2.10 Vacant home or building;
 - 4.2.11 Locations where alcoholic beverages are otherwise prohibited, such as places of public accommodation, public beaches, etc.; and
 - 4.2.12 Outside of the State of Delaware.
- 4.3 Process for delivery
 - 4.3.1 TPDL must transmit delivery-related information to delivery workers in real-time and alert them that an order contains an age-restricted alcoholic beverage.

PROPOSED REGULATIONS

- 4.3.2 Delivery workers must have a copy of the invoice or bill of sale stating the name and address of the receiving customer and the type, brand, and quantity of each alcoholic beverage being delivered. Each package of alcoholic beverages must be clearly marked in 26-point legible type or larger, "CONTAINS ALCOHOLIC BEVERAGES; AGE VERIFICATION REQUIRED."
- 4.3.3 Delivery workers must verify that receiving customers are of legal age and are not visibly intoxicated before delivering alcoholic beverages. At a minimum, this includes electronic verification of a customer's identification as well as verbal and observable verification, i.e., "multifactor" verification.
- 4.3.4 Delivery workers must obtain the signature (electronic or paper) or "finger scan" of the receiving customer before handing over possession of the alcoholic beverages.
- 4.3.5 Delivery workers must refuse delivery to the customer and return the alcoholic beverage to the on-premise licensee if:
 - 4.3.5.1 The receiving customer is underage or intoxicated;
 - 4.3.5.2 The customer refuses to sign for delivery or to provide a valid and current I.D.;
 - 4.3.5.3 The third-party delivery licensee or its delivery worker doubts the authenticity of the customer's ID;
 - 4.3.5.4 There is reason to suspect the customer is accepting delivery on behalf of an underage person; or
 - 4.3.5.5 Other valid reason as determined by the third-party delivery licensee.
- 4.3.6 Delivery workers are prohibited from:
 - 4.3.6.1 Collecting payment for the alcoholic beverage from the receiving customer;
 - 4.3.6.2 Subcontracting or delegating to another person the delivery of alcoholic beverages;
 - 4.3.6.3 Delivering alcoholic beverages to prohibited locations identified in subsection 4.2 of this regulation;
 - 4.3.6.4 Leaving alcoholic beverages unattended or storing alcoholic beverages overnight under any circumstances;
 - 4.3.6.5 Delivering alcoholic beverages not identified in an invoice from the on-premise licensee who is the merchant of record for the delivery; and
 - 4.3.6.6 Engaging in no-contact deliveries without face-to-face interaction with the receiving customer.
- 4.3.7 The TPDL shall ensure all deliveries by its delivery workers occur only during the hours of operation of the on-premise licensee with whom it has contracted to deliver alcoholic beverages.
- 4.4 The third-party delivery licensee may receive a fixed fee as defined in Section 2.0 of this regulation for its delivery services.
- 4.5 The third-party delivery licensee does not have any retail sales privileges and therefore cannot charge a commission or receive a percentage of the proceeds from the sale of alcoholic beverages.
 - 4.5.1 The on-premise licensee must retain control of all aspects of alcoholic beverage commerce, including product selection, pricing, and collecting the sales proceeds.
 - 4.5.2 The Commissioner, upon request, may approve the third-party delivery licensees and on-premise licensees to use an integrated third-party payment processing platform (e.g., Stripe.com, Square.com or other platform) to aggregate their charges and bifurcate and remit the proceeds as appropriate (i.e., on-premise licensee is promptly remitted payment for sale of alcohol and third-party delivery licensee is remitted the fixed fee for the delivery of alcohol). The portion of the payment attributable to the alcoholic beverage purchase must be promptly remitted by the payment processing platform directly to the on-premise licensee, defined to mean the remittance would take place within 24 to 48 hours of the sales transaction.
- 4.6 The TPDL is prohibited from:
 - 4.6.1 Selling or reselling alcoholic beverages; and
 - 4.6.2 Setting the prices of alcoholic beverages or determining which beverages are available for delivery.

5.0 Recordkeeping Requirements

- 5.1 TPDLs shall retain electronic records of each delivery for 3 years from the date of delivery and make available to the Division of Alcohol and Tobacco Enforcement or DATE upon request for the purpose of investigating and enforcing the Delaware Liquor Control Act and all of its corresponding regulations. The record of each delivery shall include the following:
 - 5.1.1 On-premise licensee's name and address;
 - 5.1.2 Name of customer who placed the order and the date, time and method of the order;
 - 5.1.3 Name of delivery worker and the date, time and address of the delivery; and
 - 5.1.4 Type, brand, and quantity of each alcoholic beverage delivered.
- 5.2 The TPDL shall retain electronic records of every on-premise licensee agreement for 3 years and make them available to DATE upon request for the purpose of investigating and enforcing the Delaware Liquor Control Act and all of its corresponding regulations.
- 5.3 The TPDL shall retain an electronic record of all delivery workers by name and address, and eligibility records for 3 years, and make them available to DATE upon request for the purpose of investigating and enforcing the Delaware Liquor Control Act and all of its corresponding regulations.
- 5.4 DATE may also request a copy of a delivery worker's server training certificate at any time.
- 5.5 The TPDL shall store electronic records in a manner that allows for retrieval and production of requested records within 10 business days of receiving a request for records by DATE, unless a variance to subsection 5.5 of this regulation has been requested for good cause shown and approved.

6.0 Administrative Procedures

- 6.1 DATE agents have the authority to administratively cite any TPDL or delivery worker for violating provisions of the Delaware Liquor Control Act or Commissioner regulations. The TPDL will also be held administratively liable for the violative actions or omissions of its delivery workers if those actions or omissions are contrary to the conditions of license issuance, the Delaware Liquor Control Act, or the Commissioner's regulations.
- 6.2 A certified server trained delivery worker who violates the Liquor Control Act or Commissioner regulations shall be notified of the alleged violation by the investigating agent as promptly as is possible.
 - 6.2.1 A Notice of Violation will be mailed "Return Receipt Requested" to the delivery worker. The delivery worker shall have 10 working days after receipt of the notice to request a hearing by the Commissioner.
 - 6.2.2 Should a delivery worker fail to request a hearing after receiving notice in conformity with 29 Del.C. §10122, the delivery worker shall be assessed by the DATE the sanction listed in subsection 6.3 of this regulation which may then be ratified by the Commissioner at the next regularly scheduled meeting.
 - 6.2.3 If a delivery worker timely requests a hearing before the Commissioner pursuant to 29 Del.C. §10125, the delivery worker shall be placed on the next available agenda before the Commissioner and shall retain the rights set forth in 29 Del.C. §10122.
- 6.3 Sanctions
 - 6.3.1 In addition to the Commissioner's power and authority to cancel or suspend a license, or impose a fine, or both against a licensee, including a TPDL, if the Commissioner finds that a delivery worker has violated the Delaware Liquor Control Act or Commissioner regulations, the Commissioner may, in addition to the power to impose a fine, suspending or canceling the TPDL's license, impose any or all of the sanctions in subsections 6.3.1.1-6.3.1.2:
 - 6.3.1.1 Require that delivery workers re-take the mandatory server training program; or
 - 6.3.1.2 Suspend or cancel the server training certification of the delivery worker for a period determined by the Commissioner.

