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# DELAWARE ADMINISTRATIVE CODE

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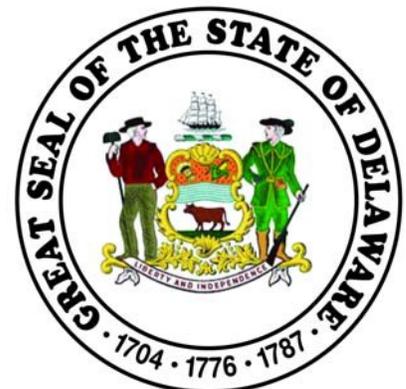
## Drafting and Style Manual

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September 2014 Edition



**PREFACE**

The Division of Research was created by the Delaware General Assembly to act as a reference bureau for information relating or pertaining to legislative matters and subjects of interest to the Senate and House of Representatives.

Among the services provided is the publication of regulations submitted by executive branch agencies to the **Registrar of Regulations**. The monthly **Delaware Register of Regulations** enables interested citizens to find all of the regulations proposed by any state agency in one convenient location. This document is available in hardcopy and can also be found online at:

**<http://regulations.delaware.gov/>**

The composition and style guidelines in this manual are intended to provide editorial assistance in drafting documents to be published in the monthly **Delaware Register of Regulations** and in the **Delaware Administrative Code**. This manual is intended to standardize the codification, format, and language of Delaware's regulations. The manual is designed to assist agencies in meeting their responsibilities and establishes the guidelines and procedures to be used in complying with regulations and statutory provisions concerning regulatory actions and publication in the **Delaware Register of Regulations** and the **Delaware Administrative Code**. These guidelines are not intended to be inflexible rules, nor are they complete in scope. The staff of the Registrar's office hopes that use of this manual, together with attention to proper English usage, will produce greater clarity and accuracy in the texts of official documents. Please note that access to an electronic version of this manual is available online at [http://regulations.delaware.gov/services/style\\_manual.shtml](http://regulations.delaware.gov/services/style_manual.shtml).

This manual includes a Statutory Authority section (Section 2.0) that provides a condensed summary of administrative law, commonly referred to as the **Administrative Procedures Act**, located in Title 29, Chapter 101 of the Delaware Code. The key principle is that a state agency must have the legal authority to adopt a regulation.

The Standard Document Format section (Section 3.0) covers submission guidelines and the Composition and Style Guidelines for Regulation Drafting section (Section 7.0) covers the basic style and format in which executive agency regulations traditionally appear in Delaware. Regulations should be uniform in style and language conventions and be drafted in a clear and concise manner, since they impose certain requirements or restrictions on individuals' rights. The style guidelines contained in this manual are similar to those used by the Division of Research when drafting legislation.

In addition to this manual, the following documents contain requirements for processing regulations:

- The Administrative Procedures Act, Title 29, Chapter 101 of the Delaware Code;
- The Regulatory Flexibility Act, Title 29, Chapter 104 of the Delaware Code;
- Title 29, Chapter 11, Subchapter III of the Delaware Code; and
- Regulations of the Office of the Registrar of Regulations Governing Administrative Rulemaking Procedures.

Questions regarding regulatory drafting or this manual should be directed to the Registrar's Office by phone at 302-744-4327, or by E-mail at [Jeffrey.Hague@state.de.us](mailto:Jeffrey.Hague@state.de.us).

**TABLE OF CONTENTS**

<b>1.0</b>	<b>The <i>Delaware Register of Regulations</i>.....</b>	<b>4</b>
1.1	Publication and Filing Requirements	
1.2	Rejection or Delay of Documents for Publication	
1.3	Editing of Regulations for Publication	
1.4	Agency Review of Published Regulation and Correction of Errors	
<b>2.0</b>	<b>Statutory Authority.....</b>	<b>5</b>
2.1	General Information	
2.2	Citing the Proper Statute as Authority for Adopting Regulations	
2.3	Failure to Implement the Law as Directed by Statutory Authority	
2.4	Exceeding Statutory Authority	
2.5	Regulation Validity	
2.6	Conclusion	
<b>3.0</b>	<b>Standard Document Format.....</b>	<b>7</b>
3.1	Submission Guidelines	
3.2	Header	
3.3	Numbering	
3.4	Body of Text	
3.5	Footnotes	
3.6	Appendices	
<b>4.0</b>	<b>Structure of Regulations.....</b>	<b>9</b>
4.1	Arrangement or Organization	
4.2	Sequence	
4.3	Definitions	
<b>5.0</b>	<b>Citations.....</b>	<b>11</b>
5.1	Citations to the Delaware Code	
5.2	Citations to the <i>Delaware Register of Regulations</i> and the <i>Delaware Administrative Code</i>	
5.3	Federal Statutory and Federal Regulatory Citations	
<b>6.0</b>	<b>Incorporation by Reference.....</b>	<b>11</b>

<b>7.0</b>	<b>Composition and Style Guidelines for Regulation Drafting.....</b>	<b>12</b>
7.1	Application of Guidelines	
7.2	General Guidelines	
7.3	Tabulation and Use of Bullets	
7.4	Use of “shall”, “may”, “may not”, and “must”	
7.5	Use of “any”, “each”, and “every”	
7.6	Use of “such” and “said”	
7.7	Use of “and/or”	
7.8	Use of Words both Singular and Plural	
7.9	Commas	
7.10	Hyphens and Compound Words	
7.11	Quotations	
7.12	Quotation Marks	
7.13	Capitalization	
7.14	Writing Numbers	
7.15	Percentages	
7.16	Monetary Figures	
7.17	Dates	
7.18	Temperature	
7.19	Fractions	
7.20	Units of Measure	
7.21	Time	
7.22	Commonly Used Words with their Plain Language Translations	

