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# Delaware Register of Regulations

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Issue Date: September 1, 2024

Volume 28 - Issue 3, Pages 163-240

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## IN THIS ISSUE:

Errata

Regulations:  
Proposed  
Final

General Notices

Calendar of Events &  
Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before August 15, 2024.

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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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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.
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## CITATION TO THE DELAWARE REGISTER

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

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

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

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## 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.

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## CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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

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

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

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

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

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

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## CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.
February 1	January 15	4:30 p.m.
March 1	February 15	4:30 p.m.

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### DIVISION OF RESEARCH STAFF

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

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**Division of Facilities Management**

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## DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 151 (14 **Del.C.** §§122(a) & 151)  
14 **DE Admin. Code** 101

### ERRATA

#### 101 State Assessment System

\* **Please Note:** The Department of Education regulation, 14 **DE Admin. Code** 101 State Assessment System, was published as proposed in the *Delaware Register of Regulations*, 27 **DE Reg.** 925 (06/01/24). The definition section and subsections 3.1.2, 4.4, and 4.4.1 were inadvertently published incorrectly.

Definition section was published as:

**“National Assessment for Education Progress (~~NAEP~~)”** means a norm referenced assessment used statewide in selected schools and grades to measure academic achievement in various content areas including, but not limited to, English Language Arts, ~~Mathematics~~ Arts and Literacy, Mathematics, and Science.

Definition section should have read:

**“National Assessment for Education Progress (~~NAEP~~)”** means a norm referenced assessment used statewide in selected schools and grades to measure academic achievement in various content areas including, ~~but not limited to,~~ English Language Arts, ~~Mathematics~~ Arts and Literacy, Mathematics, and Science.

Subsection 3.1.2 was published as:

3.1.2 ~~all students in grades 5, 8, 10 in Science; and all students in grades 4 and 7 in Social Studies; and high school students taking U.S. History (EOC). All students in grades 5 and 8 in Science and students taking a high school Biology course; and~~

Subsection 3.1.2 should have read:

3.1.2 ~~all students in grades 5, 8, 10 in Science; and all students in grades 4 and 7 in Social Studies; and high school students taking U.S. History (EOC). All students in grades 5 and 8 in Science and students taking a high school Biology course; and~~

Subsections 4.4 and 4.4.1 were published as:

4.4 ~~Portfolio Alternate Assessment~~ Assessment.

4.4.1 A parent who believes that his or her child would not, despite accommodations, produce valid results on the ~~Selected Response Assessment~~ selected response assessment may submit a written request to the LEA, in a uniform format as determined by the Department, no later than October 15th of the school year for which the ~~Portfolio Alternate Assessment~~ portfolio alternate assessment is sought.

Subsections 4.4 and 4.4.1 should have read:

4.4 Portfolio Alternate Assessment

4.4.1 A parent who believes that his or her child would not, despite accommodations, produce valid results on the ~~Selected Response Assessment~~ selected response assessment may submit a written request to the LEA, in a uniform format as determined by the Department, no later than October 15th of the school year for which the ~~Portfolio Alternate Assessment~~ portfolio alternate assessment is sought.

This regulation is corrected and being published as a final regulation in the September 2024 *Register*.

**DEPARTMENT OF LABOR**  
**DIVISION OF INDUSTRIAL AFFAIRS**

Statutory Authority: 19 Delaware Code, Sections 105 and 2322B (19 **Del.C.** §§105 & 2322B)  
19 **DE Admin. Code** 1341

**ERRATA**

**1341 Workers' Compensation Regulations**

\* **Please Note:** The Department of Labor regulation, 19 **DE Admin. Code** 1341 Workers' Compensation Regulations, was published as final in the *Delaware Register of Regulations*, 27 **DE Reg.** 614 (02/01/24). Subsections 4.23.5.2, 4.26.6.4, 4.27, 4.27.1, and 4.27.2.3(50) were inadvertently published incorrectly.

Subsection 4.23.5.2 was published as:

4.23.5.2 The following is a list of the accepted status indicators (SI) for use with hospital OPPS:

Subsection 4.23.5.2 should have been published as:

4.23.5.2 The following is a list of the accepted status indicators (SI) for use with hospital OPPS:

Subsection 4.26.6.4 was published as:

◦ 4.26.6.4 Stimulation of nerves for ~~identification~~ identification

Subsection 4.26.6.4 should have been published as:

◦ 4.26.6.4 Stimulation of nerves for ~~identification~~ identification:

New subsections 4.27 and 4.27.1 were published as:

~~4.26~~ 4.27 **Radiology** Radiology

~~4.26.1~~ 4.27.1 ~~Payment Ground Rules for Diagnostic and Therapeutic Radiological Services~~  
Payment Ground Rules for Diagnostic and Therapeutic Radiological Services

New subsections 4.27 and 4.27.1 should have been published as:

~~4.26~~ 4.27 **Radiology** Radiology

~~4.26.1~~ 4.27.1 ~~Payment Ground Rules for Diagnostic and Therapeutic Radiological Services~~  
Payment Ground Rules for Diagnostic and Therapeutic Radiological Services

New subsection 4.27.2.3 (50) was published as:

~~4.26.2.3~~ 4.27.2.3 The following modifiers will be recognized for reimbursement by the fee schedule for diagnostic and therapeutic radiology services codes:

**50 Bilateral Procedure:** Unless otherwise identified in the listings, bilateral procedures that are performed at the same session should be identified by adding modifier 50 to the appropriate five-digit code. Note: This modifier should not be appended to designated "add-ons" (see Appendix D (of CPT)).

New subsection 4.27.2.3 (50) should have been published as:

~~4.26.2.3~~ 4.27.2.3 The following modifiers will be recognized for reimbursement by the fee schedule for diagnostic and therapeutic radiology services codes:

**50 Bilateral Procedure:** Unless otherwise identified in the listings, bilateral

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procedures that are performed at the same session should be identified by adding modifier 50 to the appropriate five-digit code. **Note:** This modifier should not be appended to designated "add-ons" (see Appendix D (of CPT)).

**State Note:** There will be no reductions to the procedures billed with the modifier 50.

**State Note:** Procedures performed bilaterally are reported as two line items, and modifier 50 is not appended. These codes are identified with CPT specific language at the code or subsection level. Modifiers RT and LT may be appended as appropriate.

The effective date for this regulation remains the same as published in the February 2024 issue of the *Register of Regulations*.

**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.

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**DEPARTMENT OF AGRICULTURE****DELAWARE NUTRIENT MANAGEMENT COMMISSION**Statutory Authority: 3 Delaware Code, Section 2220(a) (3 **Del.C.** §2220(a))3 **DE Admin. Code** 1201**PUBLIC NOTICE****1201 Nutrient Management Certification Regulations**

The Delaware Nutrient Management Commission, pursuant to 3 **Del.C.** §2220(a), proposes to revise regulation 3 **DE Admin. Code** 1201, Section 8.0 to allow a certificate holder with excess continuing education credits to roll such credits from one renewal period to the next. The proposal further removes obsolete renewal regulations at 3 **DE Admin. Code** 1201, Section 11.0.

Written comments should be sent to Chris Brosch, Administrator of the Delaware Nutrient Management Commission, 2320 S. DuPont Highway, Dover DE 19901. Written comments will be accepted until 5:00 p.m. on October 1, 2024 pursuant to 29 **Del.C.** §10118(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/september2024/proposed/28 DE Reg 174RFA 09-01-24.pdf>

**1201 Nutrient Management Certification Regulations**  
*(Break in Continuity of Sections)***8.0 Continuing Education**

- 8.1 After a certificate is issued, the certificate holder must take and successfully complete continuing education courses approved by the Commission or Program Administrator in accordance with the following:

- 8.1.1 Nutrient generator - 6 credits of continuing education in each three-year period following the issuance of the certification.
  - 8.1.2 Private nutrient handlers - 6 credits of continuing education in each three-year period following the issuance of the certification.
  - 8.1.3 Commercial nutrient handlers - 6 credits of continuing education in each three-year period following the issuance of the certification.
  - 8.1.4 Nutrient consultants - 5 credits of continuing education each year following the issuance of the certification.
- 8.2 If a certificate holder in any category earns more than the required number of credits during the applicable renewal period, any excess hours may be applied to the next renewal period.
- ~~8.2~~ 8.3 Failure to satisfy the continuing education requirements may result in the revocation of a certificate or non-renewal of the certificate.
- ~~8.3~~ 8.4 Any dispute regarding continuing education credits may be directed to the Commission which will determine whether a hearing is necessary to resolve the dispute.

## **9.0 Duration Of Certificates And Certification Fees**

- 9.1 Certificates normally will be issued and renewed for periods of three years for nutrient generators, private nutrient handlers, and commercial nutrient handlers. Certified nutrient consultants will be issued and renewed certifications annually.
- 9.2 Certificate fees are due with the application. The fee for a one-year certificate issued to nutrient consultants shall be \$100.00. The certificate fee for commercial nutrient handlers for a three-year certificate shall be \$150.00. The Commission reserves the right to waive these fees for good cause shown.
- 9.3 No fee will be charged for certification of a nutrient generator or a private nutrient handler.

## **10.0 Suspensions, Modifications, And Revocations**

The Commission may, after notice and opportunity for hearing, suspend, modify, or revoke any certificate where the Commission has reasonable grounds to believe that the certificate holder is responsible for violations of the nutrient management statute (Title 3, Chapter 22, of the **Delaware Code**) or Commission regulations. The Commission shall furnish the person accused of a violation with notice of the time and place of the hearing, which notice shall be served personally or by registered mail directly to such person's place of business or last known address with postage fully paid no sooner than 10 days but within 21 days of the time fixed for the hearing.

## **11.0 Certification Renewals**

- ~~11.1 At least 45 days before the expiration of a certificate, the certificate holder shall file an application with the Commission for renewal of the certificate, along with the certification fee.~~
- ~~11.2 Nutrient consultants must file with the application and fee evidence that the consultant prepared at least one nutrient management plan during the preceding three-year period. If no such plan was prepared, the certificate shall not be renewed.~~
- ~~11.3 The certificate holders must also supply with the application and renewal fee evidence that they have complied with the continuing education and record keeping and reporting requirements contained in these regulations.~~
- ~~11.4 Absent good cause for failure to timely file an application for renewal in compliance with these requirements, the certificate holder must reapply for the certificate in the same manner required for the issuance of the original certificate.~~
- ~~11.5 Decisions to refuse renewal of a certificate shall be final and conclusive unless appealed to the Commission pursuant to Section 2262 of Title 3 of the **Delaware Code**.~~

## **~~11.0~~ Appeals To The Secretary**

# PROPOSED REGULATIONS

All decisions of the Commission under this regulation shall be final and conclusive unless appealed to the Secretary pursuant to Section 2263 of Title 3 of the **Delaware Code**. Provided, however, that the denial of a certificate pursuant to Sections 2243 or 2245 of Title 3 of the **Delaware Code** shall first be appealed to the Commission which shall hold a hearing.

## ~~43.0~~ **12.0 Record Keeping**

~~43.1~~ **12.1** Nutrient generators shall record and keep the following available for inspection by the Secretary or the Commission:

~~43.1.1~~ **12.1.1A** contemporaneously recorded log that contains the dates, approximate quantities, locations, and disposition (stored, shipped, etc.) of nutrients that are applied to land or transported from land owned, leased or otherwise controlled by the Nutrient Generator.

~~43.1.2~~ **12.1.2A** copy of any applicable nutrient management plan.

~~43.2~~ **12.2** Private nutrient handlers shall record and keep the following available for inspection by the Secretary or the Commission:

~~43.2.1~~ **12.2.1A** contemporaneously recorded log showing the dates, locations, approximate quantities, acreage and methods of nutrient application.

~~43.2.2~~ **12.2.2A** copy of any applicable nutrient management plan.

~~43.3~~ **12.3** Commercial nutrient handlers shall prepare and keep available for inspection by the Secretary or the Commission, a contemporaneously recorded log showing the dates, locations, approximate quantities, acreage, and methods of nutrient application.

~~43.4~~ **12.4** Nutrient consultants shall prepare and/or keep available for inspection by the Secretary or the Commission, copies of any written materials prepared by the nutrient consultants or at their direction that establish how nutrients are to be managed at specific sites within Delaware, such as nutrient management plans.

~~43.5~~ **12.5** The information required in this section shall be kept and maintained for a period of 6 years.

## ~~44.0~~ **Effective Date**

~~These regulations shall become effective on January 11, 2011.~~

**\*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/september2024/proposed/28 DE Reg 174 09-01-24.htm>

## DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

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

14 **DE Admin. Code** 1009

### PUBLIC NOTICE

### 1009 DIAA High School Interscholastic Athletics

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment of Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association ("DIAA"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes to repeal



subsection 2.3 of 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics because it will be incorporated into a new regulation, 14 **DE Admin. Code** 1030 Student Athlete Eligibility: Amateur Status.

In accordance with 14 **Del.C.** §122(d), the Department is required to perform and issue a written educational impact analysis of any new proposed regulation and of any regulation that is proposed to be continued. Because this regulation is proposed to repeal a subsection only, the Department is not required to perform and issue a written educational impact analysis.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before October 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

**\*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/september2024/proposed/28 DE Reg 176RFA 09-01-24.pdf>

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

<https://regulations.delaware.gov/register/september2024/proposed/28 DE Reg 176 09-01-24.htm>

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**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b), and 1220 (14 **Del.C.** §§1203, 1205(b), & 1220)  
14 **DE Admin. Code** 1591

**PUBLIC NOTICE**

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

**1591 School Principal and Assistant School Principal**

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

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before October 2, 2024. Any

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

**C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Sections 4.0 and 5.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

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

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a School Principal and Assistant School Principal 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. Proposed Section 7.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 6.0 apply to individual applicants. In addition, the requirements in Section 11.0 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 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/september2024/proposed/28 DE Reg 177RFA 09-01-24.pdf>

**1591 School Principal and Assistant School Principal****1.0 Content**

This regulation shall apply to the issuance of a School Principal and Assistant School Principal Standard Certificate pursuant to 14 **Del.C.** §1220(a). This Standard Certificate is required for all principals and assistant principals who are working in Delaware public schools. Notwithstanding the foregoing requirement, the Charter

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School Leader Standard Certificate (14 DE Admin. Code 1596) may be used for principals and assistant principals who work in a charter school.

## 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,~~ includes 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.

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

~~"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.~~

~~"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 and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

## 3.0 Issuance of a Standard Certificate

3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a School Principal and Assistant School Principal 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 presents proof of a Valid and Current License or Certificate as a school principal or assistant school principal from another state or jurisdiction whose requirements are substantially similar to the requirements in Section 4.0 of this regulation; or

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3.1.3 Has met the requirements for licensure in Delaware and meets the requirements set forth in Section 5.0 of this regulation.

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a School Principal and Assistant School Principal 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 The Department may issue a School Principal and Assistant School Principal Standard Certificate to an applicant who has satisfied the requirements in subsections 4.1.1 through 4.1.3.