PROPOSED REGULATIONS

6.3.2 Suspension or cancellation of the server training certification of a delivery worker shall preclude that person from employment as a delivery worker pursuant to this regulation. Any TPDL employing a delivery worker whose server training certification has been suspended or canceled may be subject to administrative sanctions pursuant to 4 Del.C. Ch. 12.

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 209(a)(1) (26 Del.C. §209(a)(1))
26 DE Admin. Code 3002

PUBLIC NOTICE

3002 Regulations Governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Non-Payment During Extreme Seasonal Temperature Conditions

PSC REGULATION DOCKET NO. 53

Opened: April 15, 2003 (PSC Order No. 6148)

Re-Opened: November 20, 2024 (PSC Order No. 10561)

The Delaware Public Service Commission ("Commission" or "PSC"), pursuant to 26 Del.C. §209(a)(1), proposes to amend its regulations governing termination of residential electric or natural gas service by public utilities for non-payment during extreme seasonal temperature conditions as promulgated 26 DE Admin. Code 3002. In summary, the Commission proposes to lower the Heat Index metric used during the Cooling Season and eliminate the requirement that a utility attempt to make personal contact at a customer's premises prior to disconnection.

A copy of the proposed regulations is being published in the January 2025 issue of the *Delaware Register of Regulations*, and is also available in the PSC's electronic filing system, Delafile, located at <http://delafile.delaware.gov/> (Docket No. "Reg. 53"). If you wish to obtain written copies of the implementing 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).

In accordance with 29 Del.C. §10116, written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should be submitted via e-mail to PSC@delaware.gov with the subject line "Regulation 3002 - PSC Docket No. 53" or mailed to: Crystal Beenick, Public Service Commission, Cannon Building, 861 Silver Lake Blvd., Suite 100, Dover, DE 19904.

The Commission will hold a public hearing on the proposed regulations on January 29, 2025, at 1:00 p.m. at the hearing room located at 861 Silver Lake Blvd., Suite 100, Dover, DE 19904. To be considered at the January 29, 2025 hearing, written comments must be submitted on or before January 22, 2025. Pursuant to 29 Del.C. §10118(a), written comments will be accepted after the hearing until February 13, 2025.

On or after February 13, 2025, following review of any public comments, the Commission will determine whether to amend its regulations by adopting the proposed amendments or make additional changes.

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

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

[https://regulations.delaware.gov/register/january2025/proposed/28 DE Reg 522RFA 01-01-25.pdf](https://regulations.delaware.gov/register/january2025/proposed/28%20DE%20Reg%20522RFA%2001-01-25.pdf)

3002 Regulations Governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Non-Payment During Extreme Seasonal Temperature Conditions

PSC REGULATION DOCKET NO. 53

(Opened: ~~Opened:~~ April 15, 2003 (PSC Order No. 6148))

Re-Opened: November 20, 2024 (PSC Order No. 10561)

1.0 General

1.1 Authority

~~These regulations are Authority.~~ This regulation is adopted pursuant to the authority granted to the Public Service Commission under 26 **Del.C.** §209(a) and 29 **Del.C.** §101.

1.2 Application and Purpose

~~These regulations establish Purpose.~~ This regulation establishes uniform procedures which must be followed prior to termination of service for non-payment during the heating or cooling season and apply to all covered utilities. The purpose of ~~these regulations~~ this regulation is to protect public health, safety, and property by taking reasonable steps to ~~insure~~ ensure that an individual has the opportunity to act to avoid termination of certain utility services for non-payment during the heating or cooling season without imposing substantial additional cost on other utility customers. Notwithstanding anything stated in ~~these regulations~~ this regulation to the contrary, the provisions of ~~these regulations~~ this regulation do not apply during the cooling season to a customer of a natural gas utility, unless the natural gas utility provides natural gas service for space cooling to the customer's dwelling unit.

2.0 Definitions

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

“Cooling Season” season means that portion of the calendar year extending from June 1 through September 30.

“Covered Utility” utility means any utility regulated by the Public Service Commission of Delaware that supplies electric or natural gas service to a dwelling unit.

“Dwelling Unit” unit means ~~one~~ one or more rooms arranged for the use of ~~one~~ one or more individuals as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

“Heat Index” index means a measure utilized by the National Weather Service of the apparent temperature (how hot it feels) when relative humidity is added to the actual air temperature.

“Heating Season” season means that portion of the calendar year extending from November 15 to March 31.

“Personal Contact” ~~means a face-to-face meeting between the customer or responsible occupant of the premises served and an employee of the covered utility who is authorized to receive payment and issue a receipt or make other arrangements for payment.~~

“Written Notice” means ~~notice in writing, mailed by~~ written or oral communication via telephone, e-mail, or First Class mail to the person who is being given notice, using the current billing address as shown on the records of the utility.

3.0 Prohibitions

3.1 Written and Verbal Notice

~~3.1.1~~ 3.1.1 Notwithstanding any tariff provision or contract provision to the contrary, no covered utility shall terminate service to a dwelling unit during the heating or cooling season for non-payment of a past due bill or bills, unless at least ~~fourteen (14)~~ 14 calendar days prior to such termination, written notice is given to the customer. The notice shall state the fact of impending termination, the date on or after which such termination will occur, and the steps which may be taken to avoid such termination. In addition, during the heating season, the covered utility shall make at least ~~two (2)~~ 2 documented attempts on separate days to contact the customer by telephone prior to actual termination of service. One ~~such~~ telephone contact attempt shall be after 6:00 P.M. During the cooling season, the covered utility shall make at least ~~one (1)~~ 1 documented attempt to contact the customer by telephone prior to actual termination of service.