**1.0 The *Delaware Register of Regulations*****1.1 Publication and Filing Requirements**

The Registrar of Regulations publishes documents filed for publication and received by the 15th of the preceding month (according to the publication schedule published in each issue) in the *Delaware Register of Regulations* on the first day of each calendar month. Materials received by the Registrar's office after the specified deadline are held and published in the next issue of the *Delaware Register of Regulations*. An updated schedule is published in each issue of the Delaware Register.

**1.2 Rejection or Delay of Documents for Publication**

The Registrar may reject any document filed for publication, or delay publication, if the requirements contained in this manual or any other applicable requirements are not met.

Reasons for rejecting or delaying a regulation submission filed by an agency for publication include, but are not limited to, the following:

1. The regulation submission is subject to the Administrative Procedures Act (APA), Title 29, Chapter 101 of the Delaware Code, but does not meet Administrative Procedures Act requirements.
2. The regulation submission documents are not in the proper format.
3. The regulation submission is incomplete.
4. The regulation is not submitted electronically.
5. The agency fails to use the latest version of regulatory text in preparing its regulatory action.
6. The agency fails to comply with the Regulatory Flexibility Act, Title 29, Chapter 104 of the Delaware Code.
7. The regulation submission documents are received by the Registrar's office after the deadline for publication.
8. Additional information required or requested by the Registrar's office is not received in time to proceed with publication.

The Registrar or the Registrar's designee shall notify the affected agency if a determination is made to reject or delay publication of a document. The reason will be provided to the agency regulatory coordinator, and any rejected regulatory submission documents will be returned to the agency unless other arrangements are made between the Registrar's office and the agency regulatory coordinator.

**1.3 Editing of Regulations for Publication**

The Registrar and the Registrar's staff may edit submissions for proper style and format, grammatical correctness, and consistency of language to conform to the journalistic style of the *Delaware Register of Regulations*. Section 7.0 of this manual contains style requirements for agencies to use when drafting regulations.

**1.4 Agency Review of Published Regulation and Correction of Errors**

As soon as practicable after publication, the agency regulatory coordinator or other designated individual shall compare the published copy against the agency copy to ensure accuracy of the published text. The agency shall notify the Registrar in writing of any errors found in the published text.

The written notification shall include the following information:

1. The name of the agency;
2. The volume, issue, and date of the Delaware Register and the page number of the published regulatory action where the error occurred (e.g., 17 **DE Reg.** 737 (1/1/14));
3. The section of the Delaware Register where the error occurred (e.g., Cumulative Table, Regulations, General Notices, Calendar of Events);
4. If the error is in a regulation, the type of regulation (i.e., emergency, proposed, or final) and the Delaware Administrative Code title and section number; and
5. The nature of the error.

Corrections of errors will be published as soon as possible in the Errata section of the Delaware

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Register. Minor errors might not be published in the Register; however, the corrections will be made to the Delaware Administrative Code database and updated online, if applicable.

## **2.0 Statutory Authority**

### **2.1 General Information**

Generally, the principle of separation of powers states that under our federal and state constitutions, the legislative branch enacts laws while the executive branch carries out the laws. In accordance with this principle, an administrative agency does not have authority to enact law. The Delaware Code contains the following broad delegation of rulemaking power to Delaware executive agencies:

“The General Assembly has conferred on Boards, Commissions, Departments and other agencies of the Executive Branch of State Government the authority to adopt regulations...” (29 **Del.C.** §1131).

Pursuant to this provision, the Delaware General Assembly enacts laws that direct a specific state agency to adopt regulations that include details of, implement, execute, embellish upon, or clarify a specific statutory scheme. If an agency adopts a regulation that falls outside of the rulemaking powers delegated by statute to that agency, then the regulation does not fall within statutory authority and is theoretically deemed invalid.

### **2.2 Citing the Proper Statute as Authority for Adopting Regulations**

Agencies should not, in general, cite any of the provisions in Chapter 101 of Title 29 of the Delaware Code as statutory authority. Although this chapter contains the provisions governing the rulemaking process all agencies must follow, agencies should refer to the language in the statutes that detail the adoption of regulations by their particular agency.

### **2.3 Failure to Implement the Law as Directed by Statutory Authority**

Repeating existing statutory information should be avoided when drafting regulations. Redundant text is unnecessary because a statute may be amended, thereby requiring an amendment to the regulation. Instead, regulations should reflect what is set forth in a statutory scheme. For example, suppose a statute states:

“Any other provision of this chapter notwithstanding, the Court or the Department in making a determination as to what damages shall be paid by the Department shall consider only 2 factors...”

Any corresponding regulations should actually list those factors the department feels necessary for a person to comply with in order to be granted a license. To only state in the regulations that the Department shall only consider “2 factors” is insufficient information.

### **2.4 Exceeding Statutory Authority**

When drafting regulations, each agency must scrutinize the authorizing statute to determine the extent to which the General Assembly has assigned rulemaking authority.