4.1.1 The applicant shall have satisfied ~~one~~ 1 of the following education requirements:

4.1.1.1 Earned a master's or doctoral degree with a ~~Major or Its Equivalent~~ minimum of 30 semester hours of coursework in Pre-K to 12 educational leadership from a Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE) or the Council for the Accreditation of Educator Preparation (CAEP);~~ or

4.1.1.2 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university and satisfactorily completed an alternative routes for licensure or certification program for school principals as provided in 14 **Del.C.** §§1260 – 1266; or

4.1.1.3 Earned a master's or doctoral degree from a Regionally Accredited college or university in any content area and satisfactorily completed a Department-approved educator preparation program for school principals as provided in 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs.

4.1.2 The applicant shall have achieved a ~~Passing Score~~ minimum score on ~~one~~ 1 of the following examinations:

4.1.2.1 ~~A Passing Score of 160 on the School Leaders Licensure Assessment (ETS Test Code # 6011); or~~

4.1.2.2 ~~A Passing Score of 160 on the School Superintendent Assessment (ETS Test Code # 6021); or~~

4.1.2.3 ~~4.1.2.1~~ A Passing Score minimum score of 151 on the School Leaders Licensure Assessment (ETS Test Code # 6990); or

4.1.2.4 ~~4.1.2.2~~ A Passing Score minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).

4.1.3 The applicant shall have completed a minimum of ~~five~~ 4 years of experience as an educator with satisfactory annual summative evaluations or the equivalent thereof on a state-approved educator evaluation system under a state credential in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department.

## 5.0 Reciprocity

5.1 If an applicant is already licensed or certified as a school principal or assistant school principal in a state or jurisdiction whose requirements are not substantially similar to the requirements in Section 4.0, the applicant shall have satisfied the requirements in subsections 5.1.1 through 5.1.3 in order for the Department to issue a School Principal and Assistant School Principal Standard Certificate:

5.1.1 The applicant shall hold a Valid and Current License or Certificate as a school principal or assistant school principal.

5.1.2 The applicant shall have earned a master's or doctoral degree in a Pre-K to 12 education-related field from a Regionally Accredited college or university.

5.1.3 If the applicant has less than ~~five~~ 4 years' experience working as a principal or assistant principal in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department, the applicant shall have achieved a ~~Passing Score~~ minimum score on ~~one~~ 1 of the following examinations:

~~5.1.3.1 A Passing Score of 160 on the School Leaders Licensure Assessment (ETS Test Code # 6011); or~~

~~5.1.3.2 A Passing Score of 160 on the School Superintendent Assessment (ETS Test Code # 6021); or~~

~~5.1.3.3~~ 5.1.3.1A ~~Passing Score~~ minimum score of 151 on the School Leaders Licensure Assessment (ETS Test Code # 6990); or

~~5.1.3.4~~ 5.1.3.2A ~~Passing Score~~ minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).

## **6.0 Application Requirements**

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

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

~~6.2~~ 6.3 For applicants who are applying for the School Principal and Assistant School Principal Standard Certificate under subsection 3.1.1, the following documentation is required:

~~6.2.1~~ 6.3.1 Official transcript from the applicant's Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE)~~ or the Council for the Accreditation of Educator Preparation (CAEP) for applicants who are applying under subsection 4.1.1.1 or official transcript from the applicant's Regionally Accredited college or university for applicants who are applying under subsections 4.1.1.2 and 4.1.1.3.

~~6.2.1.1~~ 6.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

~~6.2.1.2~~ 6.3.1.2 Sealed paper transcripts may be submitted.

~~6.2.1.3~~ 6.3.1.3 The Department will not accept copies of transcripts; and

~~6.2.2~~ 6.3.2 Official score on an examination as provided in subsection 4.1.2.

~~6.2.3~~ 6.3.3 The Department-approved form verifying the applicant's completion of the experience requirement as provided in subsection 4.1.3; and

~~6.2.4~~ 6.3.4 Additional documentation as required by the Department.

~~6.3~~ 6.4 For applicants who are applying for the School Principal and Assistant School Principal Standard Certificate under subsection 3.1.2, the following documentation is required:

~~6.3.1~~ 6.4.1 An official copy of the Valid and Current License or Certificate; and

~~6.3.2~~ 6.4.2 Additional documentation as required by the Department.

~~6.4~~ 6.5 For applicants who are applying for the School Principal and Assistant School Principal Standard Certificate under subsection 3.1.3, the following documentation is required:

~~6.4.1~~ 6.5.1 An official copy of the Valid and Current License or Certificate; and

~~6.4.2~~ 6.5.2 Official transcript from the applicant's Regionally Accredited college or university.

~~6.4.2.1~~ 6.5.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

~~6.4.2.2~~ 6.5.2.2 Sealed paper transcripts may be submitted.

~~6.4.2.3~~ 6.5.2.3 The Department will not accept copies of transcripts; and

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~~6.4.3~~ 6.5.3 Official score on an examination as provided in subsection 5.1.3.

~~6.4.4~~ 6.5.4 Additional documentation as required by the Department.

## **7.0 Secretary of Education Review**

~~7.1~~ 7.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a School Principal and Assistant School Principal Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a School Principal and Assistant School Principal Standard Certificate but whose effectiveness is documented by the local school district or charter school.

~~7.1.1~~ 7.1.1 For school districts, requests shall be approved by the superintendent of the school district.

~~7.1.2~~ 7.1.2 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~~ 8.0 Validity of a Standard Certificate**

~~7.4~~ 8.1 A School Principal and Assistant School Principal 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~~ 8.2 A School Principal and Assistant School Principal Standard Certificate is not subject to renewal.

## **~~8.0~~ 9.0 Disciplinary Action**

~~8.4~~ 9.1 An Educator's School Principal and Assistant School Principal 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~~ 9.2 An Educator's School Principal and Assistant School Principal 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~~ 9.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

## **9.0 Secretary of Education Review**

~~9.4~~ 9.4 ~~The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a School Principal and Assistant School Principal Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a School Principal and Assistant School Principal Standard Certificate but whose effectiveness is documented by the local school district or charter school.~~

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

~~9.1.2~~ 9.1.2 ~~For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.~~

## **10.0 Past Certificate Recognized**

The Department shall recognize a ~~School Leader I~~ and a School Principal and Assistant School Principal Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to practice as a school principal and an assistant school principal.



## **11.0 Contact Information and Change of Name or Address**

- 11.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 11.2 An Educator who legally changes the Educator's name and wishes to change the name on the School Principal and Assistant School Principal Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 11.3 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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### **PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)  
14 DE Admin. Code 1592

#### **PUBLIC NOTICE**

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

#### **1592 Certified Central Office Personnel**

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

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before October 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

#### **C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Sections 4.0 and 5.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.
2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Sections 4.0 and 5.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.
3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators and is not designed to help ensure students'

health and safety is protected.

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Certified Central Office Personnel 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. Proposed Section 7.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 6.0 apply to individual applicants. In addition, the requirements in Section 11.0 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 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/september2024/proposed/28 DE Reg 183RFA 09-01-24.pdf>

## 1592 Certified Central Office Personnel

### 1.0 Content

This regulation shall apply to the issuance of a Certified Central Office Personnel Standard Certificate pursuant to 14 **Del.C.** §1220(a). This Standard Certificate is required for all instructional administrators who are working in Delaware public schools, including directors, supervisors, ~~administrative assistants~~, coordinators, and managers, except for special education directors who are subject to the requirements set forth in 14 **DE Admin. Code** 1594 Special Education Director.

### 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,~~ includes 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.

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

~~**"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 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 Certified Central Office Personnel 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 presents proof of a Valid and Current License or Certificate as central office personnel from another state or jurisdiction whose requirements are substantially similar to the requirements in Section 4.0 of this regulation; or
  - 3.1.3 Has met the requirements for licensure in Delaware and meets the requirements set forth in Section 5.0 of this regulation.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Certified Central Office Personnel 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 The Department may issue a Certified Central Office Personnel Standard Certificate to an applicant who has satisfied the requirements in subsections 4.1.1 through 4.1.3.
- 4.1.1 The applicant shall have satisfied ~~one~~ 1 of the following education requirements:
- 4.1.1.1 Earned a master's or doctoral degree with a ~~Major or Its Equivalent~~ minimum of 30 semester hours of coursework in Pre-K to 12 educational leadership from a Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE)~~ or the Council for the Accreditation of Educator Preparation (CAEP); or
- 4.1.1.2 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university and satisfactorily completed an alternative routes for licensure or certification program for central office personnel as provided in 14 **Del.C.** §§1260 – 1266; or
- 4.1.1.3 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university and satisfactorily completed a Department-approved educator preparation program for central office personnel as provided in 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs; or
- 4.1.1.4 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university; holds a School Principal and Assistant Principal Standard Certificate (14 **DE Admin. Code** 1591) that was issued by the Department; and satisfactorily completed an additional ~~nine~~ 9 graduate-level credit hours in Pre-K to 12 educational leadership from a Regionally Accredited college or university or the equivalent in Professional Development approved by the Department. The additional ~~nine~~ 9 graduate-level credit hours must be completed after the applicant earned ~~his or her~~ the applicant's master's or doctoral degree.
- 4.1.2 The applicant shall have achieved a ~~Passing Score~~ minimum score on ~~one~~ 1 of the following examinations:
- 4.1.2.1 A ~~Passing Score~~ minimum score of 146 on the Educational Leadership: Administration and Supervision Assessment (ETS Test Code # 5412); or
- 4.1.2.2 A ~~Passing Score~~ of 160 on the School Leaders Licensure Assessment (ETS Test Code # 6011); or
- 4.1.2.3 A ~~Passing Score~~ of 160 on the School Superintendent Assessment (ETS Test Code # 6021); or
- 4.1.2.4 ~~4.1.2.2A~~ 4.1.2.2A ~~Passing Score~~ minimum score of 151 on the School Leaders Licensure Assessment (ETS Test Code # 6990); or
- 4.1.2.5 ~~4.1.2.3A~~ 4.1.2.3A ~~Passing Score~~ minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).
- 4.1.3 The applicant shall have completed a minimum of ~~five~~ 4 years of experience as an educator with satisfactory annual summative evaluations or the equivalent thereof on a state-approved educator evaluation system under a state credential in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department.

## 5.0 Reciprocity

- 5.1 If an applicant is already licensed or certified as central office personnel in a state or jurisdiction whose requirements are not substantially similar to the requirements in Section 4.0, the applicant shall have satisfied the requirements in subsections 5.1.1 through 5.1.3 in order for the Department to issue a Certified Central Office Personnel Standard Certificate:
- 5.1.1 The applicant shall hold a Valid and Current License or Certificate as central office personnel.

- 5.1.2 The applicant shall have earned a master’s or doctoral degree in a Pre-K to 12 education-related field from a Regionally Accredited college or university.
- 5.1.3 If the applicant has less than ~~five~~ 4 years’ experience working as central office administrator in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department, the applicant shall have achieved a ~~Passing Score~~ minimum score on ~~one~~ 1 of the following examinations:
  - 5.1.3.1 A ~~Passing Score~~ minimum score of 146 on the Educational Leadership: Administration and Supervision Assessment (ETS Test Code # 5412); or
  - 5.1.3.2 A ~~Passing Score of 160 on the School Leaders Licensure Assessment (ETS Test Code # 6041); or~~
  - 5.1.3.3 A ~~Passing Score of 160 on the School Superintendent Assessment (ETS Test Code # 6024); or~~
  - 5.1.3.4 ~~5.1.3.2A~~ Passing Score minimum score of 151 on the School Leaders Licensure Assessment (ETS Test Code # 6990); or
  - 5.1.3.5 ~~5.1.3.3A~~ Passing Score minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).

**6.0 Application Requirements**

- 6.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with an application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 6.2 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 Certified Central Office Personnel Standard Certificate.
- 6.2 ~~6.3~~ For applicants who are applying for the Certified Central Office Standard Certificate under subsection 3.1.1, the following documentation is required:
  - ~~6.2.1~~ ~~6.3.1~~ Official transcript from the applicant’s Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE) or the Council for the Accreditation of Educator Preparation (CAEP)~~ for applicants who are applying under subsection 4.1.1.1 or official transcript from the applicant’s Regionally Accredited college or university for applicants who are applying under subsections 4.1.1.2, 4.1.1.3, and 4.1.1.4.
    - ~~6.2.1.1~~ ~~6.3.1.1~~ Electronic transcripts may be submitted by the Employing Authority or by the applicant’s Regionally Accredited college or university; or
    - ~~6.2.1.2~~ ~~6.3.1.2~~ Sealed paper transcripts may be submitted.
    - ~~6.2.1.3~~ ~~6.3.1.3~~ The Department will not accept copies of transcripts; and
  - ~~6.2.2~~ ~~6.3.2~~ Documents verifying successful completion of Department-approved Professional Development, if applicable; and
  - ~~6.2.3~~ ~~6.3.3~~ Official score on an examination as provided in subsection 4.1.2; and
  - ~~6.2.4~~ ~~6.3.4~~ The Department-approved form verifying the applicant’s completion of the experience requirement as provided in subsection 4.1.3; and
  - ~~6.2.5~~ ~~6.3.5~~ Additional documentation as required by the Department.
- ~~6.3~~ ~~6.4~~ For applicants who are applying for the Certified Central Office Standard Certificate under subsection 3.1.2, the following documentation is required:
  - ~~6.3.1~~ ~~6.4.1~~ An official copy of the Valid and Current License or Certificate; and
  - ~~6.3.2~~ ~~6.4.2~~ Additional documentation as required by the Department.
- 6.4 ~~6.5~~ For applicants who are applying for the Certified Central Office Standard Certificate under subsection 3.1.3, the following documentation is required:

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- 6.4.1 ~~6.5.1~~ An official copy of the Valid and Current License or Certificate; and
- 6.4.2 ~~6.5.2~~ Official transcript from the applicant's Regionally Accredited college or university.
- 6.4.2.1 ~~6.5.2.1~~ Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- 6.4.2.2 ~~6.5.2.2~~ Sealed paper transcripts may be submitted.
- 6.4.2.3 ~~6.5.2.3~~ The Department will not accept copies of transcripts; and
- 6.4.3 ~~6.5.3~~ Official score on an examination as provided in subsection 5.1.3; and
- 6.4.4 ~~6.5.4~~ Additional documentation as required by the Department.

## **7.0 Secretary of Education Review**

- 7.1 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 Certified Central Office Personnel Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Certified Central Office Personnel Standard Certificate but whose effectiveness is documented by the local school district or charter school.
- 7.1.1 For school districts, requests shall be approved by the superintendent of the school district.
- 7.1.2 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~~ **8.0 Validity of a Standard Certificate**

- 7.4 ~~8.1~~ A Certified Central Office Personnel 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 ~~8.2~~ A Certified Central Office Personnel Standard Certificate is not subject to renewal.

## ~~8.0~~ **9.0 Disciplinary Action**

- 8.4 ~~9.1~~ An Educator's Certified Central Office Personnel 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 ~~9.2~~ An Educator's Certified Central Office Personnel 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 ~~9.3~~ An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

## ~~9.0~~ **Secretary of Education Review**

- 9.4 ~~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 Certified Central Office Personnel Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Certified Central Office Personnel Standard Certificate but whose effectiveness is documented by the local school district or charter school.~~
- 9.1.1 ~~For school districts, requests shall be approved by the superintendent of the school district.~~
- 9.1.2 ~~For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.~~

## **10.0 Past Certificate Recognized**



The Department shall recognize a School Leader I, a ~~School Leader~~ Leader II, and a Certified Central Office Personnel Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to practice as central office personnel.