PROPOSED REGULATIONS

- 3.1.2 During the heating season only, in those situations where the billing address is different from the location at which the service is being provided, the advance written notice required by ~~§3.1.4 subsection 3.1.1~~ must also be given to the occupant of the premises being served.
- 3.2 Content of Notice
- The written and verbal notice required by ~~§3.1.4 subsection 3.1.1~~ shall, at a minimum, include notification of the following:
- 3.2.1 The date on or after which termination of service will occur unless some satisfactory arrangement is made for the payment of the undisputed delinquent bill or bills, which date shall be no less than ~~fourteen (14)~~ 14 calendar days from the mailing of written notice.
- 3.2.2 That if there is a good faith dispute concerning the unpaid bill or bills, termination of service will not take place pending determination of the dispute, provided the utility is notified of the existence of the dispute prior to actual termination. In this regard, the utility must also give the name or names of the persons or office authorized to receive notification of the existence of the dispute and empowered to resolve such disputes, together with the telephone number and address at which such persons or office can be contacted and notified of the existence of a dispute. No covered utility shall be required to delay termination of service pending resolution of a disputed bill or bills where the undisputed portion of the bill or bills would otherwise justify termination of service or where the customer does not agree to pay current undisputed bills as they become due and to eliminate undisputed arrearages by installment payments. Service will not be reconnected after termination for non-payment on the grounds that a good faith dispute exists unless and until arrangements satisfactory to the covered utility have been made for payment in the event the dispute is resolved in favor of the utility.
- 3.2.3 That if the customer is unable to pay the full amount of the undisputed bill or bills, termination of service may be avoided by entering into an initial installment agreement with the utility whereby the customer will agree to pay current bills as they become due and eliminate, by monthly installment payments, the undisputed arrearage over a period of not less than that during which the unpaid bills were incurred with interest on the unpaid balance at the next billing date. If the customer violates the initial installment agreement, the limitation on the minimum duration of the initial installment agreement shall not apply to any subsequent installment agreement. The interest rate shall be set forth in the approved tariff of the covered utility. The name, address, and telephone number of the utility employees or office empowered to enter into installment arrangements on behalf of the covered utility must be provided to the customer.
- 3.2.4 That if the customer is unable to pay the undisputed bill or bills in full, or to enter into a satisfactory reasonable installment arrangement, there are charitable or governmental organizations or agencies that may be able to assist customers who are so situated and that the customer should immediately contact such organizations. The written notice required by ~~§3.1.4 subsection 3.1.1~~ shall contain either a list of those organizations who have notified the covered utility that they may be able to assist customers, or the name and telephone number of an organization that the customer can contact to obtain such information.
- 3.2.5 That if any occupant of the dwelling unit is so ill that termination of the utility service would adversely affect health or recovery, which fact has been certified by a statement from any licensed Delaware physician or any accredited Christian Science practitioner, when ~~such~~ the required certification is received by the covered utility or its employee, termination of service is prohibited by Delaware Law (26 Del.C. §117(d)).
- 3.3 Final Contact Prior to Termination
- ~~The employee of the utility who is to disconnect service shall make a reasonable good faith attempt to make personal contact at the premises to be disconnected. If personal contact is made, the employee shall:~~
- 3.3.1 ~~Identify himself or herself to the customer or some responsible person then upon the premises and shall announce the purpose of his or her presence.~~
- 3.3.2 ~~Identify and record the name of the person contacted.~~

- ~~3.3.3~~ Accept payment of all amounts tendered which are necessary to avert disconnection and issue a receipt for such payment. If the form of payment is unacceptable to the utility, the employee can make other payment arrangements with the customer.
- ~~3.3.4~~ Record and report to his or her supervisor any statements disputing the accuracy of the utility's findings concerning the cause for termination of service.
- ~~3.3.5~~ Record and report to his or her supervisor statements or other information concerning the existence of any condition on the premises which would result in a medical emergency if service were terminated.
- ~~3.3.6~~ Receive written certification from a duly licensed Delaware physician or accredited Christian Science practitioner that a named occupant of the dwelling unit is so ill that termination of service will adversely affect the occupant's health or recovery. Upon receipt of such certification, the utility shall not disconnect service.

4.0 Third Party Notice

- 4.1 Non-Mandatory Third Party Notice Notice.
All covered utilities shall inform all of their customers of the availability of any third party notification program offered by the utility, whereby the customer can designate, in writing, a third person to receive notice of past due bills and written notice of termination of service. The third party so designated must indicate, in writing, willingness to receive such notice and shall not be held, in any way, liable to the utility by reason of acceptance of third party status.
- 4.2 Termination Notice Without Third Party Notice Program Program.
No covered utility without a third party notice program, shall terminate service to a dwelling unit during the heating or cooling season without first having given the written notice required by ~~§3-4 subsection 3.1~~ and, in addition, having made actual contact on a face-to-face basis with an occupant over the age of 15 years of ~~such the~~ dwelling unit, giving the minimum notice set forth in ~~§3-3 subsection 3.3~~.
- 4.3 Information Concerning Third Party Notice Notice.
If a covered utility adopts ~~such a~~ this type of program, the utility shall take appropriate steps to see that all customers are aware of the existence of the third party notice program.

5.0 Termination Of Service To Multiple Occupancy Dwelling Units Served Through A Master Meter

- 5.1 Prohibition Prohibition.
Notwithstanding any tariff provision or contract provision to the contrary, no covered utility shall terminate service during the heating or cooling season to any apartment complex, trailer park, or other grouping of individual residential dwelling units to which service is provided directly or indirectly through a master meter without individual meters, unless such utility has provided the notice required in ~~§§ subsections~~ 5.2 and 5.3.
- 5.2 Notice to Owner Owner.
A written notice pursuant to § subsection 5.1 shall be sent by First Class mail not less than ~~fourteen (14)~~ 14 calendar days prior to the scheduled date of termination for non-payment to the owner of the premises affected or in lieu thereof, to the person, firm, or corporation to whom or which the last preceding bill has been rendered or from whom or which the covered utility has received payment. The content of such notice shall, at minimum, include the notification required by § subsection 3.2.
- 5.3 Notice to Occupants
 - 5.3.1 The covered utility shall, at least ~~ten (10)~~ 10 calendar days prior to termination for non-payment, provide notice to the occupants, which notice shall state the intended date of termination of service, the amount due for ~~such the~~ service, and the procedure by which any tenant or public agency may make or guarantee ~~such~~ payment, and thereby avoid termination of service.
 - 5.3.2 ~~Such notice~~ Notice to occupants shall either be mailed by first class mail to the "occupant" of each dwelling unit in the building complex to which service is proposed to be terminated or posted in a

conspicuous place or places at each building subject to termination, including common areas accessible to the utility.

5.4 Notice to State Agencies Agencies.

Not less than ~~fourteen (14)~~ 14 calendar days prior to termination of service to a multiple occupancy dwelling unit, the covered utility shall provide written notice of its intention to so terminate to the Public Service Commission of the State of Delaware, and to the Division of the Public Advocate.

6.0 Prohibition On Termination During Extreme Seasonal Temperature Conditions

6.1 Conditions of Termination

6.1.1 6.1 Conditions of Termination: Heating Season Season.

Under no circumstances may a covered utility terminate service for non-payment to a dwelling unit on a day when the National Weather Service reports that the 8:00 A.M. temperature measured at a location in the State of Delaware that is within ~~fifty (50)~~ 50 miles of the subject dwelling unit is ~~thirty-two degrees Fahrenheit (32°F)~~ 32°F or below on the morning of the date when said ~~the~~ the service is scheduled for termination.

6.1.2 6.2 Conditions of Termination: Cooling Season Season.

Under no circumstances may a covered utility terminate service for non-payment to a dwelling unit on a day when the 8:00 A.M. National Weather Service forecast contains a special weather statement or other information predicting that the ~~Heat Index~~ heat index measured at a location in the State of Delaware that is within ~~fifty (50)~~ 50 miles of the subject dwelling unit may equal or exceed ~~one-hundred-five degrees Fahrenheit (105°F)~~ 105°F on the date when said ~~the~~ the service is scheduled for termination.