Similarly, a statute that authorizes regulations to govern the issuance of a building permit does not, on its own, authorize the regulations to provide for the suspension, renewal, or revocation of such permit. In addition, regardless of whether the authorizing statute is general or confining, certain types of provisions - such as penalties, the right to appeal to the courts, etc. - require specific statutory authority.

**2.5 Regulation Validity**

In order for a regulation to be valid, an agency must comply with the rulemaking process set forth in the Delaware Code. Title 29, Chapter 101, §10102 (7) defines a regulation as follows:

“(7) **“Regulation”** means any statement of law, procedure, policy, right, requirement or prohibition formulated and promulgated by an agency as a rule or standard, or as a guide for the decision of cases thereafter by it or by any other agency, authority or court. Such statements do not include locally operative highway signs or markers, or an agency's explanation of or reasons for its decision of a case, advisory ruling or opinion given upon a hypothetical or other stated fact situation or terms of an injunctive order or license.”

According to the definition, if an agency drafts any directive that includes law, procedure, policy, right, requirement or prohibition formulated and promulgated by an agency as a rule or standard, or as a guide for the decision of cases thereafter by it or by any other agency, authority or court, that statement is considered a regulation.

**2.6 Conclusion:**

- Avoid redundancy or paraphrasing the provisions of the Delaware Code in a regulation. Make sure the regulations actually implement the program or statutory outline.
- All directives affecting individuals, regardless of the terminology the agency uses, should be adopted as regulations pursuant to the rulemaking process set forth in Title 29, Chapter 101 of the Delaware Code.

**3.0 Standard Document Format**

**3.1 Submission Guidelines:**

Documents must be submitted to the Registrar’s office no later than the 15<sup>th</sup> of the month for publication in the following month’s issue of the Register.

Documents must be submitted to the Registrar in electronic format.

Proposed Regulations filed electronically must include:

- The text of the proposed regulation formatted to the specifications of the Registrar as outlined in Section 3.4.
- The Notice of Public Hearing and/or Notice of Public Comment Period, including agency contact information and the method of submitting comments.
- A summary of the regulatory action when available.
- The entire text of the regulation, if the regulation has not been through the APA process.

Final Regulations filed electronically must include:

- The Order adopting the Final Regulation.
- A summary of the regulatory action when available.
- The text of the Final Regulation formatted to the specifications of the Registrar as outlined in Section 3.4.
- A non-marked up version of the regulation as amended.
- Any other supporting documents such as a Hearing Officers report, etc. as deemed appropriate by the submitting agency.
- The entire text of the regulation, where possible.

**3.2 Header (See Figure 3.1)**

The beginning page of each document submitted should contain an identifying heading including:

1. The complete name of the promulgating agency including division and subdivision, if applicable, typed in the upper left corner of each page, flush with the left margin;
2. The statutory authority to promulgate the regulation, flush with the left margin; and
3. The Delaware Administrative Code citation, if assigned.

**Figure 3.1  
Header Example**

Agency Name  
 Division Name  
 Subdivision Name  
 Statutory Authority: Title Delaware Code, Section (Title **Del.C.** §Section)  
 Delaware Administrative Code citation (if assigned)

**3.3 Numbering**

Regulatory text should be designated with numerals only.

Start out with 1.0 as the first section and number down tabbing in one level for additional subsections. See Figure 3.2 for an example. In order to divide a section, there must be at least two subsections (for example, 2.1 and 2.2), unless the section consists of an introductory portion followed by a list. If the section is not divisible, use just the section number (for example, 2.0, not 2.0 and 2.1). Similarly, there must be at least two subdivisions to divide a subsection. This rule applies to all divisions within a regulation. See Section 7.3 for additional information on tabulations and the use of bullets.

**Figure 3.2**  
**Numbering a Regulation**

Example:

**8.0 Use of Designations**

8.1 Designation "Certified Public Accountant" and the Abbreviation "CPA" in the Practice of Certified or Public Accountancy:

8.1.1 Only the following individuals and entities may use the designation "certified public accountant", the abbreviation "CPA", and other designations which suggest that the user is a certified public accountant, in the practice of certified or public accountancy:

8.1.1.1 An individual who is registered with the Board and holds a certificate of certified public accountant and a current permit to practice.

8.1.1.2 A sole proprietorship, partnership, corporation, or any other entity authorized under Delaware law or a similar statute of another state which is registered with the Board and holds a current firm permit to practice.

8.2 Designation "Certified Public Accountant" and the abbreviation "CPA" by certificate holders who do not maintain a permit to practice:

8.2.1 An individual who holds a certificate of certified public accountant but does not maintain a permit to practice may use the designation "certified public accountant" or the abbreviation "CPA" on business cards and stationery if:

8.2.1.1 The certificate of certified public accountant has not been suspended or revoked and is in good standing.

8.2.1.2 The individual does not engage in the practice of certified or public accountancy and does not offer to perform certified or public accountancy services.

**3.4 Body of Text**

1. All documents shall be typed in conventional uppercase and lowercase format.
2. Documents shall be typed in **Arial** font face and **10 point** font size. Do not use automatic numbering or the automatic bullets function of the software when creating lists.
3. An agency shall request and obtain existing regulation text from the Registrar's office in order to ensure proposed changes are made to the current version of the regulatory text before submission.