## **11.0 Contact Information and Change of Name or Address**

- 11.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 11.2 An Educator who legally changes the Educator's name and wishes to change the name on the Certified Central Office Personnel Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 11.3 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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### **PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b), and 1220 (14 **Del.C.** §§1203, 1205(b), & 1220)  
14 **DE Admin. Code** 1593

#### **PUBLIC NOTICE**

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

#### **1593 Superintendent and Assistant Superintendent**

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

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before October 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

#### **C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Sections 4.0 and 5.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.
2. Will the amended regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in Sections 4.0 and 5.0 are designed to improve the quality of the educator

workforce, which will help to ensure students in Delaware public schools receive an equitable education.

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Superintendent and Assistant Superintendent 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. Proposed Section 7.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 6.0 apply to individual applicants. In addition, the requirements in Section 11.0 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 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/september2024/proposed/28 DE Reg 189RFA 09-01-24.pdf>

## 1593 Superintendent and Assistant Superintendent

### 1.0 Content

This regulation shall apply to the issuance of a Superintendent and Assistant Superintendent Standard Certificate—pursuant to 14 **Del.C.** §1220(a). This Standard Certificate is required for all superintendents and assistant superintendents who are working in Delaware public schools.

### 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,~~ includes 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.

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

~~**"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 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 Superintendent and Assistant Superintendent 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 presents proof of a Valid and Current License or Certificate as a superintendent or assistant superintendent from another state or jurisdiction whose requirements are substantially similar to the requirements in Section 4.0 of this regulation; or
  - 3.1.3 Has met the requirements for licensure in Delaware and meets the requirements set forth in Section 5.0 of this regulation.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Superintendent and Assistant Superintendent 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

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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 The Department may issue a Superintendent and Assistant Superintendent Standard Certificate to an applicant who has satisfied the requirements in subsections 4.1.1 through 4.1.3.
- 4.1.1 The applicant shall have satisfied ~~one~~ 1 of the following education requirements:
- 4.1.1.1 Earned a doctoral degree with a ~~Major or Its Equivalent~~ minimum of 30 semester hours of coursework in Pre-K to 12 educational leadership from a Regionally Accredited college or university with advanced preparation accreditation by ~~the by the National Council for the Accreditation of Teacher Education (NCATE) or the Council for the Accreditation of Educator Preparation (CAEP);~~ or
- 4.1.1.2 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university and satisfactorily completed an alternative routes for licensure or certification program for superintendents as provided in 14 **Del.C.** §§1260 – 1266; or
- 4.1.1.3 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university and satisfactorily completed a Department-approved educator preparation program for superintendents as provided in 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs; or
- 4.1.1.4 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university; holds Certified Central Office Personnel Standard Certificate (14 **DE Admin. Code** 1592) or Special Education Director Standard Certificate (14 **DE Admin. Code** 1594) that was issued by the Department; and satisfactorily completed an additional ~~nine~~ 9 graduate-level credit hours in Pre-K to 12 educational leadership from a Regionally Accredited college or university or the equivalent in Professional Development approved by the Department. The additional ~~nine~~ 9 graduate-level credit hours must be completed after the applicant was issued ~~his or her~~ the applicant's Certified Central Office Personnel Standard Certificate (14 **DE Admin. Code** 1592) or Special Education Director Standard Certificate (14 **DE Admin. Code** 1594).
- 4.1.2 The applicant shall have achieved a ~~Passing Score on one of the following examinations:~~
- 4.1.2.1 ~~A Passing Score of 160 on the School Superintendent Assessment (ETS Test Code # 6021); or~~
- 4.1.2.2 ~~A Passing Score~~ a minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).
- 4.1.3 The applicant shall have completed a minimum of ~~seven~~ 6 years of education experience as provided in subsections 4.1.3.1 and 4.1.3.2.
- 4.1.3.1 The applicant shall have completed a minimum of ~~five~~ 4 years of experience as an educator with satisfactory annual summative evaluations or the equivalent thereof on a state-approved educator evaluation system under a state credential in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department; and
- 4.1.3.2 The applicant shall have completed a minimum of ~~two~~ 2 years of ~~one~~ 1 of the following full-time leadership experience requirements as a credentialed administrator with satisfactory annual summative evaluations or the equivalent thereof on a state-approved educator evaluation system under a state credential in any Pre-K to 12 public school setting as approved by the Department:
- 4.1.3.2.1 Working as a school principal or assistant school principal; or
- 4.1.3.2.2 Working as a certified central office administrator; or
- 4.1.3.2.3 Working as a special education director; or
- 4.1.3.2.4 Working in another administrative instructional leadership position; or
- 4.1.3.2.5 Any combination of the leadership experience requirements in subsections 4.1.3.2.1 through 4.1.3.2.4.

**5.0 Reciprocity**

- 5.1 If an applicant is already licensed or certified as a superintendent or assistant superintendent in a state or jurisdiction whose requirements are not substantially similar to the requirements in Section 4.0, the applicant shall have satisfied the requirements in subsections 5.1.1 through 5.1.3 in order for the Department to issue a Superintendent and Assistant Superintendent Standard Certificate:
- 5.1.1 The applicant shall hold a Valid and Current License or Certificate as superintendent or assistant superintendent.
- 5.1.2 The applicant shall have earned a master's or doctoral degree in a Pre-K to 12 education-related field from a Regionally Accredited college or university.
- 5.1.3 If the applicant has less than ~~five~~ 4 years' experience working as a superintendent or assistant superintendent in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department, the applicant shall have achieved ~~a Passing Score on one of the following examinations:~~
- 5.1.3.1 ~~A Passing Score of 160 on the School Superintendent Assessment (ETS Test Code # 6024); or~~
- 5.1.3.2 ~~A Passing Score~~ a minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).

**6.0 Application Requirements**

- 6.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with an application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 6.2 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 Superintendent and Assistant Superintendent Standard Certificate.
- ~~6.2~~ 6.3 For applicants who are applying for the Superintendent and Assistant Superintendent Standard Certificate under subsection 3.1.1, the following documentation is required:
- ~~6.2.1~~ 6.3.1 Official transcript from the applicant's Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE) or the Council for the Accreditation of Educator Preparation (CAEP)~~ for applicants who are applying under subsection 4.1.1.1 or official transcript from the applicant's Regionally Accredited college or university for applicants who are applying under subsections 4.1.1.2, 4.1.1.3, and 4.1.1.4.
- ~~6.2.1.1~~ 6.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
- ~~6.2.1.2~~ 6.3.1.2 Sealed paper transcripts may be submitted.
- ~~6.2.1.3~~ 6.3.1.3 The Department will not accept copies of transcripts; and
- ~~6.2.2~~ 6.3.2 Documents verifying successful completion of Department-approved Professional Development, if applicable; and
- ~~6.2.3~~ 6.3.3 Official score on ~~an~~ the examination as provided in subsection 4.1.2; and
- ~~6.2.4~~ 6.3.4 The Department-approved form verifying the applicant's completion of the experience requirement as provided in subsection 4.1.3; and
- ~~6.2.5~~ 6.3.5 Additional documentation as required by the Department.
- ~~6.3~~ 6.4 For applicants who are applying for the Superintendent and Assistant Superintendent Standard Certificate under subsection 3.1.2, the following documentation is required:
- ~~6.3.1~~ 6.4.1 An official copy of the Valid and Current License or Certificate; and
- ~~6.3.2~~ 6.4.2 Additional documentation as required by the Department.

6-4 6.5 For applicants who are applying for the Superintendent and Assistant Superintendent Standard Certificate under subsection 3.1.3, the following documentation is required:

6-4-1 6.5.1 An official copy of the Valid and Current License or Certificate; and

6-4-2 6.5.2 Official transcript from the applicant's Regionally Accredited college or university.

6-4-2-1 6.5.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

6-4-2-2 6.5.2.2 Sealed paper transcripts may be submitted.

6-4-2-3 6.5.2.3 The Department will not accept copies of transcripts; and

6-4-3 6.5.3 Official score on ~~an~~ the examination as provided in subsection 5.1.3; and

6-4-4 6.5.4 Additional documentation as required by the Department.

## 7.0 **Secretary of Education Review**

7.1 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 Superintendent and Assistant Superintendent Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Superintendent and Assistant Superintendent Standard Certificate but whose effectiveness is documented by the local school district or charter school.

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

7.1.2 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~~ **8.0** **Validity of a Standard Certificate**

7-1 8.1 A Superintendent and Assistant Superintendent 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 8.2 A Superintendent and Assistant Superintendent Standard Certificate is not subject to renewal.

## ~~8-0~~ **9.0** **Disciplinary Action**

8-1 9.1 An Educator's Superintendent and Assistant Superintendent 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 9.2 An Educator's Superintendent and Assistant Superintendent 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 9.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

## ~~9-0~~ **Secretary of Education Review**

9-1 ~~The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Superintendent and Assistant Superintendent Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Superintendent and Assistant Superintendent Standard Certificate but whose effectiveness is documented by the local school district or charter school.~~

9-1-1 ~~For school districts, requests shall be approved by the superintendent of the school district.~~



~~9.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.~~

## 10.0 Past Certificate Recognized

The Department shall recognize a School Leader ~~II~~ and II, a Superintendent or Assistant Superintendent ~~Superintendent, and Superintendent and Assistant Superintendent~~ Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to practice as a superintendent and an assistant superintendent.

## 11.0 Contact Information and Change of Name or Address

- 11.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 11.2 An Educator who legally changes the Educator's name and wishes to change the name on the Superintendent and Assistant Superintendent Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 11.3 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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### PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)  
14 DE Admin. Code 1594

### PUBLIC NOTICE

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

**1594 Special Education Director**

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

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before October 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

## C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in Sections 4.0 and 5.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

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

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

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

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level. By statute (14 Del.C. § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a Special Education Director 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. Proposed Section 7.0 is consistent with the statute.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 6.0 apply to individual applicants. In addition, the requirements in Section 11.0 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 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/september2024/proposed/28 DE Reg 195RFA 09-01-24.pdf>

### 1594 Special Education Director

#### 1.0 Content

This regulation shall apply to the issuance of a Special Education Director Standard Certificate pursuant to 14 Del.C. §1220(a). This Standard Certificate is required for all ~~special education directors~~ persons serving in the position of a director, supervisor, or local educational agency (LEA) leadership who are working in Delaware public schools and are responsible for special education program planning, implementation, compliance, and evaluation.

#### 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.

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

~~**"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 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 Special Education Director 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 presents proof of a Valid and Current License or Certificate as a special education director from another state or jurisdiction whose requirements are substantially similar to the requirements in Section 4.0 of this regulation; or

# PROPOSED REGULATIONS

3.1.3 Has met the requirements for licensure in Delaware and meets the requirements set forth in Section 5.0 of this regulation.

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Special Education Director 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 The Department may issue a Special Education Director Standard Certificate to an applicant who has satisfied the requirements in subsections 4.1.1 through 4.1.3.

4.1.1 The applicant shall have satisfied ~~one~~ 1 of the following education requirements:

4.1.1.1 Earned a master's or doctoral degree with a ~~Major or Its Equivalent~~ minimum of 30 semester hours of coursework in special education leadership from a Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE) or~~ the Council for the Accreditation of Educator Preparation (CAEP); or

4.1.1.2 Earned a master's or doctoral degree in special education from a Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE) or~~ the Council for the Accreditation of Educator Preparation (CAEP) and satisfactorily completed an alternative routes for licensure or certification program for leaders as provided in 14 **Del.C.** §§1260 – 1266; or

4.1.1.3 Earned a master's or doctoral degree in any content area from a Regionally Accredited college or university and satisfactorily completed a Department-approved educator preparation program for special education directors as provided in 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs; or

4.1.1.4 Earned a master's or doctoral degree with a ~~Major or Its Equivalent~~ minimum of 30 semester hours of coursework in Pre-K to 12 educational leadership from a Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE) or~~ the Council for the Accreditation of Educator Preparation (CAEP) and completed an additional 30 graduate-level credit hours in special education from a Regionally Accredited college or university or the equivalent in Professional Development approved by the Department. For the purpose of subsection 4.1.1.4, graduate-level coursework that leads to professional licensure as a school psychologist, behavior analyst, occupational therapist, physical therapist, speech pathologist, or audiologist will be counted.

4.1.2 The applicant shall have achieved a ~~Passing Score~~ minimum score on ~~one~~ 1 of the following examinations:

4.1.2.1 A ~~Passing Score~~ minimum score of 146 on the Educational Leadership: Administration and Supervision Assessment (ETS Test Code # 5412); or

4.1.2.2 A ~~Passing Score~~ of 160 on the School Leaders Licensure Assessment (ETS Test Code # 6011); or

4.1.2.3 A ~~Passing Score~~ of 160 on the School Superintendent Assessment (ETS Test Code # 6021); or

4.1.2.4 ~~4.1.2.2A~~ Passing Score minimum score of 151 on the School Leaders Licensure Assessment (ETS Test Code # 6990); or

4.1.2.5 ~~4.1.2.3A~~ Passing Score minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).

- 4.1.3 The applicant shall have completed a minimum of ~~five~~ 4 years of ~~one~~ 1 of the following experience requirements in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department:
- 4.1.3.1 ~~Teaching or providing pupil personnel services to special education students as a school psychologist or behavior analyst under a state education credential with satisfactory annual summative evaluations or the equivalent thereof on a state-approved educator evaluation system; or~~
  - 4.1.3.2 ~~Working with special education students in a school as a school psychologist an occupational therapist, physical therapist, speech pathologist, or audiologist under a Delaware Standard Certificate or a Delaware professional license; or~~
  - 4.1.3.3 Working with special education students as an educational diagnostician or special education coordinator; or
  - 4.1.3.4 ~~Providing pupil personnel services to special education students under a Delaware professional license; or~~
  - 4.1.3.5 ~~Supervising staff who teach special education students with satisfactory annual summative evaluations or the equivalent thereof on a state-approved educator evaluation system; or~~
  - 4.1.3.6 ~~4.1.3.4~~ Any combination of the experience requirements in subsections 4.1.3.1 through ~~4.1.3.5~~ 4.1.3.3.

## **5.0 Reciprocity**

- 5.1 If an applicant is already licensed or certified as a special education director in a state or jurisdiction whose requirements are not substantially similar to the requirements in Section 4.0, the applicant shall have satisfied the requirements in subsections 5.1.1 through ~~5.1.4~~ 5.1.3 in order for the Department to issue a Special Education Director Standard Certificate:
- 5.1.1 The applicant shall hold a Valid and Current License or Certificate as a special education director.
  - 5.1.2 The applicant shall have earned a master's or doctoral degree in a Pre-K to 12 education-related field from a Regionally Accredited college or university.
  - 5.1.3 If the applicant has less than ~~five~~ 4 years' experience working as a special education director or supervisor at the LEA level in any Pre-K to 12 public school setting or an equivalent setting as approved by the Department, the applicant shall have achieved a ~~Passing Score~~ minimum score on ~~one~~ 1 of the following examinations:
    - 5.1.3.1 A ~~Passing Score~~ minimum score of 146 on the Educational Leadership: Administration and Supervision Assessment (ETS Test Code # 5412); or
    - 5.1.3.2 A ~~Passing Score~~ of 160 on the School Leaders Licensure Assessment (ETS Test Code # 6041); or
    - 5.1.3.3 A ~~Passing Score~~ of 160 on the School Superintendent Assessment (ETS Test Code # 6024); or
    - 5.1.3.4 ~~5.1.3.2~~A Passing Score minimum score of 151 on the School Leaders Licensure Assessment (ETS Test Code # 6990); or
    - 5.1.3.5 ~~5.1.3.3~~A Passing Score minimum score of 162 on the School Superintendent Assessment (ETS Test Code # 6991).