6.2 Deferred Termination

~~Where termination of service, otherwise authorized, has been deferred by virtue of § 6.1, notice of such fact shall be left at the subject dwelling unit on the date on which termination was to be effected, notifying the occupant that unless proper payment arrangements are made, service will be terminated thereafter on a day when § 6.1 does not apply. If the termination of service involves an apartment complex, trailer park, or other grouping of individual residential dwelling units to which service is provided directly or indirectly through a master meter without individual meters, the notice required by this section shall be deemed sufficient if the notice is given in accordance with § 5.3.~~

7.0 Penalty And Burden Of Proof

7.1 Penalty Penalty.

Any covered utility determined, after hearing, to have terminated service for non-payment to a dwelling unit or multiple occupancy dwelling unit in violation of ~~these regulations~~ this regulation, may be fined an amount equal to twice the amount of arrearage for which service was terminated, or ~~such a~~ a lesser amount as deemed appropriate after full consideration of the circumstances. The fine which may be imposed shall not exceed the sum of \$1,000 for each day during which the termination is in violation of ~~these regulations~~ this regulation.

7.2 Burden of ~~Proof~~ Proof.

The burden of proof of compliance with ~~these regulations~~ this regulation shall be upon the covered utility at any proceeding instituted by formal written complaint to or upon motion of the Public Service Commission of Delaware. The Commission specifically reserves the right to randomly select termination cases and require the covered utility to appear before the Commission at a duly noticed hearing and establish compliance with ~~these regulations~~ this regulation.

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

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 505 and 511 (14 **Del.C.** §§505 & 511)
14 **DE Admin. Code** 275

ORDER

275 Charter Schools

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§505 and 511, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 275. The regulation has been updated to ensure that charter schools can add or modify enrollment preferences that are prompted by an act of the General Assembly through a minor modification instead of a major modification for a period of two years from the effective date of the act.

This regulation was originally published October 1, 2024. No public comments have been received.

II. FINDINGS OF FACTS

Pursuant to 14 **Del.C.** §§505 and 511, the Secretary of Education finds that it is appropriate to amend 14 **DE Admin. Code** 275. The regulation has been updated to ensure that charter schools can add or modify enrollment preferences that are prompted by an act of the General Assembly through a minor modification instead of a major modification for a period of two years from the effective date of the act.

III. 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.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 275. Therefore, pursuant to 14 **Del.C.** §§505 and 511, 14 **DE Admin. Code** 275 attached hereto as *Exhibit "A"* is hereby amended. Pursuant to the provisions of 14 **Del.C.** § 122(e), 14 **DE Admin. Code** 275 hereby amended shall be in effect for a period of four years from the effective date of this order as set forth in Section V. below.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 275 amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin. Code** 275 Charter Schools in the *Administrative Code of Regulations* for the Department of Education.

VI. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 21st day of November, 2024

Department of Education

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

Approved this 21st day of November, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

(Absent) Meredith L. Griffin, Jr.

(Absent) Harvey Kenton, 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 October 2024 issue of the *Register* at page 254 (28 DE Reg. 254). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 527 01-01-25.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** 1519

ORDER

1519 Multiple Measures for Demonstrating Content Knowledge

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** 1519 Multiple Measures for Demonstrating Content Knowledge. The regulation sets forth alternative means of demonstrating content knowledge for applicants of certain content area Standard Certificates who do not achieve the minimum score specified in the regulation for the Standard Certificate sought. The proposed amendments in this regulation include revising Sections 1.0 and 4.0 to be consistent with changes that were made to the regulations concerning Standard Certificates; amending the definition of "Regionally Accredited" in Section 2.0; and adding subsection 3.5, which concerns the Elementary Dual Language Immersion Teacher Standard Certificate (14 **DE Admin. Code** 1568).

Notice of the proposed regulation was published in the *Register of Regulations* on November 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 December 5, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge, 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** 1519 Multiple Measures for Demonstrating Content Knowledge.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge subject to the State Board of Education's approval. On December 12, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1519 Multiple Measures for Demonstrating Content Knowledge 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 12th day of December, 2024.

Department of Education

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

Approved this 12th day of December, 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 November 2024 issue of the *Register* at page 346 (28 DE Reg. 346). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 529 01-01-25.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 1521

ORDER

1521 Elementary Teacher

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 1521 Elementary Teacher. The regulation concerns the requirements for an Elementary Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising the definitions of "Employing Authority" and "Regionally Accredited" in Section 2.0; eliminating a redundant phrase in subsection 3.2; revising the examinations in Section 4.0; and amending subsections 5.3.3 and 5.4.1.

Notice of the proposed regulation was published in the *Register of Regulations* on November 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 December 5, 2024, the Professional Standards Board voted to propose 14 DE Admin. Code 1521 Elementary Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 Del.C. Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student

performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1521 Elementary Teacher.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1521 Elementary Teacher subject to the State Board of Education's approval. On December 12, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1521 Elementary Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1521 Elementary Teacher, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1521 Elementary Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1521 Elementary Teacher 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 12th day of December, 2024.

Department of Education

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

Approved this 12th day of December, 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 November 2024 issue of the *Register* at page 348 (28 DE Reg. 348). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 530 01-01-25.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** 1540

ORDER

1540 Secondary English Language Arts Teacher

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** 1540 Secondary English Language Arts Teacher. The regulation concerns the

requirements for a Secondary English Language Arts Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsection 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, in Section 2.0, the term "Employing Authority" has been revised to eliminate a redundant phrase and the definition of "Regionally Accredited" has been revised based on the changes the U.S. Department of Education made to its recognition of accrediting bodies. Also, subsection 3.2 has been revised to eliminate a redundant phrase and subsection 6.2 has been added.

Notice of the proposed regulation was published in the *Register of Regulations* on October 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 November 7, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1540 Secondary English Language Arts Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1540 Secondary English Language Arts Teacher.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1540 Secondary English Language Arts Teacher subject to the State Board of Education's approval. On November 21, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1540 Secondary English Language Arts Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1540 Secondary English Language Arts Teacher, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1540 Secondary English Language Arts Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1540 Secondary English Language Arts Teacher 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 21st day of November, 2024.

Department of Education

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

Approved this 21st day of November, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

(Absent) Meredith L. Griffin, Jr.

(Absent) Harvey Kenton, 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 October 2024 issue of the *Register* at page 261 (28 DE Reg. 261). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 531 01-01-25.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 1542

ORDER

1542 Secondary Mathematics Teacher

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 1542 Secondary Mathematics Teacher. The regulation concerns the requirements for a Secondary Mathematics Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments in this regulation include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsection 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, in Section 2.0, the term "Employing Authority" has been revised to eliminate a redundant phrase and the definition of "Regionally Accredited" has been revised based on the changes the U.S. Department of Education made to its recognition of accrediting bodies. Also, subsection 3.2 has been revised to eliminate a redundant phrase and subsection 6.2 has been added.

Notice of the proposed regulation was published in the *Register of Regulations* on October 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 November 7, 2024, the Professional Standards Board voted to propose 14 DE Admin. Code 1542 Secondary Mathematics Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 Del.C. Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 DE Admin. Code 1542 Secondary Mathematics Teacher.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1542 Secondary Mathematics Teacher subject to the State Board of Education's approval. On November 21, 2024, the State Board of Education approved amending 14 DE Admin. Code 1542 Secondary Mathematics Teacher.

FINAL REGULATIONS

Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1542 Secondary Mathematics Teacher, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1542 Secondary Mathematics Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1542 Secondary Mathematics Teacher 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 21st day of November, 2024.