#### 4. Proposed Regulations:

Proposed changes to an existing regulation must be formatted as follows:

- Arial font shall indicate the text existing prior to the regulation being promulgated.
- Underlined text must be used to indicate new text.
- Language which is ~~stricken~~ shall indicate text being deleted.
- Do not strike a part or portion of a word or number within the regulatory text. Also, do not add to a part or portion of a word or number within the regulatory text. Strike through the entire word or number, then insert the new word or number underlined.

**Example:**

incorrect	correct
children	<del>child</del> <u>children</u>
1043	404 <u>103</u>

- Insert new underlined language after stricken language.

**Example:** ~~Stricken language~~ New replacement text.

- If a new regulation is being proposed, all language must be underlined.

#### 5. Final Regulations:

Final Regulations must be formatted as follows:

- Arial font shall indicate the text existing prior to the regulation being promulgated.
- Underlined text must be used to indicate new text added at the time of the proposed action.
- Language which is ~~stricken~~ shall indicate text being deleted at the time of the proposed action.
- **[Bracketed bold language]** must be used to indicate text added between when the regulation was proposed and the time the final order is issued.
- **[Bracketed bold stricken]** must be used to indicate language deleted between when the regulation was proposed and the time the final order is issued.

### 3.5 Footnotes

Footnotes, if used, should be referenced at the end of the regulation. The use of footnotes should be kept to a minimum.

### 3.6 Appendices

Avoid using appendices as part of a regulation. Material important enough to be set out should be made part of the regulation itself and numbered accordingly. Appendices are not considered to be part of the regulation proper and may not be published in the *Delaware Register of Regulations*.

## 4.0 Structure of Regulations

### 4.1 Arrangement or Organization

Concise drafting of a regulation, as well as the general design and logical arrangement of its sections, subsections and subdivisions, better communicates the meaning of the regulation. The major objective in arranging text within a regulation is to make the document as clear and understandable as possible.

### 4.2 Sequence

The following sequence of provisions of a regulation should be observed:

- Place general provisions before special provisions;

- Place more important provisions before less important provisions;
- Place frequently used provisions before less frequently used provisions; and
- Place permanent provisions before temporary provisions.

#### 4.3 Definitions (See Figure 4.1)

It is recommended that definitions of terms be included in each regulation. Definitions provide clarification of terms used within a regulation, save space in the body of the regulation, and allow the regulation writer to control the meaning of a word. Define a term only when the meaning of a word is important and it is used more than once in the regulation. Do not define ordinary words that are used in their dictionary context.

Regulatory information should not be included in the definition.

##### Example of a Definition that is Too Substantive:

**"Lockup facility"** means a secure adult detention facility used to confine prisoners waiting to appear in court and sentenced prisoners for not more than 90 days. In addition to the cell, a lockup facility must include space for moderate exercise and activity, such as weight lifting, ping-pong, table games, reading, television, and cards.

This definition should end at "90 days."

Definitions should be formatted as provided in this section.

- Place definitions at the beginning of the regulation as one of the first numbered sections (following a scope, purpose, or authority section).
- The first paragraph should read, "The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:"
- Arrange the words or specific terms being defined in alphabetical order.
- Do not number individual definitions.
- Capitalize the first letter of the first word in each definition (since it is the beginning of a sentence). All subsequent words in each definition should be lowercase, unless words are proper nouns. The word or term being defined should be placed within quotation marks and in bold font.
- Immediately after the defined word or term, insert the word "means".
- Avoid using dashes, slashes, or parentheses in a term being defined. For example, use "Individualized education plan" or "IEP" means... instead of "Individualized education plan (IEP)" means....

Figure 4.1

##### EXAMPLE:

#### 2.0 Definitions

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

**"Adoptive parent"** means a provider who gives parental care and establishes permanent family relationships for children in the provider's home for purposes of adoption.

**"Adult"** means an individual 18 years of age or older.

**"Agency"** means the local welfare or social services agency.

## 5.0 Citations

### 5.1 Citations to the Delaware Code

When citing chapters, articles, or sections of the Delaware Code, refer to the following relevant examples:

- Citing an entire chapter: 29 **Del.C.** Ch. 100 or 29 **Delaware Code**, Ch. 100
- Citing a specific section: 29 **Delaware Code**, Section 10101 or 29 **Del.C.** §10101
- Citing multiple sections: 29 **Delaware Code**, Sections 500-520 or 29 **Del.C.** §§500-520
- Citing a subsection: 29 **Delaware Code**, Section 300(a) or 29 **Del.C.** §300(a)

### 5.2 Citations to the *Delaware Register of Regulations* and the *Delaware Administrative Code*

The *Delaware Register of Regulations* is cited by volume, page number, and issue date. For example, to refer to Volume 17, Page 948 of the *Delaware Register of Regulations* issued on April 1, 2014, the citation should read:

17 **DE Reg.** 948 (04/01/14)

The *Delaware Administrative Code* is cited by title and regulation number: For example, to refer to the Department of Natural Resources and Environmental Control, Division of Air Quality, Air Quality Management Section, Regulations for Requirements for Preconstruction Review use:

7 **DE Admin. Code** 1125 Requirements for Preconstruction Review (name optional)

When citing sections and subsections within a regulation of the Delaware Administrative Code, refer to the following relevant examples:

- Citing an entire section: Section 2.0 of this regulation
- Citing a subsection: subsection 2.1.1 of this regulation

### 5.3 Federal Statutory and Federal Regulatory Citations

When citing federal statutes, the official name, together with a reference to the United States Code, should be used as follows:

The Atomic Energy Act of 1954 (42 USC §§2011-2284)

The Federal Register should be cited by volume and page number. The approved abbreviation is "FR." Thus, the citation 12 FR 1234 refers to text at page 1234 of Volume 12.

