

**DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Section 1205(b) 14 **Del.C.** §1205(b))
14 **DE Admin. Code** 1513

FINAL

REGULATORY IMPLEMENTING ORDER

1513 Denial of Licenses

I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1513 Denial of Licenses. This regulation sets forth the criteria for the denial of Delaware educator licensure, pursuant to 14 **Del.C.** §1220(a). It is necessary to amend this regulation due to recent changes in the **DE Admin. Code**.

Notice of the proposed amendment of the regulation was published in the *News Journal* and the *Delaware State News* on Monday February 2, 2009 in the form hereto attached as Exhibit "A". The notice invited written comments. No comments were received.

II. Findings of Facts

The Professional Standards Board and the State Board of Education find that it is appropriate to amend this regulation to comply with changes in statute.

III. Decision to Amend the Regulation

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of the regulation amended shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 1513 of the *Administrative Code of Regulations* of the Department of Education.

V. Effective Date of Order

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

APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 5TH DAY OF MARCH, 2009

Kathleen Thomas, Chair
Samtra Devard

Joanne Christian
Marilyn Dollard

Karen Gordon
Lori Hudson
Jill Lewandowski
Gretchen Pikus
Karen Schilling-Ross
Carol Vukelich

Cristy Greaves
David Kohan
Wendy Murray
Whitney Price
Michael Thomas
Cathy Zimmerman

FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:

Lillian Lowery Ed.D., Secretary of Education

IT IS SO ORDERED THIS 19TH DAY OF MARCH, 2009

STATE BOARD OF EDUCATION

Richard M. Farmer, Jr., Vice President
Jorge L. Melendez
Dennis J. Savage

G. Patrick Heffernan
Barbara Rutt
Terry M. Whittaker, Ed.D.

1513 Denial of Licenses

1.0 Content

This regulation shall apply to the denial of an Initial License, Continuing License or Advanced License for educators pursuant to 14 **Del.C.** §1210, 1211, 1212, 1213, 1214, and 1217; and to the denial of a Standard or Emergency Certificate pursuant to 14 **Del.C.** §§1220 and 1221.

7 DE Reg. 161 (8/1/03)

9 DE Reg. 138 (7/1/05)

2.0 Definitions

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

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

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

"Department" means the Delaware Department of Education.

"Educator" ~~means a public school employee who holds a license issued under the provisions of 14 Del.C. Ch. 12, and includes teachers and administrators, and as otherwise defined by the Standards Board and the State Board, pursuant to 14 Del.C. §1203, but does not include substitute teachers~~ **[means a person licensed and certified by the State under 14 Del.C., Chapter 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 Standards Board and approved by the State Board. For purposes of 14 Del.C. Chapter 12, the term 'educator' does not include substitute teachers].**

"Good Moral Character" means conduct which is consistent with the rules and principles of morality expected of an educator.

"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 his or her unfitness or otherwise.

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

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

"Standard Certificate" means a credential issued to verify 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. §1205.

"State" means the State of Delaware.

"Unfit" means lack of good moral character, misconduct in office, incompetence, a pattern of ineffective teaching, wilful neglect of duty, disloyalty or falsification of credentials, or any conduct that would be grounds for revocation of an educator's license.

7 DE Reg. 161 (8/1/03)

9 DE Reg. 138 (7/1/05)

3.0 Failure to Meet Licensure Requirements

~~The Department may refuse to issue an Initial License, Continuing License, Advanced License or a Standard or Emergency Certificate to an applicant upon a finding that the applicant fails to meet the statutory or regulatory requirements for a license or certificate.~~

The Department may refuse to issue an Initial License, Continuing License, Advanced License or a Standard or Emergency Certificate and deny an applicant's request for a license for failure to meet the statutory or regulatory qualifications for a license.

7 DE Reg. 161 (8/1/03)

9 DE Reg. 138 (7/1/05)

4.0 ~~Finding that Applicant is Unfit~~ Denial of Unfit Applicants

~~Upon a finding that an applicant is unfit to be licensed or certified in the State, the Department may refuse to issue an Initial License, Continuing License or an Advanced License or a Standard or Emergency Certificate to an applicant who otherwise meets the requirements set forth in 14 DE Admin. Code 1510, 1511, 1512, 1515 and 1516.~~

4.1 The Department may refuse to issue an Initial License, Continuing License, Advanced License or a Standard or Emergency Certificate and deny a license to an applicant who otherwise meets the requirements for a license because the applicant is unfit.

4.2 The Department may refuse to issue an Initial License, Continuing License, Advanced License or a Standard or Emergency Certificate and deny a license to an applicant who otherwise meets the requirements for a license because the applicant has engaged in any misconduct or conduct that would be a basis for revocation under 14 DE Admin. Code 1514 Revocation, Limitation or Suspension of Licenses.

7 DE Reg. 161 (8/1/03)

9 DE Reg. 138 (7/1/05)

65.0 Right to Hearing, Burden of Proof, and Procedures

5.1 The Secretary shall give written notice to the applicant of the denial and the reasons therefore. The Department shall not take action to deny a license under this section without providing the applicant with written notice of the reasons for denial and with an opportunity for a full and fair hearing before the Standards Board.

5.2 The notice of denial shall be sent by certified mail, return receipt requested to the applicant's last known mailing address and shall give notice that a full and fair hearing may be requested before the Standards Board within ten (10) days.

5.2.1 The applicant shall report any address changes to the Department and the Standards Board.

~~6.4~~ 5.3 An applicant who is denied an Initial, Continuing, or Advanced License or a Standard or Emergency Certificate may appeal the decision, and is entitled to a full and fair hearing before the Standards Board.

5.3.1 The applicant's request for a hearing before the Standards Board shall be received by the Standards Board's Executive Director within twenty (20) calendar days of the date the denial notice was mailed.

5.4 In any hearing before the Standards Board to challenge action taken under this regulation, the Standards Board shall have the power to administer oaths, order the taking of depositions, issue subpoenas and compel attendance of witnesses and the production of books, accounts, papers, records, documents and testimony.

5.5 Unless otherwise provided for in this Section, the burden of proof in a license denial action shall be on applicant to show by a preponderance of the evidence that he or she should not be denied a license because he or she meets the qualification for licensure pursuant to the applicable laws and regulations.

5.5.1 Provided however, if the denial of the license is on the basis that the applicant is unfit or otherwise committed conduct or misconduct that would be the basis for revocation of a license, the Department shall specify the particular conduct and circumstances giving rise to the denial.

5.5.1.1 Prior to a hearing for a license denial under Section 4.0, the Department shall provide full disclosure of the basis of the denial.

5.5.2 Whenever the basis for an action described within this regulation is a guilty plea, a plea of nolo contendere with respect to, or a conviction of a crime, a copy of the record of the plea, nolo contendere or conviction certified by the Clerk of the Court entering the plea, nolo contendere or conviction shall be conclusive evidence thereof.

~~6.4~~ 5.6 Hearings shall be conducted in accordance with the Standard Board's Hearing Procedures and Rules.

7 DE Reg. 161 (8/1/03)

9 DE Reg. 138 (7/1/05)

56.0 Revocation in Another State

Notwithstanding any other provisions stated herein or in 14 **DE Admin. Code** 1510, 1511, and 1512, no license or certificate shall be issued to an applicant for an Initial, Continuing or Advanced License or Standard or Emergency Certificate if:

56.1 There is legal evidence that the applicant is not of good moral character; or

56.2 The applicant has had a certificate or license revoked in another state for immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.

9 DE Reg. 138 (7/1/05)

12 DE Reg. 1307 (04/01/09) (Final)