Department of Education

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

Approved this 21st day of November, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

(Absent) Meredith L. Griffin, Jr.

(Absent) Harvey Kenton, 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 October 2024 issue of the *Register* at page 263 (28 DE Reg. 263). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 533 01-01-25.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** 1543

ORDER

1543 Secondary Science Teacher

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** 1543 Secondary Science Teacher. The regulation concerns the requirements for a Secondary Science Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsection 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, in Section 2.0, the term "Employing Authority" has been revised to eliminate a redundant phrase and the definition of

"Regionally Accredited" has been revised based on the changes the U.S. Department of Education made to its recognition of accrediting bodies. Also, subsection 3.2 has been revised to eliminate a redundant phrase and subsection 6.2 has been added.

Notice of the proposed regulation was published in the *Register of Regulations* on October 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 November 7, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1543 Secondary Science Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1543 Secondary Science Teacher.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1543 Secondary Science Teacher subject to the State Board of Education's approval. On November 21, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1543 Secondary Science Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1543 Secondary Science Teacher, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1543 Secondary Science Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1543 Secondary Science Teacher 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 21st day of November, 2024.

Department of Education

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

Approved this 21st day of November, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

(Absent) Meredith L. Griffin, Jr.

(Absent) Harvey Kenton, 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 October 2024 issue of the *Register* at page 264 (28 DE Reg. 264). Therefore, the final regulation is not being**

republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 534 01-01-25.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** 1544

ORDER

1544 Secondary Social Studies Teacher

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** 1544 Secondary Social Studies Teacher. The regulation concerns the requirements for a Secondary Social Studies Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsection 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, in Section 2.0, the term "Employing Authority" has been revised to eliminate a redundant phrase and the definition of "Regionally Accredited" has been revised based on the changes the U.S. Department of Education made to its recognition of accrediting bodies. Also, subsection 3.2 has been revised to eliminate a redundant phrase, subsection 4.1.2 has been revised to add the Praxis Subject Assessment - Social Studies (ETS Test Code #5581), and subsection 6.2 has been added.

Notice of the proposed regulation was published in the *Register of Regulations* on October 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 November 7, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1544 Secondary Social Studies Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1544 Secondary Social Studies Teacher.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1544 Secondary Social Studies Teacher subject to the State Board of Education's approval. On November 21, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1544 Secondary Social Studies Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1544 Secondary Social Studies Teacher, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1544 Secondary Social Studies Teacher amended hereby shall be in the form

attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1544 Secondary Social Studies Teacher 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 21st day of November, 2024.

Department of Education

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

Approved this 21st day of November, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

(Absent) Meredith L. Griffin, Jr.

(Absent) Harvey Kenton, 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 October 2024 issue of the *Register* at page 266 (28 DE Reg. 266). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 536 01-01-25.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** 1550

ORDER

1550 Agriscience Teacher

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** 1550 Agriscience Teacher. The regulation concerns the requirements for an Agriscience Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments in this regulation include revising subsection 4.1.1.4, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.2. The revisions to subsection 4.1.1.4 and striking subsection 5.3.2 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, in Section 2.0, the term "Employing Authority" has been revised to eliminate a redundant phrase and the definition of "Regionally Accredited" has been revised based on the changes the U.S. Department of Education made to its recognition of accrediting bodies. Also, subsection 3.2 has been revised to eliminate a redundant phrase and subsection 6.2 has been added.

Notice of the proposed regulation was published in the *Register of Regulations* on October 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 November 7, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1550 Agriscience Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1550 Agriscience Teacher.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1550 Agriscience Teacher subject to the State Board of Education's approval. On November 21, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1550 Agriscience Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1550 Agriscience Teacher, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1550 Agriscience Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1550 Agriscience Teacher 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 21st day of November, 2024.

Department of Education

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

Approved this 21st day of November, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

(Absent) Meredith L. Griffin, Jr.

(Absent) Harvey Kenton, 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 October 2024 issue of the *Register* at page 268 (28 DE Reg. 268). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 537 01-01-25.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 1565

ORDER

1565 World Language Teacher

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 1565 World Language Teacher. The regulation concerns the requirements for a World Language Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments in this regulation include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsection 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. Additional proposed amendments include, in Section 2.0, revising the definition of "Regionally Accredited" based on the changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" to eliminate a redundant phrase; amending subsection 3.2 to eliminate a redundant phrase; adding the Japanese: World Language Praxis Subject Assessment to subsection 4.1.2.1.6; adding the Oral Proficiency Interview - Computer (OPIC) assessment to subsection 4.1.2.2.1 and Section 5.0; and adding subsection 4.1.2.3, which concerns the World Language - American Sign Language Standard Certificate.

Notice of the proposed regulation was published in the *Register of Regulations* on November 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 December 5, 2024, the Professional Standards Board voted to propose 14 DE Admin. Code 1565 World Language Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 Del.C. Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 DE Admin. Code 1565 World Language Teacher.

IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1565 World Language Teacher subject to the State Board of Education's approval. On December 12, 2024, the State Board of Education approved amending 14 DE Admin. Code 1565 World Language Teacher. Therefore, pursuant to 14 Del.C. §§1203, 1205(b), and 1220, 14 DE Admin. Code 1565 World Language Teacher, attached hereto as Exhibit A, is hereby amended.

V. TEXT AND CITATION

The text of 14 DE Admin. Code 1565 World Language Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 DE Admin. Code 1565 World Language Teacher in the *Administrative Code of Regulations* for the Department.

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 12th day of December, 2024.

Department of Education

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

Approved this 12th day of December, 2024.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Meredith L. Griffin, Jr.

/s/ Harvey Kenton, 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 November 2024 issue of the *Register* at page 352 (28 DE Reg. 352). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 539 01-01-25.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

Cellular and Gene Therapy

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 Attachment 4.19-B pages 14 and 14a regarding Cellular and Gene Therapy, specifically, to change pricing logic for clotting factors and specialty medications to control cost. 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 November 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 2, 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 Cellular and Gene Therapy.

Background

The CGT Access Model was developed by the Centers for Medicare and Medicaid Services (CMS) in response to

President Biden's Executive Order 14087 and aims to improve the lives of people with Medicaid living with rare and severe diseases by increasing access to potentially transformative treatments. Cellular and gene therapies are a rapidly growing class of one-time treatments, many of which are developed to treat rare and severe diseases, such as sickle cell disease. They can correct underlying causes of a disease, address symptoms, and halt disease progression. However, the high cost of these treatments makes it difficult for state Medicaid agencies to pay for them. Initially, the model will focus on access to gene therapy treatments for people living with sickle cell disease, a genetic blood disorder that disproportionately affects African Americans. This will change pricing logic for clotting factors and specialty medications to control cost in these 2 high price drug categories.

Statutory Authority

- Executive Order 14087
- CMS Rule 2434-F

Purpose

The purpose of this regulation is to update the definition of an outpatient drug and participate in the CGT Access model with CMS.

Summary of Proposed Changes

Effective July 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to change pricing logic for clotting factors and specialty medications to control cost.

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 December 2, 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

There is no anticipated fiscal impact.