The Code of Federal Regulations should be cited by title and section numbers. "CFR" is the approved abbreviation. Thus, the citation 7 CFR 1.1 refers to text at part 1, section 1 of Title 7.

## 6.0 Incorporation by Reference

Incorporation by reference is a method by which a document is made part of the regulation simply by referring to it. While the text of an incorporated document does not appear in the regulation, the provisions of the incorporated document are as fully enforceable as any other regulation.

When incorporating by reference, it is necessary to cite the specific publication including year

and volume that is being incorporated into the regulation. The language incorporating a document should be included in the text of the regulation.

A copy of the incorporated document shall be made available to the Registrar for public inspection purposes.

## **7.0 Composition and Style Guidelines for Regulation Drafting**

### **7.1 Application of Guidelines**

The composition and style guidelines in this manual are intended to provide editorial assistance in drafting documents to be published in the *Delaware Register of Regulations* and the *Delaware Administrative Code*.

Specific questions may arise which are not covered within this manual, due to the general nature of these guidelines. The following reference books are helpful:

*The Chicago Manual of Style, 16<sup>th</sup> Edition*, University of Chicago Press (2010)

*Drafting Legislation and Rules in Plain English*, by Robert J. Martineau, West Publishing Company (1991).

*Legal, Legislative, and Rule Drafting in Plain English*, by Robert J. Martineau and Michael B. Salerno, Thomson West Publishing Company (2005)

Each of these books provides extensive guidance in most areas of document drafting.

Matters of spelling, usage, and word division should be referred to *Merriam-Webster's Collegiate Dictionary, Eleventh Edition*, Merriam-Webster, Inc., or *The American Heritage College Dictionary, Fourth Edition*, Houghton Mifflin Harcourt Publishing Company.

### **7.2 General Guidelines**

In general, keep the language of the text as clear and simple as possible. When drafting, remember that documents should be written so that the general public can understand them. Avoid using language that only individuals with specialized knowledge can understand. Consistency of expression, logical arrangement, and adherence to accepted usage aid readability.

Strive for consistency of terminology, expression, and arrangement. Avoid using the same word or term in more than one sense. Conversely, avoid using different words to denote the same idea. Apply the principles of consistency to phrases, sentences, paragraphs, arrangement, and format. For example, in the text of a regulation, two or more subdivisions which are similar in substance should be parallel in form.

Absolute conciseness does not ensure clarity but, in general, keeping a document simple and short avoids confusion and misunderstanding. In the case of regulatory drafting, divide a lengthy text into more than one regulation in order to avoid the complexities entailed in multiple sections and to make the text easier to read. Avoid long sentences where short ones will suffice.

Ordinarily, use the present tense of verbs. However, the future tense is appropriate when using the imperative "shall". Section 7.4 provides additional information on the use of "shall".

#### **Gender.**

Avoid using pronouns that indicate gender. Use the noun which the pronoun would replace. Avoid use of "his/her", "he/she", and "(s)he". The general use of the masculine gender is addressed in 1 **Del.C.** §304 of the Delaware Code.

Generally, use the active rather than the passive voice:

**EXAMPLE:**

Use: The Chairman appoints members of the committee.

Avoid: Members of the committee are appointed by the chairman.

Generally, use the third person:

**EXAMPLE:**

Use: The applicant shall file the appropriate forms.

Avoid: You shall file the appropriate form.

If an idea can be accurately expressed either positively or negatively, express it positively. The negative form is appropriate where a provision expresses a prohibition. Negative words should not be used where provisions provide only advisory guidance.

### **7.3 Tabulation and Use of Bullets**

Tabulation is used to arrange the structure of subdivisions in a document. All items in the tabulated enumeration must belong to the same class. Each item listed must be parallel to the introductory language. The following tabulation is incorrect because each subdivision is not parallel in substance or form to the introductory language:

**EXAMPLE:**

1.1 An applicant for licensure shall:

- 1.1.1 Complete the application for examination;
- 1.1.2 Submit in advance the examination fee; and
- 1.1.3 Eligibility for licensure by reciprocity.  
(Language not parallel)

Subdivision 1.1.3 should read, "Be eligible for licensure by reciprocity."

The following guidelines apply when using displayed lists:

1. In most cases, the introductory language to a displayed list should end in a colon.
2. All items in a displayed list should begin with a capital letter, whether the entry is a word, a sentence fragment, a full sentence, or numerous sentences.
3. Each item should end with a semicolon or period, and a period should be used after the last item if it is the end of a sentence.
4. Items should end with periods if the items are complete sentences or if it is anticipated that the list will be modified often.
5. If using semicolons and the list consists of alternatives, "or" should be placed after the second to last item.
6. If using semicolons and the list is inclusive, "and" should be placed after the second to last item.
7. Language should not be added after a displayed list that continues the sentence of the introductory language.
8. The automatic numbering feature of word processing programs should not be used. Each number should be typed individually.