## **6.0 Application Requirements**

- 6.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with an application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 6.2 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

# PROPOSED REGULATIONS

specified in 14 Del.C. §1219 and it could delay the processing or result in the denial of the application for a Special Education Director Standard Certificate.

~~6-2~~ 6.3 For applicants who are applying for the Special Education Director Standard Certificate under subsection 3.1.1, the following documentation is required:

~~6-2-1~~ 6.3.1 Official transcript from the applicant's Regionally Accredited college or university with advanced preparation accreditation by ~~the National Council for the Accreditation of Teacher Education (NCATE) or the Council for the Accreditation of Educator Preparation (CAEP)~~ for applicants who are applying under subsections 4.1.1.1 and 4.1.1.4 or official transcript from the applicant's Regionally Accredited college or university for applicants who are applying under subsections 4.1.1.2 or 4.1.1.3.

~~6-2-1-1~~ 6.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

~~6-2-1-2~~ 6.3.1.2 Sealed paper transcripts may be submitted.

~~6-2-1-3~~ 6.3.1.3 The Department will not accept copies of transcripts; and

~~6-2-2~~ 6.3.2 Documents verifying successful completion of Department-approved Professional Development, if applicable; and

~~6-2-3~~ 6.3.3 Official score on an examination as provided in subsection 4.1.2; and

~~6-2-4~~ 6.3.4 The Department-approved form verifying the applicant's completion of the experience requirement as provided in subsection 4.1.3; and

~~6-2-5~~ 6.3.5 Additional documentation as required by the Department.

~~6-3~~ 6.4 For applicants who are applying for the Special Education Director Standard Certificate under subsection 3.1.2, the following documentation is required:

~~6-3-1~~ 6.4.1 An official copy of the Valid and Current License or Certificate; and

~~6-3-2~~ 6.4.2 Additional documentation as required by the Department.

~~6-4~~ 6.5 For applicants who are applying for the Special Education Director Standard Certificate under subsection 3.1.3, the following documentation is required:

~~6-4-1~~ 6.5.1 An official copy of the Valid and Current License or Certificate; and

~~6-4-2~~ 6.5.2 Official transcript from the applicant's Regionally Accredited college or university.

~~6-4-2-1~~ 6.5.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

~~6-4-2-2~~ 6.5.2.2 Sealed paper transcripts may be submitted.

~~6-4-2-3~~ 6.5.2.3 The Department will not accept copies of transcripts; and

~~6-4-3~~ 6.5.3 Official score on an examination as provided in subsection 5.1.3; and

~~6-4-4~~ 6.5.4 Additional documentation as required by the Department.

## **7.0 Secretary of Education Review**

7.1 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 Special Education Director Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Special Education Director Standard Certificate but whose effectiveness is documented by the local school district or charter school.

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

7.1.2 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.

## **7-9 8.0 Validity of a Standard Certificate**

~~7-4~~ 8.1 A Special Education Director 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 8.2 A Special Education Director Standard Certificate is not subject to renewal.

### **8-9 9.0 Disciplinary Action**

- 8-4 9.1 An Educator's Special Education Director 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 9.2 An Educator's Special Education Director 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 9.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

- 9.1 ~~The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Special Education Director Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Special Education Director Standard Certificate but whose effectiveness is documented by the local school district or charter school.~~
- 9.1.1 ~~For school districts, requests shall be approved by the superintendent of the school district.~~
- 9.1.2 ~~For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.~~

### **10.0 Past Certificate Recognized**

The Department shall recognize a Special Education Supervisor and a Special Education Director Standard Certificate that was issued by the Department prior to the effective date of this regulation. An Educator holding such a Standard Certificate shall be considered certified to practice as a special education director.

### **11.0 Contact Information and Change of Name or Address**

- 11.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.
- 11.2 An Educator who legally changes the Educator's name and wishes to change the name on the Special Education Director Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.
- 11.3 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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# PROPOSED REGULATIONS

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## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF PUBLIC HEALTH

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

### PUBLIC NOTICE

#### 4106 Practice of Non-Nurse Midwifery

Pursuant to 16 Del.C. §122(3)(h), the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing to repeal the regulation governing the practice of non-nurse midwifery, as midwifery is a Council under the Medical Board of Licensure and Discipline. The Division of Public Health intends to hold this regulation open for public comment per Delaware law.

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

Public comments will be accepted until 4:30 p.m. on October 1, 2024. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

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

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

<https://regulations.delaware.gov/register/september2024/proposed/28 DE Reg 202RFA 09-01-24.pdf>

#### 4106 Practice of Non-Nurse Midwifery

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

#### 1.0 Purpose

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

#### 2.0 Authority

~~Title 16, Del.C. Ch. 1, §122(3)h.~~

#### 3.0 Definitions

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

~~“Direct Entry /non nurse Midwife”~~ A midwife that has entered the profession directly through midwifery education and training and not through a prerequisite program of nursing and has met the



~~qualifications and received a permit from the Delaware Division of Public Health to practice midwifery in DE.~~

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

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

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

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

## 4.0 Qualifications

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

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

## 5.0 Application

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

## 6.0 Maintenance of Permit

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

## 7.0 Renewal of Permit

# PROPOSED REGULATIONS

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

## 8.0 Complaints

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

## 9.0 Illegal Practice

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

## 10.0 Severability

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

### DIVISION OF PUBLIC HEALTH Office of Vital Statistics

Statutory Authority: 16 Delaware Code, Sections 122(3) and 3103 (16 Del.C. §§122(3) & 3103)  
16 DE Admin. Code 4204

#### PUBLIC NOTICE

#### 4204 Care and Transportation of the Dead

Pursuant to 16 Del.C. §§122(3) and 3103, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing amendments to regulation 4204 Care and Transportation of the Dead and intends to hold them open for public comment per Delaware law. The revisions include:

- The addition of new sections outlining the purpose and scope of the regulation;
- Updated definitions;
- New language regarding natural organic reduction (pursuant to HS 1 for HB 162 (84 Del. Laws, c. 261, signed May 16, 2024)); and
- Technical changes to bring the regulation into compliance with the *Delaware Administrative Code Style Manual*.

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

Public comments will be accepted until 4:30 PM on October 1, 2024. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer  
Division of Public Health

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417 Federal Street  
Dover, DE 19901

**\*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/september2024/proposed/28 DE Reg 204RFA 09-01-24.pdf>

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

<https://regulations.delaware.gov/register/september2024/proposed/28 DE Reg 204 09-01-24.htm>

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## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 9704 (16 Del.C. §9704)

### PUBLIC NOTICE

#### 4306 Stroke System Regulation

Pursuant to 16 Del.C. §9704, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing a new 4306 Stroke System Regulation and intends to hold it open for public comment per Delaware law.

The proposed regulation was previously published in the February 2024, *Register of Regulations* (27 DE Reg. 567 (02/01/2024) (Proposed)), and was held open for public comment from February 1, 2024 through March 4, 2024. The regulation has since been substantially revised due to additional review and is being repropose.

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

Public comments will be accepted until 4:30 PM on Tuesday, October 1, 2024. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

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

**\*Please Note:**

(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/september2024/proposed/28 DE Reg 205RFA 09-01-24.pdf>

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

<https://regulations.delaware.gov/register/september2024/proposed/28 DE Reg 205 09-01-24.htm>

# PROPOSED REGULATIONS

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**Board of Landscape Architecture**

Statutory Authority: 24 Delaware Code, Section 205(a)(1) (24 **Del.C.** §205(a)(1))  
 24 **DE Admin. Code** 200

**PUBLIC NOTICE**

**200 Board of Landscape Architecture**

The Delaware Board of Landscape Architects, pursuant to 24 **Del.C.** §205(a)(1), proposes to amend its rules and regulations. The proposed regulation changes add an image of a sample seal for licensees to use as an example and eliminate the requirement that inactive licensees be required to renew their license while their license is inactive.

The Board will hold a public hearing on the proposed regulation change on November 14, 2024 at 9:00 a.m. both virtually and in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Maya Echols, Administrative Specialist of the Delaware Board of Landscape Architects. Written comments will be accepted until December 2, 2024 pursuant to 29 **Del.C.** §10118(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/september2024/proposed/28 DE Reg 206RFA 09-01-24.pdf>

**200 Board of Landscape Architecture**  
*(Break in Continuity of Sections)*

**5.0 Seal**

**5.1 Technical Requirements**

- 5.1.1 For the purpose of signing and sealing drawings, specifications, contract documents, plans, reports and other documents (hereinafter collectively referred to as “drawings”), each landscape architect shall ~~provide him or herself with~~ have an individual seal of design and size as approved by the Board to be used as hereinafter directed on documents prepared by ~~him or her~~ the landscape architect or under ~~his/her~~ direct supervision for use in the State of Delaware.
- 5.1.2 The application of the seal impression or rubber stamp to the first sheet of the bound sheets of the drawings ~~(with with~~ with index of drawings ~~included)~~ included, title page of specifications, and other drawings and contract documents shall constitute the licensed landscape architect’s stamp.
- 5.1.3 The seal to be used by a licensee of the Board shall be consistent with the image in this subsection. It shall be of the embossing type or a rubber ~~stamp, and have two (2) stamp and have~~ 2 concentric circles. The outside circle measures across the center 1 13/16 inches. The inner circle shall contain only the words “NO.” and “State of Delaware.” At the bottom the words “Registered Landscape Architect” reading counterclockwise, and at the top the name of the licensee.



- 5.1.4 An impression of the seal is to be submitted to the Board to be included in the licensee's records.
- 5.2 Use of the Seal
- 5.2.1 ~~A landscape architect~~ Landscape architects shall not sign or seal drawings unless they were prepared by ~~him/her~~ them or under ~~his/her~~ their direct supervision.
- 5.2.2 "Supervision" for purposes of signing ~~and/or~~ or sealing drawings shall mean direct supervision, involving responsible control over and detailed professional knowledge of the contents of the drawings throughout their preparation. Reviewing, or reviewing and correcting, drawings after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over, nor detailed professional knowledge of, the content of such drawings throughout their preparation.
- 5.2.3 The seal appearing on any drawings shall be prima facie evidence that said drawings were prepared by or under the direct supervision of the individual who signed ~~and/or~~ or sealed the drawings. Signing or sealing of drawings prepared by another shall be a representation by the registered landscape architect that ~~he/she~~ the landscape architect has detailed professional knowledge of and vouches for the contents of the drawings.

Statutory Authority: 24 **Del.C.** §205(a)(1); 212(a).

***(Break in Continuity of Sections)***

## **8.0 Inactive Status**

- 8.1 A licensee Licensees may, upon written request to the Board, place ~~his/her~~ their license on inactive status for ~~up to ten (10)~~ a maximum of 10 years.
- 8.2 A licensee who has been granted inactive status and who wishes to re-enter the practice of landscape architecture, shall submit a written request to the Board along with a pro-rated renewal fee and proof of completion of ~~twenty (20)~~ 20 hours of continuing education for each biannual period of inactive status.
- 8.3 ~~Licensees on inactive status shall renew their inactive status by completing the online application at [www.dpr.delaware.gov](http://www.dpr.delaware.gov) and paying the appropriate fee, at the time of biennial license renewal.~~

Statutory Authority: 24 **Del.C.** §210(c).

**\*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/september2024/proposed/28 DE Reg 206 09-01-24.htm>**

# PROPOSED REGULATIONS

## DIVISION OF PROFESSIONAL REGULATION

### Board of Electrical Examiners

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

#### PUBLIC NOTICE

#### 1400 Board of Electrical Examiners

Pursuant to 24 Del.C. §1406(a)(1), the Delaware Board of Electrical Examiners ("Board") has proposed revisions to its regulations.

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

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

The Board will hold a public hearing on October 2, 2024, at 8:30 a.m. in conference room A on the second floor 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 Electrical Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [Danielle.Ridgway@delaware.gov](mailto:Danielle.Ridgway@delaware.gov).

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be October 17, 2024. The Board will deliberate on all the public comments at its regularly scheduled meeting thereafter.

#### \*Please Note:

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

<https://regulations.delaware.gov/register/september2024/proposed/28 DE Reg 208RFA 09-01-24.pdf>

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

<https://regulations.delaware.gov/register/september2024/proposed/28 DE Reg 208 09-01-24.htm>

## DIVISION OF PROFESSIONAL REGULATION

### Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners

Statutory Authority: 24 Delaware Code, Section 1806(a)(2) (24 Del.C. §1806(a)(2))  
24 DE Admin. Code 1800

#### PUBLIC NOTICE

#### 1800 Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners

Pursuant to 24 Del.C. §1806(a)(2), the Delaware Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners has the authority to promulgate rules and regulations that carry out the objectives of Chapter 18 of Title 24.

The proposed addition of subsection 3.1.2.2.3 clarifies the testing required to qualify for a master HVACR

license restricted. Amendments proposed to section 5.0 provide the Board with a process to audit licensees for completion of continuing education, which is required beginning with license renewal in 2026, and clarify requirements for continuing education. The other proposed amendments reflect technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on the proposed regulation changes on October 8, 2024, at 8:30 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 Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [Danielle.Ridgway@delaware.gov](mailto:Danielle.Ridgway@delaware.gov).

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be October 23, 2024. The Board will deliberate on the public comments at its next regularly scheduled meeting thereafter.

**\*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/september2024/proposed/28 DE Reg 208aRFA 09-01-24.pdf>

## 1800 Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners

### 1.0 General Provisions

- 1.1 Election of Officers. The Board will elect a President, Vice-President, and Secretary annually in May. In the event of a resignation, termination or departure of ~~one~~ 1 of the officers, a replacement shall be elected at the next Board meeting or at a meeting called for that purpose.

***(Break in Continuity Within Section)***

### 2.0 Plumbing Licensing Requirements

- 2.1 Pre-examination Requirements

***(Break in Continuity Within Section)***

- 2.1.3 Disciplinary record. An applicant must also certify to the Board that ~~he or she~~ the applicant has not engaged in any of the acts that would be grounds for discipline of a licensee of the State of Delaware and that ~~he or she~~ the applicant does not have any disciplinary proceedings or unresolved complaints pending against ~~him or her~~ the applicant in any jurisdiction where ~~he or she~~ the applicant has previously been or currently is licensed, or certified as a plumber. An applicant currently or previously licensed or certified in another jurisdiction shall provide the Board with certified statements from all other such jurisdictions verifying their disciplinary and complaint records.
- 2.1.4 Complete application. An application to sit for the examination is not considered complete until the Division of Professional Regulation has received the application form, all supporting documents (including verifications of disciplinary record) and all fees required by this section.
- 2.2 Licensure by Examination
- 2.2.1 The exam will be offered 4 times per year, once quarterly. No ~~person~~ applicant shall be permitted to sit for the exam until ~~he or she~~ that applicant has completed the pre-examination requirements of subsection 2.1 and received the Board's approval to take the exam.
- 2.2.2 Reexamination. Applicants who do not earn a passing score on the exam may retake it 2 additional times, at the next regularly scheduled administrations, without further Board approval. An applicant who does not pass the exam after 3 attempts must reapply to the Board for permission to retake the exam. Such applicants may not reapply until 1 year has passed from the date ~~he or she~~ the applicant last took the exam.
- 2.3 Licensure by Reciprocity. An applicant under this section must demonstrate that the standards for licensure of the state through which the applicant seeks reciprocity are equivalent to those of this State. Applicants must provide that state's laws and regulations governing licensure to the Board.