Summary of Comments Received with Agency Response and Explanation of Changes

Comment: There were comments supporting the proposed changes.

Agency response: DMMA appreciates the support.

DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- State Council for Persons with Disabilities (SCPD)
- Governor's Advisory Council for Exceptional Citizens (GACEC)

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 November 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding Cellular and Gene Therapy, specifically, to change pricing logic for clotting factors and specialty medications to control cost and shall be final effective January 11, 2025.

12/10/2024 | 4:36 PM EST

Date of Signature

Josette D. Manning Esq., Secretary, DHSS

Attachment 4.19-B
Page 14

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES --
OTHER TYPES OF CARE
REIMBURSEMENT FOR PHARMACEUTICALS

Overview

The Delaware Medical Assistance Program (DMAP) will reimburse pharmaceuticals using the lower of:

- ~~The usual and customary (U & C) charge to the general public for the product,~~
- 1. All prescribed drugs, devices, and supplies, including DMAP covered non-legend and legend products that are prescribed by an authorized prescriber, DMAP will reimburse using the following hierarchy methodology. National Average Drug Acquisition Cost (NADAC); if no NADAC, National Average Drug Acquisition Cost (NADAC),
- 2. Delaware Maximum Allowable Cost (DMAC); (DMAC). (Delaware Medicaid and Medical Assistance MAC) includes all types of medication, including specialty and hemophilia products). If no NADAC or DMAC, Actual Acquisition Cost (AAC).
- 3. Wholesale Acquisition Cost (WAC),
 - WAC for legend
 - WAC minus 2% for non-legend
- 4. The usual and customary charge submitted by the provider if it is lower.
- 5. Federal Supply Schedule purchased drugs will be reimbursed at the provider's actual acquisition cost.
- 6. Drugs acquired at Nominal Price (outside of 340B or Fee for Service) will be reimbursed at the provider's acquisition cost.
- 7. Long-term care pharmacy providers supplying covered drugs to participants in long-term care facilities shall be reimbursed as outlined in items 1-6 above in this section.
- 8. Drugs not distributed by a retail community pharmacy and distributed primarily through a Specialty Pharmacy, or the mail (such as specialty drugs) will be reimbursed as outlined in items 1-6 above in this section. DMAC is market based and includes all drug types.

- 9. Clotting factors from Specialty Pharmacy, Hemophilia Treatment Centers (HTC) will be reimbursed as outlined in items 1-6 in this section. DMAC is market based and includes all types of drugs.
- 10. Physician Administered Drugs (PAD) will be reimbursed as outlined in items 1-6 above in this section. DMAC is market based and includes all types of drugs.
- 11. Investigational Drugs that are prior authorized by DMAP will be reimbursed at AAC.

Medications listed on the High Investment Medication list are carved out of managed care and paid for by DMAP. All other services provided for the patient are the responsibility of the MCO. The High Investment Medication list is available on the DMMA pharmacy portal as www.medicaid.dhss.Delaware.gov.

Delaware will pay for High Investment list medications by using the lesser of methodology:

- 1) Actual Acquisition Cost
- 2) Wholesale Acquisition Cost (WAC)
- 3) ASP + 6 % if available
- 4) Billed Charges

DMAP will meet the reimbursement of FUL defined drugs in the aggregate by reviewing that the NADAC does not exceed the FUL levels.

Methodology for establishing AAC is provided in the table on page Attachment 4.19-B Page 14a.

Attachment 4.19-B
Page 14 cont.

Entities that purchase Section 340B of the Public Health Service Act products must request to use these drugs for all DMAP patients, including Medicaid fee-for-service patients and for patients whose care is covered by Medicaid Managed Care Organizations.

Professional Dispensing Fee

There is one-time professional fee per thirty (30)-day period unless the class of drugs is routinely prescribed for a limited number of days.

Definitions

Delaware Maximum Allowable Cost (DMAC) - a maximum price set for reimbursement:

- When a single source product has Average Selling Prices provided by the manufacturer that indicates the WAC is exaggerated,
- When the NADAC does not reflect the most current cost of a multiple source drug, or
- If a single provider agrees to a special price.

TN No. SPA # 17-002 <u>24-0014</u>	Approval Date June 2, 2017
Supersedes	
TN No. SPA # 17-002 <u>17-002</u>	Effective Date January 1, 2017 [June July]1, 2025

Attachment 4.19-B
Page 14a

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

FINAL REGULATIONS

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -- OTHER TYPES OF CARE REIMBURSEMENT FOR PHARMACEUTICALS

Reimbursement Policy:

The lower of Usual and Customary or Actual Acquisition Cost (AAC) for Drug Reimbursement is derived using the methodology in the table below.

Category	Ingredient Cost	Professional Dispensing Fee
Brand Drug	NADAC	\$10
Generic Drug	NADAC	\$10
Drugs Without NADAC	WAC for legend and WAC-2% for non-legend; or a Delaware Maximum Allowable Cost (<u>DMAC</u>), whichever is lower.	\$10
340B Purchased Drug	AAC for dispensed drugs	\$10
	AAC for physician administered drugs	\$0
Contract 340B Pharmacy	Drugs acquired through the Federal 340B Drug Pricing Program and dispensed by 340B contract pharmacies are not covered.	N/A
Drugs purchased by 340B entities enrolled with DMMA as utilizing public health service products, which based on specific conditions, must purchase drugs outside of the 340B inventory when that drug is not available or eligible for 340B purchase.	NADAC	\$10
Federal Supply Schedule	AAC	\$10
Drugs Acquired at Nominal Price	AAC	\$10
Specialty Drugs-Mailed	AAC (Invoice price) <u>NADAC, DMAC or AAC, whichever is lower</u>	\$27
Drug Not Dispensed by Retail Pharmacy	NADAC, DMAC or WAC, whichever is lower.	\$10
Physician Administered Drugs	AAC based on invoice price if maximum unit cost is greater than or equal to \$50. For drugs where the maximum cost is less than \$50, the cost will be based on invoice price or the Medicare fee schedule. <u>NADAC, DMAC, WAC, whichever is lower. Medications below \$50, the cost will be based on the invoice price or the Medicare fee schedule.</u>	N/A
Clotting Factor	AAC (Invoice Price) <u>DMAC or AAC, whichever is lower</u>	\$27

Investigational Drugs (when prior authorized; as a general rule not covered products)	AAC	\$10
Cellular and Gene Therapy Medication List	AAC or ASP + 6%, whichever is lower.	N/A

TN No. SPA ~~23-0003~~ 24-0014Approval Date ~~December 19, 2023~~

Supersedes

TN No. # ~~47-002~~ 23-0003Effective Date ~~July 1, 2023~~ **[June July] 1, 2025**

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 20000

ORDER

Personal Needs Allowance

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 and Delaware Social Services Manual (DSSM) regarding Personal Needs Allowance, specifically, to modify the personal needs allowance amount for individuals residing in long term care facilities. 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 November 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 2, 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 and Delaware Social Services Manual (DSSM) regarding Personal Needs Allowance.