If a displayed list is not an exhaustive list and uses "but ... not limited to" in the introductory language or if it is a list of suggestions, the list should be bulleted and not numbered.

**EXAMPLE**

- 9.4.4 Sources of CE credits include but are not limited to the following:
- Programs sponsored by national funeral service organizations.
  - Programs sponsored by state associations.
  - Program provided by local associations.
  - Programs provided by suppliers.
  - Independent study courses for which there is an assessment of knowledge.
  - College courses.
- 9.4.5 The recommended areas include but are not limited to the following:
- Grief counseling
  - Professional conduct, business ethics or legal aspects relating to practice in the profession.
  - Business management concepts relating to delivery of goods and services.
  - Technical aspects of the profession.
  - Public relations.
  - After care counseling.
- 9.4.6 Application for CE program approval shall include the following:
- 9.4.6.1 Date and location.
- 9.4.6.2 Description of program subject, material, and content.
- 9.4.6.3 Program schedule to time segments in subject content areas for which approval of, and determination of credit is required.
- 9.4.6.4 Name of instructor, background, and expertise.
- 9.4.6.5 Name and position of person making request for program approval.

**7.4 Use of “shall”, “may”, “may not”, and “must”**

Use “shall” in the imperative sense to express a duty or obligation to act. The term “shall” is generally used in connection with statutory mandates. “May” is permissive and generally expresses a right, privilege, or power. When an individual is authorized but not ordered to act, the term “may” is appropriate. If an obligation to act is intended, “shall” is used.

Use “may not” when a right, privilege, or power is restricted. Using “shall not” negates the obligation but not the permission to act; therefore, “may not” is the stronger prohibition. Wherever possible, the words “shall” or “may” are used in place of other terms such as “is authorized to”, “is empowered to”, “is directed to”, “has the duty to”, “must”, and similar phrases. However, if certain action is intended to be a condition before accruing a right or privilege, the word “must” is used instead of “shall” or “may” (e.g., “In order to have your regulations published, you must file them by the deadline.”)

When the word “shall” is used, the subject of the sentence must be a person, committee, or some other entity that has the power to make a decision or take an action. For this reason, do not use the word “shall” to declare a legal result or state a condition. When writing a sentence that contains the word “shall”, check for proper use of the word by reading the sentence to yourself and substituting the phrase “has the duty to” for “shall”.

**EXAMPLE:**

Use: A practitioner shall perform clinical work only in designated areas.

Avoid: Clinical work shall be performed only in designated areas

### 7.5 Use of “any”, “each”, and “every”

Do not use “any”, “each”, “every”, “all”, or “some”, if “a”, “an”, or “the” can be used with the same result. If the subject of the sentence is plural, it is seldom necessary to use these adjectives. For example, it should be stated, “Qualified employees shall...”, rather than “Any qualified employee shall...”. If the subject of the sentence is singular, the indefinite pronoun is used only when the article “a” or “the” is inadequate, as when the use of “a” would allow the unintended interpretation that the obligation is to be discharged by applying it to a single member of the class instead of to all of them. If it is necessary to use an indefinite pronoun, follow these rules:

- If a right, privilege, or power is conferred, use “any”, as in “Any qualified employee may...”.
- If an obligation to act is imposed, use “each”, as in “Each employee shall...”.

### 7.6 Use of “such” and “said”

Avoid the use of “such” and “said”. Instead, use “the”, “that”, or a pronoun. In many instances “such” and “said” mean nothing at all and can be omitted without any other words being substituted.

### 7.7 Use of “and/or”

The term “and/or” should never be used. In general the term “and” means to add something to what has already been said. “Or” means in the alternative. The word “and” is a conjunctive and the word “or” is a disjunctive. In most cases the word “or” is proper to convey the thought of “one, or the other, or any of them”. If emphasis is needed, the use of terms such as “any of the following”, “all of the following”, “either of the following”, “or both”, and similar modes of expression are sufficient.

### 7.8 Use of Words both Singular and Plural

Avoid modifying singular words to be both singular and plural (e.g., parent(s)). Instead, indicate one or the other, or both (e.g., parent or parents).

### 7.9 Commas

Use commas to set off a nonrestrictive clause. A nonrestrictive clause gives added information about the word it modifies, but is not needed to complete the meaning of a sentence.

#### EXAMPLE:

*New rules concerning the licensing of teachers, which I have not read, have been adopted.*

“Which I have not read” does not significantly affect the primary meaning, which is that rules concerning the licensing of teachers have been adopted; therefore, commas are used around this nonrestrictive clause.

Do not use commas to set off a restrictive clause. A restrictive clause cannot be omitted without altering the meaning of the main clause; therefore, it should not be set off by commas.

#### EXAMPLE:

*The requirements that an applicant must meet for certification are listed in the regulation.*

Without the clause “that an applicant must meet for certification”, the meaning of

the sentence would be significantly altered.

Use a comma in a compound sentence to separate independent clauses joined by one of the coordinate conjunctions “and”, “but”, “for”, “or”, “nor.”

**EXAMPLE:**

*The board is responsible for collecting the revenue from all permits and fees, but the legislature sets the rates.*

The use of a comma without a coordinate conjunction between two independent clauses is known as a comma fault and should be avoided.