**3.0 HVACR Licensure Requirements**

- 3.1 Licensure by Examination. All applicants must submit complete applications. Only complete applications will be considered by the Board. Successful applicants must:
- 3.1.1 Pass the Board-approved HVACR exam. Applicants must have prior approval from the Board to take the exam. To get the Board's approval, an applicant must first meet all the requirements in regulations 3.1.2 through 3.1.5. The exam is offered 4 times per year, once quarterly. A score of 70% or greater is required to pass the exam.
  - 3.1.2 Document the required experience. The law contains different experience requirements for applicants with a Journeyman's Certificate and those without a Journeyman's Certificate, as described below:
    - 3.1.2.1 Journeyman's Certificate. Applicants that have a Journeyman's Certificate from an apprenticeship program that meets or exceeds the Federal Bureau of Apprenticeship and Training Standard must include a copy of the Certificate with their application. These applicants must also document completion of 2 years of post-apprenticeship HVACR experience under the direct supervision of a master HVACR licensee, master HVACR restricted licensee, or an individual holding a similar level of licensure in another state. Experience gained before receipt of the Journeyman's Certificate does not qualify and will not be counted toward fulfillment of the 2-year requirement.
    - 3.1.2.2 ~~No Journeyman's Certificate.~~ Applicants without Journeyman's Certificate
      - 3.1.2.2.1 Applicants who do not possess a Journeyman's Certificate must document completion of 7 years of HVACR experience under the direct supervision of a master HVACR licensee, master HVACR restricted licensee, or an individual holding a similar level of licensure in another state.
      - 3.1.2.2.2 Applicants without a Journeyman's Certificate must also pass the series of Board-approved apprenticeship equivalency exams (known as the "Bypass Exams") before they will be approved to take the HVACR exam. Applicants must have prior approval from the Board to take the exam. Applicants will receive approval after they meet all the requirements in ~~regulations~~ subsections 3.1.2 through 3.1.5. Applicants who pass the Bypass Exams are automatically approved to take the HVACR exam.
      - 3.1.2.2.3 Applicants for a restricted license must present a passing score on those sections of the Bypass Exams that the Board designates as applicable to the category of restriction.
    - 3.1.2.3 Proper Documentation of Experience. Documentation of the required experience shall be by affidavit of the applicant's supervisor. Applicants unable to obtain an affidavit from their supervisor may submit tax W-2 tax forms or affidavits of the employers or officer of their employing companies as alternative proof of experience. Alternative proof of experience is acceptable at the discretion of the Board. All affidavits must be on the affidavit form approved by the Board and available through the Board's office.
  - 3.1.3 Provide a copy of their CFC Card. Document certification at the appropriate level for handling chlorofluorocarbons (COUGH's) by a testing organization approved by the Environmental Protection Agency.
  - 3.1.4 Truthfully attest in the affirmative that they:
    - 3.1.4.1 Have not received any administrative penalties regarding their provision of HVACR or HVACR restricted services;
    - 3.1.4.2 Do not have any disciplinary proceedings or unresolved complaints pending against them in any jurisdiction where they have previously been or are currently authorized to provide HVACR or HVACR restricted services;
    - 3.1.4.3 Do not have an impairment related to drug or alcohol use that would limit their ability to provide HVACR or HVACR restricted services in a manner that is not detrimental to the health, safety, or welfare of the public; and



- 3.1.4.4 Do not have a criminal conviction, or any pending criminal charges, for any crime listed in or covered by ~~Board regulation~~ Section 8.0 of this regulation.

*(Break in Continuity of Sections)*

## 5.0 Continuing Education ~~and~~ Renewal Audits

- 5.1 Continuing education (CE) is required of all licensees and shall be completed by ~~June 30 of any year in which a license is to be renewed starting October 31, 2024~~ October 31 of even-numbered years starting in 2026. Extra ~~continuing education~~ CE hours do not carry over to the next licensing period. Licensees will only get CE credit for their first attendance of CE courses during each licensing period. Licensees may retake a CE course in the same licensing period but will not receive additional CE credit.
- 5.2 Courses must be approved by the Board ~~in order~~ to qualify as CE. Approved courses appear on the website of the Division of Professional Regulation at <https://www.dpr.delaware.gov>. ~~Licensees may also contact the Administrative Specialist of the Board at the Division of Professional Regulation to determine whether particular courses have been approved.~~
- 5.2.1 Courses shall be designed to maintain and enhance the knowledge and skills of licensees related to providing plumbing or HVACR services.
- 5.2.2 Sponsors or licensees can obtain Board approval of courses at any time by completing a form approved by the Board and including a course outline with the number of classroom hours showing breakdown of time allotted for each part of course content, the curriculum vitae or resume of the instructor and the appropriate fee set by the Division. The completed application will be presented for review at the next regularly scheduled Board meeting.
- 5.3 Licensees shall complete 5 hours of approved CE during each renewal period.
- 5.3.1 All licensees shall complete:
- 5.3.1.1 3 hours in Code changes; and
- 5.3.1.2 1 hour in safety;
- 5.3.2 Plumbing licensees shall complete 1 hour in cross connections and back flow;
- 5.3.3 HVACR licensees shall complete 1 hour in Energy Code.
- 5.3.4 Dual Licensees
- 5.3.4.1 Dual licensees (Plumbing and HVACR) shall complete the required 6 total hours as set forth in subsections 5.3.1 through 5.3.3.
- 5.3.4.2 Dual licensees shall alternate the code topic of their CE required by subsection 5.3.1.1 every other renewal period between Plumbing and HVACR.
- 5.3.5 Exceptions to the requirements in subsections 5.3.1 through 5.3.4 are:
- 5.3.5.1 A person licensed less than 1 year does not need to complete CE at the first renewal;
- 5.3.5.2 A person licensed 1 year but less than 2 years must submit 3 CE hours at the first renewal.
- 5.4 The Board may consider a waiver of CE requirements or acceptance of partial fulfillment based on the Board's review of a written request with supporting documentation of hardship. Requests will only be considered if made prior to the licensee's renewal deadline.
- 5.5 As a condition of renewal, licensees must attest to completion of the CE required. Attestation shall be completed electronically. Licensees selected for random audit will be required to supplement their attestations with documentation of the required CE attendance.
- 5.6 Compliance Audits
- 5.6.1 Beginning with license renewals in 2026, the Board will randomly audit 5% of license renewal applications to ensure their accuracy. Licensees selected for random audit will be notified of that selection within 60 days after the renewal deadline.
- 5.6.2 In addition, 100% of licensees who renew late will be audited for compliance with CE. They will be notified of their audit within 60 days of their renewal.

5.6.3 Licensees selected for audit must then submit the documentation requested by the date indicated on the audit notice.

**6.0 Reserved**

**7.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals**

- 7.1 A written report, signed by a complainant, alleging that a licensee may be chemically dependent or impaired is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or ~~his/her~~ the Director's designate of the report. If the Director of Professional Regulation receives the report, ~~he/she~~ the Director shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.
- 7.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform ~~him/her~~ the individual in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give ~~him/her~~ the individual the opportunity to enter the Voluntary Treatment Option.
- 7.3 In order for the individual to participate in the Voluntary Treatment Option, ~~he/she~~ the individual shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's ~~designate(s)~~ designate.
- 7.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or ~~his/her~~ the Director's designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or ~~his/her~~ the Director's designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.
- 7.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or ~~his/her~~ the Director's designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 7.8.
- 7.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
- 7.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
- 7.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or ~~his/her~~ the Director's designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or ~~his/her~~ the Director's designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

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- 7.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- 7.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment ~~program(s)~~ program. In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
- 7.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or ~~his/her~~ the chairperson's designate or designates or to the Director of the Division of Professional Regulation or ~~his/her~~ the Director's designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- 7.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 7.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 7.8 The participating Board's chairperson, ~~his/her~~ the chairperson's designate or ~~designates~~ designates, or the Director of the Division of Professional Regulation or ~~his/her~~ the Director's designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 7.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 7.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 7.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and ~~shall have his/her~~ that person's confidentiality shall be protected if the matter is handled in a nondisciplinary matter.
- 7.12 ~~Any~~ The confidentiality of any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall ~~have his/her confidentiality~~ be protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

**\*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/september2024/proposed/28 DE Reg 208a 09-01-24.htm>

# PROPOSED REGULATIONS

## DIVISION OF PROFESSIONAL REGULATION

### BOARD OF EXAMINERS OF PSYCHOLOGISTS

Statutory Authority: 24 Delaware Code, Section 3506(a)(1) (24 Del.C. §3506(a)(1))  
24 DE Admin. Code 3500

#### PUBLIC NOTICE

#### 3500 Board of Examiners of Psychologists

The Delaware Board of Examiners of Psychologists, pursuant to 24 Del.C. §3506(a)(1), proposes to eliminate the requirement that inactive licensees be required to renew their license while their license is inactive. In addition, the proposed regulations propose to amend the continuing education requirements for pro-rated licensure periods to include CEs in cultural inclusion, equity, and diversity and amend the amount of credit licensees will receive for self-study education such as authoring a book or taking a graduate level course.

The Board will hold a public hearing on October 7, 2024 at 9:00 a.m. both virtually and in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Randall Clack, Administrator of the Delaware Board of Examiners of Psychologists, Cannon Building, 861 Silver Lake Blvd, Suite 203, Dover, DE 19904. Written comments will be accepted until October 22, 2024.

**\*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/september2024/proposed/28 DE Reg 214RFA 09-01-24.pdf>

#### 3500 Board of Examiners of Psychologists (Break in Continuity of Sections)

#### 5.0 Procedures for Licensure

##### (Break in Continuity Within Section)

5.4 Inactive Status: A licensee may be placed on inactive status by the Board for a period of no more than five maximum of 5 years. Requests for inactive status shall be made, in writing, to the Board and ~~requests which exceed one year shall be renewed biennially at the time of regular license renewals.~~

5.4.1 To apply for reactivation of an inactive license, a licensee shall:

5.4.1.1 Submit a letter requesting reactivation;

5.4.1.2 Submit a prorated reactivation fee;

5.4.1.3 Submit proof of completion of the continuing education requirements below;

5.4.1.3.1 Inactive status for one year or less: 20 CE hours, including three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity;

5.4.1.3.2 Inactive status for more than one year: 40 CE hours, including three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity, completed within 24 months prior to reapplication.

##### (Break in Continuity of Sections)

#### 10.0 Continuing Education

10.1 Hours required.

10.1.1 The biennial licensing period begins August 1 of each odd-numbered year and ends July 31 of the next odd-numbered year.

10.1.2 Psychologists must obtain 40 hours of continuing education during each biennial licensing period in order to be eligible for renewal of license. A minimum of ten hours of continuing education credit must be obtained via face to face or live webinar. ~~Effective as of the license renewal period beginning August 1, 2021, all~~ All psychologists must complete three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity.

- 10.1.3 Psychological assistants must obtain 20 hours of continuing education during each biennial licensing period for re-registration. ~~Effective as of the license renewal period beginning August 1, 2024, all~~ All psychological assistants must complete three hours of continuing education in ethics and three hours in cultural inclusion, equity, and diversity.
- 10.1.4 A “**continuing education hour**” is defined as one sixty-minute period, unless otherwise specified.
- 10.2 Proration of CE Requirement for New and Reactivating Licensees
- 10.2.1 The CE requirement shall be prorated as follows:
- 10.2.1.1 If an applicant is granted a psychologist license or reactivates a license during the first six months of a license period, i.e., between July 31 of an odd-numbered year and January 31 of the next year, the new licensee must complete 30 CEs, with 2 hours of continuing education in ethics and 2 hours in cultural inclusion, equity, and diversity. An applicant granted a psychological assistant license in the same time period must complete 15 CEs, with 2 hours of continuing education in ethics and 2 hours in cultural inclusion, equity, and diversity in the initial licensing period.
- 10.2.1.2 If an applicant is granted a psychologist license or reactivates a license during the second six months of a license period, i.e., between February 1 of an even-numbered year and July 31 of that same year, the new licensee must complete 20 CEs, with 1 hour of continuing education in ethics and 1 hour in cultural inclusion, equity, and diversity. An applicant granted a psychological assistant license in the same time period must complete 10 CEs, with 1 hour of continuing education in ethics and 1 hour in cultural inclusion, equity, and diversity in the initial licensing period.
- 10.2.1.3 If an applicant is granted a psychologist license or reactivates a license during the third six months of a license period, i.e., between the dates of August 1 of an even-numbered year and January 31 of the next year, the licensee must complete 10 CEs, with 1 hour of continuing education in ethics and 1 hour in cultural inclusion, equity, and diversity. An applicant granted a psychological assistant license in the same time period must complete 5 CEs, with 1 hour of continuing education in ethics and 1 hour in cultural inclusion, equity, and diversity in the initial licensing period.
- 10.2.1.4 Any applicant granted a license or licensee who has reactivated a license during the last six months of a license period, i.e., between the dates of February 1 of an odd-numbered year and July 31 of that same year, need not complete any CEs during that period.
- 10.3 Hardship. An applicant for license renewal or registered psychological assistant may be granted an extension of time in which to complete continuing education hours upon a showing of hardship. Hardship requests must be submitted to the Board prior to the end of the renewal period. Hardship may include, but is not limited to, disability, illness, extended absence from the jurisdiction and exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. ~~No extension shall be granted for more than 120 days after the end of the licensing period. A license shall be renewed upon approval of the hardship extension by the Board, but the license shall be subject to revocation if the licensee does not complete the requisite continuing education pursuant to the terms of the extension.~~
- 10.4 It is the responsibility of the psychologist or psychological assistant to maintain documentation of completed continuing education for one year after the licensing period expires. Documentation of continuing education will consist of the information specified in subsection 13.5.3.
- 10.5 The subject of the continuing education must contribute directly to the professional competency of a person licensed to practice as a psychologist or registered as a psychological assistant. The activity must have significant intellectual or practical content and deal with psychological techniques, issues or ethical standards relevant to the practice of psychology.
- 10.6 Activities from APA-approved continuing education sponsors will be automatically accepted. The following may be eligible:
- 10.6.1 Other programs which are not APA-approved sponsors but where the material is relevant to professional practice and provides the equivalent of APA-defined credit. An applicant must provide

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a brochure or other documentation that supports the following criteria: relevance, stated objectives, faculty and educational objectives. To document attendance and completion, a certificate of attendance is required. In these circumstances, hours will be accrued on the basis of clock hours involved in the training.