Background

State Plan provisions require the Delaware Medical Assistance Program (DMAP) to provide a personal needs allowance (PNA) to Medicaid recipients residing in long-term care facilities. This PNA is intended to provide for clothing and other personal needs. The current PNA is \$50/month for individuals and \$100/month for married couples and was set in 2016. Delaware Medicaid and Medical Assistance (DMMA) recognizes that the cost-of-living has increased since 2016 and proposes to increase the PNA to offset some of the increased costs of personal needs for recipients. The new PNA will be \$75/month for individuals and \$150/month for married couples.

Statutory Authority

- §1902(a)(50), (q) of the Social Security Act
- §1924(d)(1) of the Social Security Act
- 42 CFR §435.725
- 42 CFR §435.733

- 42 CFR §435.832

Purpose

The purpose of this regulation is to amend the current personal needs allowance.

Summary of Proposed Changes

Effective January 1, 2025, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan and the DSSM to modify the personal needs allowance amount for individuals residing in long term care facilities.

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 December 2, 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 2025]	Federal Fiscal Year [2025 2026]
General (State) funds	\$278,116	\$285,600
Federal funds	\$419,793	\$425,556

Summary of Comments Received with Agency Response and Explanation of Changes

Comment: There were comments regarding the Personal Needs amount being higher.

Agency response: DMMA thanks the Councils for their comments, however, no change will be made.

DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- State Council for Persons with Disabilities (SCPD)
- Governor's Advisory Council for Exceptional Citizens (GACEC)

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 November 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan and Delaware Social Services Manual (DSSM) regarding Personal Needs Allowance, specifically, to modify the personal needs allowance amount for individuals residing in long term care facilities and shall be final effective January 11, 2025.

12/10/2024 | 8:26 PM 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 November 2024 issue of the *Register* at page 364 (28 DE Reg. 364). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 545 01-01-25.htm>

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

ORDER

Medicaid Recovery Audit Contractor's (RAC) Program

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 Recovery Audit Contractor's (RAC) Program, specifically, to request an extension of the exception from participation in the RAC Program. 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 November 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 2, 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 RAC Program.

Background

Under Section 1902(a)(42)(B)(i) of the Act, states and territories are required to establish programs to contract with one or more Medicaid Recovery Audit Contractors (RACs) to identify underpayments and overpayments, as well as recouping overpayments, under the Medicaid State Plan and any Medicaid State Plan Waivers. This applies to all services for which payment is made to any entity under such plan or waiver. States must establish these programs in a manner consistent with State law and generally in the same way as the Secretary contracts with

contingency fee contractors for the Medicare RAC program.

Section 1902(a)(42)(B)(i) of the Act specifies that States shall establish programs under which they contract with Medicaid RACs subject to such exceptions or requirements as the Secretary may require for purposes of a particular State. This provision enables the Centers for Medicare and Medicaid Services (CMS) to vary the Medicaid RAC program requirements. For example, CMS may exempt a State from the requirement to pay Medicaid RACs on a contingent basis for collecting overpayments when State law expressly prohibits contingency fee contracting. However, another fee structure could be required under any such exception (e.g., a flat fee arrangement).

Statutory Authority

- §1902(a)(42)(b) of the Social Security Act
- The Patient Protection and Affordable Care Act, Public Law 111-148, Section 6411, Expansion of the RAC Program
- 42 CFR §455 Subpart A
- 42 CFR §455 Subpart F

Purpose

The purpose of this regulation to amend the RAC requirements.

Summary of Proposed Changes

Effective October 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan to request an extension of the exception from participation in the RAC program.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 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 December 2, 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

There is no anticipated fiscal impact.

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 November 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan regarding RAC Program, specifically, to request an extension of the exception from participation in the RAC program and shall be final effective January 11, 2025.

12/12/2024 | 2:27 PM EST

Date of Signature

Josette D. Manning Esq., Secretary, DHSS

Medicaid Recovery Audit Contractor's (RAC) Program

***Please Note: Due to formatting of certain amendments to the regulation, they are not being published here. Copies of the document is available at:**

<https://regulations.delaware.gov/register/january2025/final/36a page Amended.pdf>

OFFICE OF THE STATE TREASURER CASH MANAGEMENT POLICY BOARD

Statutory Authority: 29 Delaware Code, Section 2716 (29 **Del.C.** §2716)
1 **DE Admin. Code** 1201

ORDER

1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds

The Cash Management Policy Board (the "Board") hereby adopts and issues this ORDER promulgating a revised regulation for the deposit and investments of State funds (the "Regulation").

I. BACKGROUND

The Board is authorized by statute to establish policies (a) for the investment of all money belonging to the State or on deposit from its political subdivisions, except money deposited in any State Pension Fund or the State Deferred Compensation Program, and (b) to determine the terms, conditions, and other matters relating to those investments, including the designation of permissible investments. See 29 **Del.C.** §2716(a). The Board previously promulgated regulatory guidelines that, among other things, govern the deposit of State funds in demand deposit accounts and the purchase and sale of securities by the State's investment managers. See 1 **DE Admin. Code** 1201.

The Board, upon the recommendations of its investment subcommittee, has proposed changes to the existing regulatory guidelines. The proposed amendments will: (a) increase to 30% the allowable investment limits for private placement securities (Rule 144A securities) held in liquidity accounts; (b) increase to 2.5 years the average life limit on asset-backed securities held in reserve accounts; and (c) increase the maximum maturity for any investment of State funds held in reserve accounts to eleven years from the date of settlement. The Board, after a public meeting on September 11, 2024, and by unanimous vote, approved the Regulation for proposal under Delaware's Administrative Procedures Act, 29 **Del.C.** Ch. 101 (the "APA").

In accordance with the APA, the Board caused notice and a copy of the Regulation to be published in the *Delaware Register of Regulations*, Vol. 28, Issue 5. The Board accepted public comments from November 1, 2024 through November 30, 2024. No comments were received relating to the proposed changes. The Regulation is approved as originally proposed.

II. FINDINGS OF FACT

The Board, for the reasons discussed in detail at, and reflected in the minutes of, the Board meetings convened on September 11, 2024, finds that the Regulation, as proposed, is necessary and appropriate to ensure the safe deposit and prudent investment of State funds. In addition, 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 Regulation on the State's resiliency to climate change is not practical.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Board concludes that it is appropriate to amend 1 **DE Admin. Code** 1201 as proposed in the November 2, 2024 *Register of Regulations*.

IV. TEXT AND CITATION

The text of 1 **DE Admin. Code** 1201, as amended hereby, shall be in the form attached hereto as Exhibit A and shall be cited as 1 **DE Admin. Code** 1201, Objectives and Guidelines for the Investment of State of Delaware Funds.

V. EFFECTIVE DATE

The effective date of this Order shall be ten (10) days after the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 5th day of December 2024.