**EXAMPLE:**

*The board collects the fees and issues permits, the legislature sets the rates.*

The sentence may be corrected by:  
Using a coordinate conjunction after the comma.

1. The board collects the fees and issues permits, but the legislature sets the rates.

Using a semicolon between the two independent clauses.

2. The board collects the fees and issues permits; the legislature sets the rates.

Dividing the two independent clauses into two simple sentences.

3. The board collects the fees and issues permits. The legislature sets the rates.

Use commas to separate a series of three or more words, phrases, or clauses, including the word or phrase immediately before a conjunction.

**EXAMPLES:**

*oil, gas, or minerals*

*The board is responsible for collecting the revenue from all fees, permits, license certifications, and renewals.*

If the elements within the sentence contain internal commas or other punctuation, separate the elements with semicolons.

**EXAMPLE:**

*The board is responsible for collecting the revenue from fees for examinations; permits for shops, salons, and schools; and license certifications.*

If the day of the month is stated in a date, use a comma before and after the year.

**EXAMPLE:**

*This program begins on July 1, 2013, and ends on June 30, 2015.*

A comma is not needed if the day is omitted.

### 7.10 Hyphens and Compound Words

Many compounds are formed with the hyphen as a connector, but as these words become established the hyphen is often dropped in favor of the solid form.

Words that function as a compound adjective that are placed before the word they modify should be hyphenated.

#### EXAMPLES:

1. One weekend each month, Mr. and Mrs. Jones go on a 10-mile hike.
2. Our opponent resorted to low-level tactics.

However when these same word groups are placed after the nouns or pronouns they modify, they are not hyphenated.

#### EXAMPLES:

1. Mr. and Mrs. Jones hike 10 miles one weekend each month.
2. Our opponent's tactics were low level.

The hyphen is also used to avoid confusion in words like "re-form" (meaning to form again).

Hyphens should not be used in instances similar to the following examples, if the meaning is clear without them (e.g., "sales tax bill," "foreign aid plan"). The hyphen is not needed in these forms "navy blue skirt" or "dark green paint."

Compound words are listed separately within the dictionary. To avoid confusion, and sometimes absurdities, compound nouns that are usually solid words should be separated when the first part of the compound is modified by an adjective: "businessman, small-business man"; "sailmaker," "racing-sail maker."

Do not use the hyphen to connect an adverb ending in "ly" with a participle in such phrases as "newly married couple," or "elegantly furnished house." Adjectives ending in "ly" are another matter; hyphens should, for example, be used in "a gravely-voiced, grizzly-maned statesman of the old school."

Hyphens are not used in titles such as "commander in chief," "director general," "editor in chief," or "secretary general." Do use the hyphen in a title like "secretary-treasurer."

In a series of hyphenated phrases, use the complete phrase in each instance.

#### EXAMPLES:

USE: On successive days there were three-inch, five-inch, and nine-inch snowfalls.

AVOID: On successive days there were three-, five- and nine-inch snowfalls.

**7.11 Quotations**

Quotations should be used as follows:

- Words within text which require emphasis are set off in quotation marks.
- Brief quotes are enclosed in quotation marks; lengthy quotes are set off (further indented) in the text but are not enclosed in quotation marks.
- Quotation marks are used to enclose certain material following the terms “marked,” “designated,” “classified,” “named,” “endorsed,” or “signed.”

**EXAMPLES:**

1. Such sheep shall be accompanied by a waybill or owner-shipper certificate marked “for immediate slaughter.”
2. The term “meat” and the names of particular kinds of meat, such as beef, veal, mutton.

Quotation marks are used to enclose titles of articles, editorials, essays, papers, reports, subjects and themes.

**EXAMPLE:**

The procedures are described in “Methods of Analytical Chemists.” In evaluating replicate data, table 19, page 935, “Journal of the Association of Official Analytical Chemists” (Volume 49, Number 5, October 1960), shall be followed.

**7.12 Quotation Marks**

Typographical usage dictates that the comma and the period should always be placed inside the closing quotation mark, even though they sometimes logically do not seem to belong there.

**EXAMPLE:**

One package was marked “fragile,” and the other package was marked “do not open until Christmas.”

Semicolons and colons belong outside the closing quotation mark unless they are a part of the quoted material.

**EXAMPLE:**

One package was marked “fragile”; the other package was marked “do not open until Christmas.”

**7.13 Capitalization**

Capitalize civil, military, religious and professional titles when they immediately precede a personal name, as part of the name.

**EXAMPLES:**

Governor Markell;  
Secretary Clinton; and  
Chairman Jones

Capitalize full names of legislative, deliberative, administrative and judicial bodies, departments, bureaus, and offices. Lowercase common noun substitutes or incomplete designations, except abbreviations.

**EXAMPLES:****Uppercase**

General Assembly of Delaware  
Department of Transportation

**Lowercase**

state legislature  
the department

Do not capitalize the following words unless they are part of a proper name:

**EXAMPLES:**

administration;  
board;  
commission;  
executive branch, legislative branch, or judicial branch;  
federal;  
government;  
or state.

Capitalize common nouns and adjectives that form an essential part of a place.

**EXAMPLES:**

Sussex County  
City of Dover  
Northern  
Delaware

Capitalize "State of Delaware" and "State" (when referring to Delaware).

Capitalize names of buildings and monuments.