- 10.6.2 Graduate courses relevant to professional practice taken for educational credit offered by a regionally accredited academic institution of higher education. Each credit hour of a course is equivalent to 5 CE hours. The course must end prior to the end of the renewal period. No more than 15 CE credits may be completed in this manner for any renewal period. Appropriate documentation of course completion must be demonstrated with a transcript and course description.
- 10.6.3 Teaching an undergraduate or graduate level course in applied psychology at an accredited institution. Teaching a 3 hour semester or quarter course is considered the equivalent of 5 CE credits. No more than 5 CE credits may be completed in this manner for any renewal period and can be submitted only for the first time that a course is presented. Appropriate documentation of teaching must include the listing of the course in the school catalog and a letter from the academic institution stating that the course was taught.
- 10.6.4 Teaching of a workshop or conduction of a seminar on a topic of pertinence to the practice of psychology. No more than 5 CE credits may be completed in this manner for any renewal period and can be submitted only for the first time that a course is presented. However, credit can be earned only once for teaching a particular seminar or workshop and not be eligible for re-submission at any time. Appropriate documentation is considered to be the brochure and demonstration of the workshop being held by the sponsoring entity.
- 10.6.5 Authorship, editing or reviewing of a publication. Proof of CEs under subsection 10.6.5 must include submission of the work or documentation of authorship by copy of title pages. Credit may be earned only ~~in the year of the publication~~ the renewal period during which it is published, be commensurate with work performed, and is limited to the following:
- 10.6.5.1 Author of a book (maximum of ~~30~~ 15 CE hours per renewal period);
- 10.6.5.2 Author of a book chapter or peer-reviewed journal article (maximum of ~~45~~ 5 CE hours per renewal period);
- 10.6.5.3 ~~Editor~~ Primary editor of a book (maximum of ~~25~~ 10 CE hours per renewal period); or
- 10.6.5.4 ~~Editor~~ Primary editor of or reviewer for a scientific or professional journal recognized by the Board (maximum ~~25~~ 10 CE hours per renewal period).
- 10.6.6 Preparing and presenting a scientific or professional paper or poster at a meeting of a professional or scientific organization. Up to 2 CE hours may be claimed for any single poster presentation. Up to 3 CE hours may be claimed for ~~each hour of paper presentation, with a maximum of 8 CE hours per paper.~~ Listing within the program and certificate letters of attendance at the meeting is appropriate documentation for both a paper or poster presentation. Any presentations must take place during the renewal period and CEs can be submitted only for the first time presented in a unique subject. (Maximum of 15 CE hours per renewal period.)
- 10.7 The Board reserves the right to reject any CE credit, if it is outside the scope of the practice of psychology.
- 10.8 The following will not be considered for credit: service to organizations; attending business meetings of professional organizations; business management or office administration courses; group supervision; or case conferences.

**\*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/september2024/proposed/28 DE Reg 214 09-01-24.htm>

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## DEPARTMENT OF TRANSPORTATION DIVISION OF TRANSPORTATION SOLUTIONS

Statutory Authority: 17 Delaware Code, Section 533 (17 Del.C. §533)

### PUBLIC NOTICE

#### **2409 Procedures for Establishment of Fee Simple Ownership by the State of Delaware for Abandoned Right of Way Easements**

Pursuant to the authority provided by 17 Del.C. §533, the Delaware Department of Transportation (DelDOT), through its Division of Transportation Solutions, seeks to adopt regulations to establish procedures for determination that land encumbered by a permanent easement right-of-way has been abandoned and for recording the State's fee simple ownership of that land.

#### **Public Comment Period**

DelDOT will take written comments on the proposed creation of Section 2409 of Title 2, Delaware Administrative Code, from September 1, 2024 through October 1, 2024. The public may submit their comments to:

Chief of Right-of-Way or Public Relations  
in writing to their attention,  
Division of Transportation Solutions  
Right of Way Section  
Delaware Department of Transportation  
800 Bay Road  
Dover, DE 19901

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

<https://regulations.delaware.gov/register/september2024/proposed/28 DE Reg 217RFA 09-01-24.pdf>

#### **2409 Procedures for Establishment of Fee Simple Ownership by the State of Delaware for Abandoned Right of Way Easements**

##### **1.0 Purpose**

In accordance with 17 Del.C. §533, the purpose of this regulation is to set forth the procedures that the Delaware Department of Transportation (the "Department") will follow for establishing its determination that land encumbered by a permanent easement right-of-way has been abandoned and for recording its fee simple ownership of the land.

##### **2.0 Definitions**

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

"Abandoned" means that the fee simple owner of real property has given up all claims, possession, and rights to the property.

"Adjacent land owner" means the owner of real property that abuts encumbered land.

"Department" means the Department of Transportation of the State of Delaware.

"Easement" means the right of a person or entity to use the land of another for a special purpose.

"Encumbered land" means the lands subject to easement rights held by the State for right-of-way purposes.

"Encumbered land owner" means the owner of real property subject to easement rights held by the State for right-of-way purposes.



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"Owner" means the legal fee simple owner of real property as recorded upon the deed or any relevant documents passing ownership of the lands, duly recorded in the county where the lands are located.

"Owner's address" means the current mailing address of the owner.

"State" means the State of Delaware.

## **3.0 Procedure for Providing Notice to Potential Interested Parties**

3.1 Prior to fee simple ownership of encumbered lands passing to the State, the Department shall provide written notice to potential interested parties, including adjacent land owners, that the State intends to declare the encumbered lands abandoned and to claim fee simple ownership of the encumbered lands. The written notice shall be made as follows:

3.1.1 By publishing a legal notice in any 1 or more newspapers of general circulation in the county where the encumbered lands are located. The notice shall be published in that county at least 3 times, not less frequently than once per week, for 3 successive weeks; and

3.1.2 By certified mail, return receipt requested, to the encumbered land owner and to all adjacent land owners. The written notice shall request that the encumbered land owner notify the Department, by certified mail, return receipt requested, within 60 days of the mailing of the notice, that the encumbered land owner has not abandoned the encumbered lands and asserts the encumbered land owner's claim of fee simple ownership. If the encumbered land owner's name, the encumbered land owner's address, or both are not ascertainable from the public records, then the Department shall provide the written notice to the last known available or reasonably ascertainable address of the last encumbered land owner of record. If the Department is unable to ascertain the owner's address, then the Department shall state that the encumbered land owner's name, the encumbered land owner's address, or both are not ascertainable from the public records within the affidavit identified in Section 4.0. In this event, the Department shall have met its requirement to provide notice through the published legal notice.

3.2 If the encumbered land owner of record, or the heirs or successors in interest of the encumbered land owner, shall fail to respond to the Department for a period of 60 days after the required notice has been mailed, then the Department may record, in the office of the Recorder of Deeds for the county where the encumbered lands are located, an affidavit containing information as set forth in Section 4.0.

## **4.0 Affidavit to Record the State's Fee Simple Ownership**

4.1 An affidavit permitted under this section shall contain:

4.1.1 A reference to:

4.1.1.1 The record, volume and page, instrument number, or other recording data of the grant of permanent easement to the State of Delaware; or

4.1.1.2 If there is no recorded information, the method of conveyance of the easement rights (e.g. acceptance of maintenance responsibility by the Department) shall suffice;

4.1.2 The name of the original grantor of the permanent easement, as the name appears in the grant of the permanent easement, and a reference to the deed or other document by which the original grantor received rights to the lands;

4.1.3 The original date of the grant of the permanent easement to the State for right of way purposes;

4.1.4 A statement by the Department that:

4.1.4.1 The Department has provided the required notice and, if applicable, that the name of the encumbered land owner, the encumbered land owner's address, or both are not ascertainable from the public records;

4.1.4.2 The Department has not received from the encumbered land owner a notice that the fee simple owner has asserted a claim of ownership of the encumbered lands so as to deny abandonment of the encumbered lands;



- 4.1.4.3 To the best of the Department's knowledge and belief, after conducting reasonable inquiry and investigation, no action has been filed by any purported encumbered land owner in any court of this State pertaining to determination of fee simple ownership of the lands.
  - 4.1.4.4 The Department requests the Recorder of Deeds in the county in which the encumbered lands are located to record the affidavit for the purpose of indicating abandonment of the underlying fee simple ownership of the encumbered lands, and passing fee simple ownership of the encumbered lands to the State of Delaware due to the abandonment;
  - 4.1.4.5 The authorized representative of the Department whose signature appears on the affidavit has personally reviewed all of the information and each of the facts contained in the affidavit and request; and
  - 4.1.4.6 The information contained in the affidavit and request is true and correct to the best of the Department's authorized representative's knowledge and to the best of the information as it is available to the Department.
- 4.2 The Department shall request that the Recorder of Deeds, or a duly appointed deputy, in the county in which the encumbered lands are located, cause the affidavit to be accepted for recording and to revise all available records to indicate a fee simple ownership of the encumbered lands by the State, upon the receipt of the affidavit and request by the Department.

## **5.0 No Supplantation of any Remedy or Process Available**

This section does not supplant any other remedy or process available for transfer of fee simple interests of any encumbered lands within this State. Accordingly, if the Department is able to identify and locate the owner of any fee simple interest of encumbered lands subject to these provisions, then the Department shall pursue any acquisition of property rights through negotiation and, when necessary, condemnation. The Department is not liable to any person if the Department complied with this section and the encumbered land owner of record did not respond in a timely manner to proper notification.

## **6.0 No Termination of Prior Rights**

Nothing herein shall be construed as terminating any prior rights related to the encumbered lands, including any easements granted for utility purposes, and the prior rights shall run with and encumber the encumbered lands unless and until those rights are properly terminated.

## **7.0 Recorded Notice by Grantor of Easement**

Notwithstanding the foregoing, a grantor of an easement to the State of Delaware for right of way purposes may record written notice in the Office of the Recorder of Deeds, in and for the county where the encumbered lands exist, that the grantor does not intend to abandon the underlying fee simple rights in and to the lands. The recorded notice shall include current contact information for the grantor and, provided that the notice is recorded as described in this regulation, the notice shall provide a rebuttable presumption that the underlying fee simple rights have not been abandoned by the grantor and, therefore, shall not be subject to the provisions of 17 **Del.C.** §533.

## 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 122(a) and 151 (14 **Del.C.** §§122(a) & 151)  
14 **DE Admin. Code** 101

## ORDER

## 101 State Assessment System

## I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §122(a) and §151, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 101 State Assessment System. This regulation is being amended to align with the current assessment system.

The Department proposed amendments to this regulation April 1, 2024. Two comments were received which were not pertinent to the proposed amendments but were general questions regarding the state assessment system. The Department responded directly to those entities. A third comment was received which opposed the amendments made in 10.2.2.3 removing a 20-working day timeline related to investigations into potential test security incidents. The Department investigates testing violations pursuant to 14 **Del.C.** §1218 (a) (3). There are no timelines for how long DOE has to investigate alleged misconduct under this statute or any other type of investigation. The Department believes each investigation's timeline should be case-specific and not rushed due to a specific timeline. The Department did amend section 10.2.2.4 to further clarify the investigations process. The Department did change the word "will" in 10.2.2.2 to a "may," as there may be times when the Office of Assessments determines that an incident may not rise to the level of an actual investigation. Additionally, the Department realized that the word "not" had been inadvertently omitted from subsection 12.4.3.2 in the current regulation and in the version proposed April 1, 2024. The Department has included the word "not" in this proposed amendment to ensure accuracy in the participation rate calculation for school and district accountability.

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Notice of the proposed regulation was published in the *Delaware Register of Regulations* on June 1, 2024. The Department of Education received the following written comments concerning the proposed amendments:

**Issue:** A request to add wording in subsections 10.2.2.3 and 10.2.2.5 to read that the assigned investigator will "investigate with due diligence towards a timely resolution."

**Response:** The Department agrees with this change and language in subsections 10.2.2.3 and 10.2.2.5 has been added that reads: "The assigned investigator will investigate with due diligence towards timely resolution."

**Issue:** A request to change wording in subsections 10.2.2.4 from "prosecutions" to "licensure actions."

**Response:** The Department agrees with this change and language in subsection 10.2.2.4 has been changed from "prosecutions" to "licensure actions."

The Department did edit the capitalization in the definition of "English language proficiency assessment" to comply with the *Delaware Administrative Code Style Manual*.

## 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

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 101 State Assessment System to align with the current assessment system.

## IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 101 State Assessment System. Therefore, pursuant to 14 **Del.C.** §151, 14 **DE Admin. Code** 101 State Assessment System attached hereto as *Exhibit "A"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 101 State Assessment System hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section VI. below.

## V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 101 State Assessment System amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin. Code** 101 State Assessment System in the *Administrative Code of Regulations* for the Department of Education.

## VI. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §151 on July 18, 2024. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 18<sup>th</sup> day of July 2024.

### Department of Education

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

Approved this 18th day of July 2024

### State Board of Education

/s/ Shawn Brittingham, President

/s/ Rajalakshmi Lodhavia

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Meredith L. Griffin, Jr.  
(Absent) Harvey Kenton, Jr.

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

### 101 State Assessment System

#### 1.0 Purpose and ~~Definition~~ Definitions

1.1 ~~Purpose:~~ The purpose of this regulation is to outline the procedures, ~~criteria~~ criteria, and responsibilities related to the state assessment system required pursuant to 14 Del.C. §151.

1.2 ~~Definitions:~~ Definitions

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

*(Break in Continuity Within Section)*

**“English ~~Language Proficiency Assessment~~ language proficiency assessment”** means an assessment that is intended to measure a non-native English speaker’s English proficiency in reading, writing, speaking, and listening. The English **[~~Language Proficiency Alternate Assessment~~ language proficiency alternate assessment]** is a similar assessment for students with significant cognitive disabilities.

*(Break in Continuity of Sections)*

#### 10.0 Security and Confidentiality

*(Break in Continuity Within Section)*

~~40.5~~ 10.2 Procedures for Reporting Security Breaches Incidents

~~40.5.1~~ 10.2.1 School Test Coordinators shall report any ~~questionable situations~~ potential test security incidents to the District Test Coordinators immediately following procedures established by the Department.

~~40.5.2~~ 10.2.2 District Test Coordinators, ~~and School Test Coordinators~~ shall report all ~~situations~~ potential test security incidents immediately to the State Director of the Office of Assessment following procedures established by the Department.

~~40.5.2.1~~ 10.2.2.1 Within 5 working days of the incident the District Test Coordinator ~~or School Test Coordinator~~ shall file a written report with the State Director of the Office of Assessment that includes the sequence of events leading up to the situation, statements by everyone interviewed, and any action either disciplinary or procedural, taken by the district or charter school.

~~40.5.2.2~~ 10.2.2.2 Following a review of the report by the State Director of the Office of Assessment and the ~~Chief Accountability and Performance Officer~~ Associate Secretary, an investigator from the Department will may be assigned to verify the district or charter school report.

~~40.5.2.3~~ 10.2.2.3 Within 20 working days of the receipt of the report from the District Test Coordinator ~~or the School Test Coordinator~~, the The assigned investigator shall meet with the district or charter school personnel involved in the alleged violation. The meeting will be scheduled through the ~~School or District Test Coordinators~~ Coordinators, and the investigator shall be provided access to all parties involved and to any witnesses. **[The assigned investigator will investigate with due diligence towards timely resolution.]**

~~40.5.2.4~~ 10.2.2.4 The investigator shall report the findings to the ~~Chief Accountability and Performance Officer~~ Associate Secretary. Following the ~~review~~ review, the ~~Chief Accountability and Performance Officer~~ Associate Secretary shall make a ruling ~~describing any decision and recommendations and required actions as appropriate~~ for further actions including **[prosecutions licensure actions]** in accordance with 14 Del.C. §1218.