Cash Management Policy Board

/s/ Warren C. Engle, Chair

/s/ Manubhai C. Karia, Chair, Investment Subcommittee

/s/ Stephen Marvin, Vice Chair, Investment Subcommittee

/s/ Tarrie Miller, Chair, Banking Subcommittee

/s/ Leyland Sylver, Vice Chair, Banking Subcommittee

/s/ Colleen C. Davis, State Treasurer, Member

/s/ Richard J. Geisenberger, Secretary, Department of Finance, Member

/s/ Ruth Ann Miller, Controller General, Member

Members not voting: Jeffrey Bullock, Secretary, Department of State (absent)

***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 November 2024 issue of the *Register* at page 377 (28 DE Reg. 377). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

<https://regulations.delaware.gov/register/january2025/final/28 DE Reg 549 01-01-25.htm>

DEPARTMENT OF TRANSPORTATION
DIVISION OF TRANSPORTATION SOLUTIONS
Traffic Engineering Section

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

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Four Seasons Parkway (N140800)

November 18, 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 Four Seasons Parkway (N140800) between Old Baltimore Pike (N26) and DE896 South College Avenue (N387).

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

GENERAL NOTICES

DIVISION OF TRANSPORTATION SOLUTIONS

Traffic Engineering Section

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

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - Pencader Village and Winsome Commons Subdivisions

November 18, 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 all local streets in the Pencader Village and Winsome Commons Subdivisions

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

DIVISION OF TRANSPORTATION SOLUTIONS
Traffic Engineering Section

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

NOTICE

Senate Bill 89 as amended by Senate Amendment 1 - South Bedford Street (S431)

November 20, 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 South Bedford Street (S431) between the Georgetown traffic circle (W. Market Street (S28) and E. Market Street (S18)/North Bedford Street (S18)) and US 113 DuPont Boulevard (S113).

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 Delaware River Basin Commission will hold a public hearing on **Wednesday, February 5, 2025**, commencing at **1:30 p.m.** The public hearing will be conducted remotely. The draft docket decisions and draft resolutions that will be subjects of the public hearing, 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 hearing date.

The Commission's quarterly business meeting will be held on **Wednesday, March 12, 2025**, commencing at **10:30 a.m.** The business meeting also 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 links to live streams of these events, please visit the DRBC website at <https://www.drbc.gov> or contact Patricia Hausler at patricia.hausler@drbc.gov.

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 SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES**DIVISION OF MANAGEMENT SUPPORT SERVICES****PUBLIC NOTICE****501 Procedures for Drug Testing Certain Employees****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 29 **Del.C.** §9020, the Department of Services for Children, Youth & Their Families (DSCYF) is required to promulgate regulations regarding its procedures for drug testing certain employees. DSCYF is proposing to amend Regulation 501 to remove outdated language and to clarify that the only DSCYF employees subject to the random drug testing procedures are those with job duties involving a safety, security-sensitive or childcare position.

Comments will be accepted until 4:30pm on or before February 3, 2025 in written form via email to Meredith.Seitz@delaware.gov or by U.S. mail to the following address:

Meredith Seitz, Chief of Staff
Department of Services for Children, Youth & Their Families
1825 Faulkland Road
Wilmington, DE 19805

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
2500 Board of Pharmacy

Pursuant to 24 **Del.C.** §2506(a)(1), the Delaware Board of Pharmacy ("Board") has proposed revisions to its regulation.

On June 1, 2024, proposed revisions to the regulation were published in the *Delaware Register of Regulations*, Volume 27, Issue 12. The Board proposed to amend subsection 5.1.6, pertaining to compounding; a new Section 21.0 was added concerning work conditions for pharmacists; and a new Section 22.0 was added to set forth the parameters where a pharmacist may decline to fill a prescription based on professional judgment.

A public hearing was held on June 26, 2024 before the Board. The Board deliberated on the evidence presented at its meeting on August 21, 2024. Based on those deliberations, the Board has proposed further revisions to the regulation. Therefore, the Board withdraws the proposed regulation published June 1, 2024, and submits a revised proposed regulation attached as Exhibit A.

A public hearing will be held on February 19, 2025 at 9:30 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 Pharmacy, 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 ruthm.dixon@delaware.gov.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be March 6, 2025. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

DIVISION OF SMALL BUSINESS
PUBLIC NOTICE
The STEM Talent Advancement and Retention ("STAR") Fund

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 STEM Talent Advancement and Retention Fund.

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 31, 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

The STEM Talent Advancement and Retention Fund ("STAR Fund") was established pursuant to Section 37 of the Fiscal Year 2025 Grants-in-Aid Act, S.B. 327 of the 152nd General Assembly, for the purpose of incentivizing, retaining, and attracting graduates from an accredited post-secondary institution of higher education who are employed or considering employment in Delaware in the STEM fields by providing awards for reimbursement of their education loans. The STAR Fund will be administered by the Division of Small Business, a division within the Department of State. 29 **Del.C.** §8703A.

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
PUBLIC NOTICE

507 Licensing Third-party Delivery of Alcoholic Beverages

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 4 **Del.C.** §304, the Delaware Alcoholic Beverage Control Commissioner proposes to establish a new regulation related to permitting and licensing third-party delivery of alcoholic beverages in the State.

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 regulations should direct them to the following address:

Doug Denison
Deputy Commissioner
Office of the Delaware Alcoholic Beverage Control Commissioner
820 N. French St., 10th Floor
Wilmington, DE 19801

Comments may also be directed via electronic mail to OABCCrulescomments@delaware.gov. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Delaware Alcoholic Beverage Control Commissioner no later than 4 p.m. EST, February 3, 2025.

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

PUBLIC SERVICE COMMISSION
PUBLIC NOTICE

3002 Regulations Governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Non-Payment During Extreme Seasonal Temperature Conditions

PSC REGULATION DOCKET NO. 53
Opened: April 15, 2003 (PSC Order No. 6148)
Re-Opened: November 20, 2024 (PSC Order No. 10561)

The Delaware Public Service Commission ("Commission" or "PSC"), pursuant to 26 **Del.C.** §209(a)(1), proposes to amend its regulations governing termination of residential electric or natural gas service by public utilities for non-payment during extreme seasonal temperature conditions as promulgated 26 **DE Admin. Code** 3002. In summary, the Commission proposes to lower the Heat Index metric used during the Cooling Season and eliminate the requirement that a utility attempt to make personal contact at a customer's premises prior to disconnection.

A copy of the proposed regulations is being published in the January 2025 issue of the *Delaware Register of*

Regulations, and is also available in the PSC's electronic filing system, Delafile, located at <http://delafile.delaware.gov/> (Docket No. "Reg. 53"). If you wish to obtain written copies of the implementing 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).

In accordance with 29 **Del.C.** §10116, written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should be submitted via e-mail to PSC@delaware.gov with the subject line "Regulation 3002 - PSC Docket No. 53" or mailed to: Crystal Beenick, Public Service Commission, Cannon Building, 861 Silver Lake Blvd., Suite 100, Dover, DE 19904.

The Commission will hold a public hearing on the proposed regulations on January 29, 2025, at 1:00 p.m. at the hearing room located at 861 Silver Lake Blvd., Suite 100, Dover, DE 19904. To be considered at the January 29, 2025 hearing, written comments must be submitted on or before January 22, 2025. Pursuant to 29 **Del.C.** §10118(a), written comments will be accepted after the hearing until February 13, 2025.

On or after February 13, 2025, following review of any public comments, the Commission will determine whether to amend its regulations by adopting the proposed amendments or make additional changes.

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