**EXAMPLES:**

Washington Monument  
Legislative Hall  
Townsend Building

Capitalize only the official names of documents.

**EXAMPLES:****Uppercase**

Constitution of Delaware

**Lowercase**

state constitution

Capitalize the names of a specific act (e.g., Administrative Procedures Act).

Capitalize the word “Act” when it has previously been referred to or defined, and subsequent references are to the specific act.

Capitalize a word describing a part of a document only if it is followed by a specific number or letter designation.

**EXAMPLES:**

**Uppercase**

Chapter 4  
Part IV

**Lowercase**

this chapter  
this part

Lowercase “page” and “line” (e.g., page 10, line 22).

**7.14 Writing Numbers**

Arabic numerals are used for numbers greater than nine (e.g., 10, 11, 12...), except for proper names such as “Chapter 1,” not “Chapter One.” Numbers from one to nine are spelled out. Zero is written “0.”

**7.15 Percentages**

Numerals are used followed by a percentage symbol (%) for all percentages. All percentages consist of at least two digits.

Percentages greater than or equal to 10 are written in the following manner:

10%;  
12%;  
13.4%; or  
15.63%.

Percentages less than 10 are written in the following manner:

9.6%;  
8.64%; or  
8.0%.

Percentages less than one are written in the following manner:

0.5%;  
0.002%; or  
0.621%.

**7.16 Monetary Figures**

Numerals are preceded by a dollar symbol (\$) for most monetary listings.

Amounts less than \$1.00 are written with a dollar symbol followed by a space, a decimal, and the cent value, to conform with the following:

\$.04;  
\$.50; or  
\$.99.

Amounts greater than \$.99 but less than \$10 are written with a dollar symbol followed by the dollar value followed by a decimal point followed by the cent value, even if the cent value is “.00,” to conform with the following:

\$2.00;  
\$3.40; or  
\$9.99.

Amounts greater than \$9.99 are written with a dollar symbol followed by the dollar value followed by a decimal point followed by the cent value, unless the cent value is “.00,” in which case no decimal point or cent value will be included, to conform with the following:

\$10;  
\$10.06; or  
\$100.

Monetary listings incorporating seven or more digits are written to conform to the following:

**EXAMPLES:**

USE: \$1 million

AVOID: \$1,000,000

**7.17 Dates**

In the text of documents, spell out the month of the year. Do not use the number of the month to signify the month. Do not abbreviate the name of the month.

**EXAMPLES:**

USE: December 2, 1994

AVOID: 12/2/94

Dec. 1, 1994

**7.18 Temperature**

Forms of temperatures (i.e., Fahrenheit, Celsius and Kelvin) are written using numerals only. The temperature value is followed by a degree symbol (°) followed by a “F”, “C” or “K” as the case may be.

**EXAMPLES:**

75° F

30° C

-4° F

0° K

**7.19 Fractions**

Fractions are written in numeric form (e.g.,  $\frac{1}{2}$ ,  $\frac{3}{4}$ ,  $\frac{1}{4}$ ). Mixed numerals (whole numbers and fractions) are also written in their numeric form (e.g.,  $1\frac{1}{2}$ ,  $2\frac{3}{4}$ ,  $13\frac{1}{4}$ ).

**7.20 Units of Measure**

Generally, abbreviations are not used in the *Delaware Register of Regulations*; however, there are a few exceptions when referring to units of measure. The following table serves as a guide to writing units of measure:

<u>USE</u>	<u>AVOID</u>	<u>USE</u>	<u>AVOID</u>
inches	in.	°F	Fahrenheit
feet	ft.	°C	Celsius
square feet	sq. ft.	°K	Kelvin
pounds	lbs.	centimeter	cm
barrel	bbl.	millimeter	mm
by	X	Watts	W.
Btu	British thermal unit	No.	#

### 7.21 Time

Time should be written in Arabic numerals, with the exception of 12 p.m. which is written as “noon.”

#### EXAMPLES:

USE: 10 a.m.	AVOID: 10:00 a.m.
10:30 a.m.	
noon	12 p.m.

### 7.22 Commonly Used Words with their Plain Language Translations

The use of the words in the right column is preferred.

<u>AVOID</u>	<u>USE</u>
and/or	“A” or “B,” or both
appear	seem
ascertain	find out
at this point in time	now
commence	begin
complete	fill out
comply	follow
constitute	be
disclose	show
elect	choose
endeavor	try
ensue	follow
execute	sign
experience	have, feel
facilitate	make easy
presently	now, soon
prior to	before, earlier
prohibit	forbid
purchaser	buyer
pursuant to	in response to
subsequent to	after, later
such, same, said	the, this, that, them, those, it
terminate	end
or the duration of	during

forthwith	immediately
forward	send
hereby	by this
herein	to this
hereinabove*	
hereinafter*	
hereinbelow*	
hereof	of this
hereto	to this
thereat, there,	at that level
thereby	by that
therein	in that
thereof	of that
thereto	to that
therewith	with that
thus	so, that way
transpire	happen
upon	on
vehicle	car, truck, way
vendor	seller
whereas	avoid using this term
wherein	where, in which

\* The use of the words "hereinabove," "hereinafter," and "hereinbelow" should not be used when referring to the position of a section or other provision. If a reference is necessary, specify the part, article, section, subsection, or subdivision of the regulation by number.