~~40.5.2.5~~ The ruling shall be delivered within 20 working days of the receipt of all reports and information and records shall be kept of all investigations.

10.2.2.5 All information and records shall be kept by the Investigations Unit of the Department, per its standard protocol. [The assigned investigator will investigate with due diligence towards timely resolution.]

\*Please note that no additional changes were made to the regulation as originally proposed and published in the June 2024 issue of the *Register* at page 925 (27 DE Reg. 925). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

[https://regulations.delaware.gov/register/september2024/final/28 DE Reg 220 09-01-24.htm](https://regulations.delaware.gov/register/september2024/final/28%20DE%20Reg%2009-01-24.htm)

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## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(22) and 406A (14 Del.C. §§122(b)(22) and 406A)  
14 DE Admin. Code 815

### ORDER

#### 815 Health Examinations and Screening

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§122(b)(2) and 406A, the Delaware Department of Education ("Department") developed amendments to 14 DE Admin. Code 815 Health Examinations and Screening. The regulation sets forth the requirements for health examinations and screenings for students seeking to enroll or enrolled in Delaware public schools. The proposed amendments include adding a definition of oral health screening to Section 2.0 and adding subsection 4.4, which concerns oral health screenings. The proposed amendments are consistent with H.S. 1 for H.B. 83 of the 152<sup>nd</sup> General Assembly, which was signed into law on August 3, 2023 and effective for the 2024-2025 school year. In addition, the proposed amendments include adding Section 1.0, which specifies the statutory authority for and content of the regulation; revising Section 2.0; and clarifying subsection 4.3, which concerns lead screenings; and striking requirements that pertained to the 2021-2022 school year.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on June 1, 2024. No written comments were received for this regulation.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 815 Health Examinations and Screening to set forth the requirements for health examinations and screenings for students seeking to enroll or enrolled in Delaware public schools. The proposed amendments include adding a definition of oral health screening to Section 2.0 and adding subsection 4.4, which concerns oral health screenings. The proposed amendments are consistent with H.S. 1 for H.B. 83 of the 152<sup>nd</sup> General Assembly, which was signed into law on August 3, 2023 and effective for the 2024-2025 school year. In addition, the proposed amendments include adding Section 1.0, which specifies the statutory authority for and content of the regulation; revising Section 2.0; and clarifying subsection 4.3, which concerns lead screenings; and striking requirements that pertained to the 2021-2022 school year.

#### III. ASSESSMENT OF IMPACT

Pursuant to 29 Del. C. §10118(b)(3) this regulation has no impact on the achievement of the State's greenhouse gas emissions reduction targets or the State's resiliency to climate change. Such assessment is not practical for this regulation.

#### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 815 Health Examinations and Screening. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. 815 Health Examinations and Screening attached hereto as *Exhibit "A"* is hereby amended.

**V. TEXT AND CITATION**

The text of 14 **DE Admin. Code** 815 Health Examinations and Screening amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin.** 815 Health Examinations and Screening in the *Administrative Code of Regulations* for the Department of Education.

**VI. EFFECTIVE DATE OF ORDER**

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on July 8, 2024. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 1<sup>st</sup> day of August 2024.

**Department of Education**

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

Approved this 1<sup>st</sup> day of August 2024.

\*Please note that no changes were made to the regulation as originally proposed and published in the June 2024 issue of the *Register* at page 934 (27 DE Reg. 934). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/september2024/final/28 DE Reg 223 09-01-24.htm>

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES****DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

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

**ORDER****Pharmacists as Providers****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 Pharmacists as Providers, specifically, to add the role of pharmacist as a provider type. 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 July 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 31, 2024, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

**SUMMARY OF PROPOSAL**

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

**Background**

This change proposes to add coverage and reimbursement for services within the pharmacists' scope of practice and state regulations.

**Statutory Authority**

- Delaware Code Title 24, Chapter 25, subchapter 1, § 2502
- 42 CFR 440
- 42 CFR 447

## **Purpose**

The purpose of this regulation is to add the role of pharmacist as a provider type.

## *Summary of Proposed Changes*

Effective September 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan regarding Pharmacists as Providers, specifically, to add the role of pharmacist as a provider type.

## *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 July 31, 2024.

## *Centers for Medicare and Medicaid Services Review and Approval*

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

## *Provider Manuals and Communications Update*

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

## **Fiscal Impact Statement**

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$25,250	\$105,000
Federal funds	\$48,750	\$145,000

## **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.

**Comment:** Our organizations suggest the Division publish an administrative notice.

**Agency response:** Thank you for the suggestion, we will take that under consideration.

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

- American Pharmacists Association

**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 July 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan Attachment 3.1-A page 3.1 Addendum, page 5 Addendum, page 9 Addendum, Attachment 3.1-B page 2a and Attachment 4.19-B page 1, specifically, to add the role of pharmacist as a provider type and shall be final effective September 11, 2024.

8/14/2024 | 9:31 AM EDT

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 July 2024 issue of the *Register* at page 29 (28 DE Reg. 29). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/september2024/final/28 DE Reg 224 09-01-24.htm>**

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY  
OFFICE OF THE MARIJUANA COMMISSIONER**

Statutory Authority: 4 Delaware Code, Section 1331 (4 Del.C. §1331)

**ORDER****5001 Rules of the Office of the Marijuana Commissioner****SUMMARY OF THE EVIDENCE**

1. Title 4, Section 1331 of the Delaware Code authorizes the Office of the Marijuana Commissioner ("OMC") to establish regulations necessary to implement Chapter 13.
2. OMC's purpose in proposing these regulations was to establish standards for issuing marijuana establishment licenses, social equity businesses, and a retail sales tax. They also included a system for inspection, tracking, packaging, and testing marijuana to ensure the marijuana products are safe.
3. Notice of the proposed regulation was first published in the May 1, 2024 Delaware Register of Regulations, and comments accepted until June 3, 2024. As a result of the comments received, OMC determined to withdraw the regulations published in 27 DE Reg. 859 (05/01/24), which were no longer considered in favor of new proposed regulations.
4. New proposed regulations, incorporating many substantive changes as a result of the public comment, were published in the July 1, 2024 Delaware Register of Regulations, 28 DE Reg. 32 (07/01/24). That notice included a summary of the substantive changes.
5. OMC invited written comments on the new proposed regulations for a period of 30 days, until July 30.
6. OMC received four written submittals regarding the new proposed regulations. One comment questioned whether pre-rolls could be made by retailers or cultivators. Two of the comments related to testing and sampling (Section 11.0). The final comment made suggestions for labeling. OMC has determined that none of the comments



received requires substantive changes to the proposed regulations.

7. On further review of the published proposed regulations and considering the public comments received, OMC determined that some non-substantive edits to the proposed rules were needed for clarification. Non-substantive changes made are summarized as follows:

- In Section 2.0 (Definitions), the definition of "pre-roll" was edited to clarify that pre-rolls may be produced by marijuana product manufacturing facilities only;
- In subsections 3.2.1, 3.2.2, 3.2.4, 3.3.1, and 3.3.2, references to the Delaware Code were corrected because of typographical errors in original publication;
- In subsection 4.1.4 (Application Requirements), the final sentence regarding submission of application fee for social equity applicants has been removed to avoid confusion in light of the current social equity verification process;
- In subsection 10.4.2 (Advertising), edits have been made to clarify permissible discounting on marijuana products;
- In subsections 11.2.1.3, 11.3.2, and 11.8.2.1.3 (Testing and Sampling), numbering and some laboratory terminology has been edited for clarity; and
- In Table 5 the amount of total coliforms permissible has been modified to be consistent with other sections.

8. A copy of the published regulation formatted to show the non-substantive changes is attached hereto as Exhibit A.

9. OMC 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.

10. Having solicited and requested public comment on the proposed regulations in accordance with the Delaware Administrative Procedures Act, 29 **Del.C.** Ch. 101, et. seq., and determining that no substantive changes are required to the proposed regulations, this is OMC's Decision and Order adopting the proposed regulations with the proposed non-substantive edits set forth herein and with the rest of the proposed rules as published remaining unchanged.

### **FINDINGS OF FACT AND CONCLUSIONS**

OMC reviewed and considered the written submittals and in response to the comments received, the OMC clarified some language by editing section 2.0 and subsections 4.1.4, 10.4.2, 11.2.1.3, 11.3.2, 11.8.2.1.3, and Table 5. OMC made corrections for style, form, and technical errors to subsections 3.2.1, 3.2.2, 3.2.4, 3.3.1, and 3.3.2. OMC determines that the edits described herein are not substantive, and as a result, it is not required to repropose the changes. Accordingly, OMC finds that it is appropriate to adopt the proposed regulations, 4 **DE Admin. Code** 5001, pursuant to 4 **Del.C.** §1331.

### **ORDER**

**AND NOW this 27<sup>th</sup> day of August, 2024**, it is hereby ordered that:

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

**IT IS SO ORDERED.**

Office of the Marijuana Commissioner  
Robert M. Coupe, Commissioner

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

is available at:

<https://regulations.delaware.gov/register/september2024/final/28 DE Reg 226 09-01-24.htm>

**OFFICE OF MANAGEMENT AND BUDGET**  
**DIVISION OF FACILITIES MANAGEMENT**

Statutory Authority: 29 Delaware Code, Section 6908(a)(6) (29 **Del.C.** §6908(a)(6))  
19 **DE Admin. Code** 4104

**ORDER**

**4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects**

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 29 **Del. C.** § 6908(a)(6), the Director of the Division of Facilities Management of the Office of Management and Budget seeks to amend 19 **DE Admin. Code** 4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects. This regulation is being amended to allow the State to accept New Castle County drug tests that are up to six months old in lieu of requiring contractors and subcontractors to have new tests done for all Large Public Works projects located in New Castle County.

Pursuant to the authority granted by 29 **Del. C.** § 6908(a)(6), the Office of Management and Budget established regulations that require contractors and subcontractors to implement a program of mandatory drug testing for employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations established the mechanism, standards and requirements of a Mandatory Drug Testing Program that was incorporated by reference into all Large Public Works Contracts awarded pursuant to by 29 **Del. C.** § 6962.

New Castle County government has a drug testing program set forth in New Castle County Ordinance 2.05/395 for all construction projects which mirrors the drug testing program imposed by the State of Delaware. Currently, contractors and subcontractors must comply with both programs for all Large Public Works projects located in New Castle County. This is duplicative and costly. The New Castle County drug testing program is comparable to the one imposed by the State. The purpose of the revised regulation is to allow the State to accept New Castle County drug tests that are up to six months old in lieu of requiring contractors and subcontractors to have new tests done for all Large Public Works projects located in New Castle County.

Notice of the proposed regulation was published in the Delaware Register of Regulations on July 1, 2024. A written comment period was held open through close of business (4:30 p.m. EST) on July 31, 2024. No written comments were received for this regulation.

II. FINDINGS OF FACTS

The Director finds that it is appropriate to amend 19 **DE Admin. Code** 4104 to allow the State to accept New Castle County drug tests that are up to six months old in lieu of requiring contractors and subcontractors to have new tests done for all Large Public Works projects located in New Castle County.

III. ASSESSMENT OF IMPACT

Pursuant to 29 **Del. C.** § 10118(b)(3) this regulation has no impact on the achievement of the State's greenhouse gas emissions reduction targets or the State's resiliency to climate change. Such assessment is not practical for this regulation.

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## IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Director concludes that it is appropriate to amend 19 **DE Admin. Code** 4104. Therefore, pursuant to 29 **Del. C.** § 6908(a)(6) and 19 **DE Admin. Code** 4104, the Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects attached hereto as *Exhibit "A"* is hereby amended.

## V. TEXT AND CITATION

The text of 19 **DE Admin. Code** 4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 19 **DE Admin. Code** 4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects in the Administrative Code of Regulations for the Division of Facilities Management of the Office of Management and Budget.

## VI. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Director pursuant to 29 **Del. C.** § 6908(a)(6) on August 13, 2024. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 13<sup>th</sup> day of August 2024:

Jennifer Coverdale  
Director, Division of Facilities Management  
Approved this 11th day of September 2024.

**\*Please note that no changes were made to the regulation as originally proposed and published in the July 2024 issue of the *Register* at page 30 (28 DE Reg. 30). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/september2024/final/28 DE Reg 228 09-01-24.htm>**

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# GENERAL NOTICES

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## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205

### GENERAL NOTICE

#### Proposed Renewal for Pathways to Employment

#### 1915 (i) HOME AND COMMUNITY-BASED SERVICES State Plan Amendment (SPA)

In accordance with the requirements of 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) gives notice related to the renewal of Pathways to Employment Home and Community Based State Plan Amendment authorized under 1915 (i) of the Social Security Act.

#### Background

Section 6086 of the Deficit Reduction Act of 2007 (DRA) and the Affordable Care Act (ACA) of 2010 established and amended section 1915(i) of the Social Security Act to add an optional State Plan service that has many of the features of a Home and Community Based (HCBS) Waiver. Like an HCBS waiver, states can target services to persons based on age, diagnosis and condition, and also apply functional criteria such as limitations caused by disability. States can also provide community based services that would not otherwise be able to be covered under the Medicaid State Plan to allow persons to live independently in the community. Two notable differences from HCBS waivers are that a 1915(i) State Plan Amendment does not require individuals to meet an institutional level of care in order to qualify for HCBS and states are not permitted to limit participation in the program once an individual meets established eligibility criteria.

#### Purpose

The purpose of this posting is to provide public notice and elicit public input regarding Delaware's renewal of the Pathways to Employment program that services individuals with intellectual and developmental disabilities (IDD), visual impairments, autism spectrum disorder, and physical disabilities ages fourteen (14) and above to seek and maintain competitive employment.

#### Overview and Summary of the Pathways to Employment Renewal

Delaware proposes to renew the Pathways to Employment 1915 (i) State Plan Amendment (SPA). The SPA must be renewed every five years. This is the first renewal for Pathways to Employment. Pathways to Employment services are targeted to individuals with intellectual and developmental disabilities (IDD), visual impairments, autism spectrum disorder, and physical disabilities ages fourteen (14) and above to seek and maintain competitive employment in their community.

Change(s) to the current Pathways to Employment 1915(i):

- There are no significant changes proposed.

#### Public Comment Submission Process

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), 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 on September 1, 2024. The public is invited to review and comment on the proposed Pathways to Employment renewal. Comments must be received by 4:30 p.m. on October 1, 2024. Comments may be submitted in the following ways:

This public notice, the Renewal, and a summary of the Renewal are posted online at:

<https://dhss.delaware.gov/dhss/dmma/homeandc.html>

The DMMA and DDDS website will indicate the locations at which the hardcopy can be viewed.

Individuals may submit written comments using one or all of the following methods:

By email: [DMMA\\_PublicHearing@delaware.gov](mailto:DMMA_PublicHearing@delaware.gov)

(Please identify in the subject line: *Pathways to Employment Renewal*)

By fax: 302-255-4481 to the attention of Melissa Dohring

By written comments sent to:

Pathways to Employment Renewal

Division of Medicaid and Medical Assistance

Planning, Policy & Quality Unit

1901 North DuPont Highway

P.O. Box 906

New Castle, Delaware 19720-0906

The hardcopy renewal will be available at the following locations from September 1, 2024, through October 1, 2024.

- DDDS Fox Run Office at: 2540 Wrangle Hill Road, Suite 200, Bear, DE 19701
- Thomas Collins Building at: 540 South Dupont Hwy, 1st Floor, Dover, DE 19901
- At the Woodbrook Office at: 1056 S. Governors Ave, Dover, DE 19904
- On the Stockley Center campus at: 26351 Patriots Way, Georgetown, DE 19947 - 101 Lloyd Lane and 101 Boyd Blvd.

Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed Pathways to Employment Renewal that will be submitted to CMS.

Andrew Wilson

Director

Division of Medicaid and Medical Assistance

7/26/2024 | 8:06 AM EDT

Date

## **Proposed Renewal for 1915(b)(4) Waiver Fee-for-Service Selective Contracting Program**

In accordance with the requirements of 42 U.S.C. §1396a (a)(13) and 42 CFR §447.205, Delaware Health and Social Services (DHSS), Division of Medicaid and Medical Assistance (DMMA) gives notice related to the renewal of an application for a fee-for-service selective contracting waiver under section 1915(b)(4) of the Social Security Act.

### **Background**

The Centers for Medicare & Medicaid Services (CMS) approved 1915(i) home and community-based services (HCBS) State Plan Amendment (SPA) to support individuals with disabilities in attaining and sustaining competitive employment. The Program has operated as Delaware's Pathways to Employment (Pathways). The Pathways program expanded choices and opportunities for persons with disabilities seeking to enter the job market. The program offers individually tailored employment support services to persons with visual impairments, physical disabilities, intellectual disabilities, and autism spectrum disorder. Pathways is targeted to persons meeting the eligibility criteria specified in the Pathways SPA, including:

- 14 and above years of age,
- meet defined needs-based criteria, and
- have a desire to work in a competitive work environment.

The following services will be provided to Pathways program participants:

- Employment Navigation
- Financial Coaching Plus
- Benefits Counseling

- Non-Medical Transportation
- Orientation, Mobility, and Assistive Technology
- Career Exploration and Assessment
- Small Group Supported Employment
- Individual Supported Employment
- Personal Care (including option for self-direction)

CMS approved the 1915(i) home and community-based services SPA for 5 years, which is up for renewal this year. Concurrently, CMS approved Delaware to limit providers for the Employment Navigation and Transportation services provided by the Pathways program.

Section 1915(b) of the Social Security Act gives the Secretary of Health and Human Services the discretion to waive a broad range of requirements included in Section 1902 of the Act as may be necessary to enable a State to implement alternative delivery mechanisms for its Medicaid program. However, the Secretary may exercise that discretion only insofar as the alternative delivery mechanism is found to be cost-effective, efficient, and not inconsistent with the purposes of Title XIX of the Act.

In particular, subsection (b)(4) permits a State to restrict the provider from whom Medicaid beneficiaries receive services as long as such restrictions do not substantially impair access to services of adequate quality where medically necessary. This statutory authority (as well as implementing regulations at 42 CFR §431.55) can be used in both fee-for-service as well as managed care arrangements.

The 1915(b)(4) application renewal is targeted specifically to selective contracting arrangements that will be paid on a fee-for-service basis. In order to limit the number of providers rendering covered services to Medicaid beneficiaries, States must submit a waiver renewal to CMS, seeking permission to waive section 1902(a)(23)(A) of the Act, which otherwise permits beneficiaries free choice of providers.

### **Purpose**

The purpose of this posting is to provide public notice and elicit public input regarding Delaware's renewal of this waiver which seeks to limit freedom of choice of providers of the Employment Navigation service and to selectively contract a transportation broker to provide the non-medical transportation services to Pathways program participants.

### **Overview and Summary of the Waiver Fee-for-Service Selective Contracting Program Renewal**

Delaware proposes to renew the 1915(b)(4) Waiver Fee-for-Service Selective Contracting Program. The waiver must be renewed every five years. This is the third renewal for Waiver Fee-for-Service Selective Contracting Program. The waiver seeks to limit freedom of choice of providers of the Employment Navigation service and to selectively contract a transportation broker to provide the non-medical transportation services to Pathways program participants.

Change(s) to the current Pathways to Employment 1915(b)(4):

- There are no significant changes proposed.

### **Public Comment Submission Process**

As required by 42 CFR Part 441.304, DHSS/DMMA must establish and use a public input process for any changes in the services or operation of the waiver. Per Del. Code, Title 29, Ch. 101 §10118 (a), 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 on September 1, 2024. The public is invited to review and comment on the proposed Waiver Fee-for-Service Selective Contracting Program renewal. Comments must be received by 4:30 p.m. on October 1, 2024. Comments may be submitted in the following ways:

This public notice, the Renewal, and a summary of the Renewal are posted online at:

<https://dhss.delaware.gov/dhss/dmma/homeandc.html>

Individuals may submit written comments using one, or all, of the following methods:

(Please identify in the subject line: *Pathways to Employment Renewal*)

By fax: 302-255-4425 to the attention of Melissa Dohring

By email: [DMMA\\_PublicHearing@delaware.gov](mailto:DMMA_PublicHearing@delaware.gov)

By written comment:

Division of Medicaid and Medical Assistance  
Planning, Policy & Quality Unit  
1901 North DuPont Highway  
P.O. Box 906  
New Castle, Delaware 19720-0906

The hardcopy renewal will be available at the following locations: September 1, 2024, through October 1, 2024.

- DDDS Fox Run Office at: 2540 Wrangle Hill Road, Suite 200, Bear, DE 19701
- Thomas Collins Building at: 540 South Dupont Hwy, 1st Floor, Dover, DE 19901
- At the Woodbrook Office at: 1056 S. Governors Ave, Dover, DE 19904
- On the Stockley Center campus at: 26351 Patriots Way, Georgetown, DE 19947 - 101 Lloyd Lane and 101 Boyd Blvd.

Any public feedback received will be summarized including any changes that will be made as a result of the public comment to the proposed Waiver Fee-for-Service Selective Contracting Program Renewal that will be submitted to CMS.

Andrew Wilson  
Director  
Division of Medicaid and Medical Assistance

7/26/2024 | 8:06 AM EDT  
Date

**\*Please Note: Due to formatting of certain documents, they are not being published here. Copies of the documents are available at:**

[http://regulations.delaware.gov/register/september2024/general/1915b\(4\) Pathways Waiver Renewal Application CY25-29.pdf](http://regulations.delaware.gov/register/september2024/general/1915b(4) Pathways Waiver Renewal Application CY25-29.pdf)

[http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915\(i\) pre-print 2025-2029 Amended.pdf](http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915(i) pre-print 2025-2029 Amended.pdf)

[http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915\(i\) Renewal Template FY25-FY29 Clean.pdf](http://regulations.delaware.gov/register/september2024/general/Pathways to Employment 1915(i) Renewal Template FY25-FY29 Clean.pdf)

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# GENERAL NOTICES

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## 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 - Enclave at Cooch's Bridge Community**

July 15, 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 Enclave at Cooch's Bridge community

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



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## LEGISLATIVE COUNCIL OFFICE OF THE CONTROLLER GENERAL

Statutory Authority: 84 **Del. Laws**, c. 361 (Senate Bill 283 of the 152nd General Assembly)

### NOTICE

#### Senate Bill 283 - DELJIS Fund

August 13, 2024

#### SENT VIA E-MAIL

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

Dear Ms. Smallwood:

The Delaware General Assembly passed Senate Bill 283 on June 30, 2024. The legislation, which repeals the DELJIS Fund fee imposed on criminal defendants, was subsequently signed by Governor John C. Carney on August 12, 2024.

Section 3 of this legislation states the following:

"Section 3. This Act takes effect on the date of publication in the Register of Regulations of a notice by the Controller General that \$260,000 in General Fund moneys were appropriated to DELJIS, which is DELJIS's full spending authority of Appropriated Special Funds from the DELJIS Fund fee repealed by this Act. The Controller General shall provide notice to the Registrar of Regulations that the moneys were appropriated."

In accordance with Section 3 of Senate Bill 283, notice is hereby given that sufficient funds have been appropriated in the current fiscal year to implement the provisions of Section 3 effective June 30, 2024.

Please accept this as a notification to publish the information in the Register of Regulations.

Sincerely,

Ruth Ann Miller  
Controller General  
Office of the Controller General

**DELAWARE RIVER BASIN COMMISSION**  
**PUBLIC NOTICE**

The Commission's quarterly business meeting will be held on Thursday, September 5, 2024, commencing at 10:30 a.m. The business meeting will be held remotely. An agenda, along with details about the remote platform and how to attend, will be posted on the Commission's website, [www.drbc.gov](http://www.drbc.gov), at least ten (10) days prior to the meeting date.

For additional information, including a link to the live stream of this event, please visit the DRBC website at [www.drbc.gov](http://www.drbc.gov) or contact Patricia Hausler at [patricia.hausler@drbc.gov](mailto:patricia.hausler@drbc.gov).

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

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**DEPARTMENT OF AGRICULTURE**  
**DELAWARE NUTRIENT MANAGEMENT COMMISSION**  
**PUBLIC NOTICE**  
**1201 Nutrient Management Certification Regulations**

The Delaware Nutrient Management Commission, pursuant to 3 **Del.C.** §2220(a), proposes to revise regulation 3 **DE Admin. Code** 1201, Section 8.0 to allow a certificate holder with excess continuing education credits to roll such credits from one renewal period to the next. The proposal further removes obsolete renewal regulations at 3 **DE Admin. Code** 1201, Section 11.0.

Written comments should be sent to Chris Brosch, Administrator of the Delaware Nutrient Management Commission, 2320 S. DuPont Highway, Dover DE 19901. Written comments will be accepted until 5:00 p.m. on October 1, 2024 pursuant to 29 **Del.C.** §10118(a).

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**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/>

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**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF PUBLIC HEALTH**  
**PUBLIC NOTICE****4106 Practice of Non-Nurse Midwifery**

Pursuant to 16 **Del.C.** §122(3)(h), the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing to repeal the regulation governing the practice of non-nurse midwifery, as midwifery is a Council under the Medical Board of Licensure and Discipline. The Division of Public Health intends to hold this regulation open for public comment per Delaware law.

Copies of the proposed regulation are available for review in the September 1, 2024, issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public

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Health at 302-744-4951.

Public comments will be accepted until 4:30 p.m. on October 1, 2024. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

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

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**DIVISION OF PUBLIC HEALTH**

**Office of Vital Statistics**

**PUBLIC NOTICE**

**4204 Care and Transportation of the Dead**

Pursuant to 16 **Del.C.** §§122(3) and 3103, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing amendments to regulation 4204 Care and Transportation of the Dead and intends to hold them open for public comment per Delaware law. The revisions include:

- The addition of new sections outlining the purpose and scope of the regulation;
- Updated definitions;
- New language regarding natural organic reduction (pursuant to HS 1 for HB 162 (84 Del. Laws, c. 261, signed May 16, 2024); and
- Technical changes to bring the regulation into compliance with the *Delaware Administrative Code Style Manual*.

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

Public comments will be accepted until 4:30 PM on October 1, 2024. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

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

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**DIVISION OF PUBLIC HEALTH**

**PUBLIC NOTICE**

**4306 Stroke System Regulation**

Pursuant to 16 **Del.C.** §9704, the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing a new 4306 Stroke System Regulation and intends to hold it open for public comment per Delaware law.

The proposed regulation was previously published in the February 2024, *Register of Regulations* (27 DE Reg. 567 (02/01/2024) (Proposed)), and was held open for public comment from February 1, 2024 through March 4, 2024. The regulation has since been substantially revised due to additional review and is being repropose.

Copies of the proposed regulation are available for review in the September 1, 2024 issue of the *Delaware*

*Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Public comments will be accepted until 4:30 PM on Tuesday, October 1, 2024. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

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

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE**  
**200 Board of Landscape Architecture**

The Delaware Board of Landscape Architects, pursuant to 24 **Del.C.** §205(a)(1), proposes to amend its rules and regulations. The proposed regulation changes add an image of a sample seal for licensees to use as an example and eliminate the requirement that inactive licensees be required to renew their license while their license is inactive.

The Board will hold a public hearing on the proposed regulation change on November 14, 2024 at 9:00 a.m. both virtually and in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Maya Echols, Administrative Specialist of the Delaware Board of Landscape Architects. Written comments will be accepted until December 2, 2024 pursuant to 29 **Del.C.** §10118(a).

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**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE**  
**1400 Board of Electrical Examiners**

Pursuant to 24 **Del.C.** §1406(a)(1), the Delaware Board of Electrical Examiners ("Board") has proposed revisions to its regulations.

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

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

The Board will hold a public hearing on October 2, 2024, at 8:30 a.m. in conference room A on the second floor 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 Electrical Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [Danielle.Ridgway@delaware.gov](mailto:Danielle.Ridgway@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be October 17, 2024. The Board will deliberate on all the public comments at its regularly scheduled meeting thereafter.

**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE****1800 Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners**

Pursuant to 24 **Del.C.** §1806(a)(2), the Delaware Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners has the authority to promulgate rules and regulations that carry out the objectives of Chapter 18 of Title 24.

The proposed addition of subsection 3.1.2.2.3 clarifies the testing required to qualify for a master HVACR license restricted. Amendments proposed to section 5.0 provide the Board with a process to audit licensees for completion of continuing education, which is required beginning with license renewal in 2026, and clarify requirements for continuing education. The other proposed amendments reflect technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on the proposed regulation changes on October 8, 2024, at 8:30 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 Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [Danielle.Ridgway@delaware.gov](mailto:Danielle.Ridgway@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be October 23, 2024. The Board will deliberate on the public comments at its next regularly scheduled meeting thereafter.

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**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE****3500 Board of Examiners of Psychologists**

The Delaware Board of Examiners of Psychologists, pursuant to 24 **Del.C.** §3506(a)(1), proposes to eliminate the requirement that inactive licensees be required to renew their license while their license is inactive. In addition, the proposed regulations propose to amend the continuing education requirements for pro-rated licensure periods to include CEs in cultural inclusion, equity, and diversity and amend the amount of credit licensees will receive for self-study education such as authoring a book or taking a graduate level course.

The Board will hold a public hearing on October 7, 2024 at 9:00 a.m. both virtually and in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Randall Clack, Administrator of the Delaware Board of Examiners of Psychologists, Cannon Building, 861 Silver Lake Blvd, Suite 203, Dover, DE 19904. Written comments will be accepted until October 22, 2024.

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**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF TRANSPORTATION SOLUTIONS**  
**PUBLIC NOTICE****2409 Procedures for Establishment of Fee Simple Ownership by the State of Delaware for Abandoned Right of Way Easements**

Pursuant to the authority provided by 17 **Del.C.** §533, the Delaware Department of Transportation (DelDOT), through its Division of Transportation Solutions, seeks to adopt regulations to establish procedures for determination that land encumbered by a permanent easement right-of-way has been abandoned and for recording the State's fee simple ownership of that land.

**Public Comment Period**

DelDOT will take written comments on the proposed creation of Section 2409 of Title 2, Delaware Administrative Code, from September 1, 2024 through October 1, 2024. The public may submit their comments to:

Chief of Right-of-Way or Public Relations  
in writing to their attention,  
Division of Transportation Solutions  
Right of Way Section  
Delaware Department of Transportation  
800 Bay Road  
Dover, DE 19901

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