

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(a) and 1270B (14 **Del.C.** §§122(a) & 1270B)
14 **DE Admin. Code** 108A

FINAL

ORDER

108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II)

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §122(a) and 1270B, the Delaware Department of Education ("Department") developed amendments to 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II). The proposed amendments include revising Section 1.0, adding and striking terms in Section 2.0, replacing the term "Evaluator" with the term "Credentialed Administrator" throughout the regulation, and adding Section 12.0, which concerns waivers of DPAS II provisions. The proposed amendments are consistent with House Substitute 1 for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022. The applicable statutory changes are effective July 1, 2023. Other proposed amendments to this regulation include updates to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2023. The Department did not receive any written submittals concerning the proposed regulation.

II. FINDINGS OF FACTS

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** §1270B. In addition, the Department finds that the proposed amendments are consistent with House Substitute 1 for House Bill 291 of the 151st General Assembly, which was signed into law on February 16, 2022 and will go into effect on July 1, 2023. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II).

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) subject to the State Board of Education's approval. On June 15, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II). Therefore, pursuant to 14 **Del.C.** §§122(a) and 1270B, 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II), attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) in the *Administrative Code of Regulations* for the Department.

V. EFFECTIVE DATE OF ORDER

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

IT IS SO ORDERED the 15th day of June, 2023.

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

Approved this 15th day of June, 2023.

State Board of Education

/s/ Shawn Brittingham, President
/s/ Vincent Lofink, Vice President
/s/ Candice Fifer

/s/ Wali W. Rushdan, II
Provey Powell, Jr. (Absent)
/s/ Deborah Stevens

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

108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II)

1.0 ~~Effective Date~~ **Content**

- 1.1 ~~This regulation~~ The Administrator Appraisal Process, Delaware Performance Appraisal System II (DPAS II), shall be effective for all school districts and charter schools beginning with the 2017-2018 school year, unless another administrator appraisal system has been approved by the Department pursuant to Chapter 12 of Title 14 of the Delaware Code. Pursuant to 14 Del.C. §§1270B(b) and 1270B(f), this regulation sets forth the administration of the DPAS II for administrators and the process for obtaining a waiver of the provisions of DPAS II for administrators.
- 1.2 For purposes of this regulation, an administrator shall be a professional employee authorized by a board to serve in a supervisory capacity involving the oversight of an instructional ~~program(s)~~ programs.

15 DE Reg. 836 (12/01/11)

18 DE Reg. 48 (07/01/14)

19 DE Reg. 41 (07/01/15)

21 DE Reg. 40 (07/01/17)

2.0 Definitions

In this regulation, the following words and terms shall have the following meaning ~~unless the context clearly indicates otherwise:~~

"Annual Appraisal Cycle" means the administrator appraisal process that occurs each year.

~~"Board"~~ means the local board of education or charter school board of directors.

~~"Credentialed Evaluator Administrator"~~ means the individual, not always the supervisor of the administrator, who has successfully completed the foundational DPAS II training and credentialing assessment in accordance with Section 10.0. ~~A superintendent or head of charter school shall be evaluated by members of the Board who shall also have successfully completed the DPAS II foundational training and credentialing assessment in accordance with Section 10.0. The Credentialed Evaluator may also be referred to as "Evaluator".~~

~~"DASA"~~ means the Delaware Association of School Administrators.

"Department" means the Delaware Department of Education.

"DPAS II Guide for Administrators" means the manual created by the Department that contains the prescribed forms, detailed procedures, evaluation criteria and other relevant documents that are used to implement the appraisal process. The *DPAS II Guide for Administrators* may also be referred to collectively as "Guide."

"Goal-Setting Conference" means a meeting that occurs between the administrator and the ~~Credentialed Evaluator Administrator~~ at the beginning of the Annual Appraisal Cycle, which typically is in the summer or fall. ~~The meeting shall include but not be limited to establishing goals for the year and discussing areas of support, as described in the DPAS II Guide for Administrators.~~

"Improvement Plan" means the plan that an administrator and ~~evaluator~~ Credentialed Administrator mutually develop in accordance with Section 8.0.

~~"Leadership Priorities"~~ means a document for annually recording specific areas of leadership practices where improvement would contribute to overall growth as a leader and to improved student outcomes.

"Mid-Year Conference" means a meeting that occurs between the administrator and the ~~Credentialed Evaluator Administrator~~ as part of the Annual Appraisal Cycle, which typically occurs midway through the school year. ~~The meeting shall include but not be limited to discussion of progress toward goals and areas of support, as described in the DPAS II Guide for Administrators.~~

~~"Satisfactory Evaluation"~~ shall be equivalent to the overall "Distinguished" or "Accomplished" rating on the Summative Evaluation. ~~An overall rating of "Emerging" may also be deemed a satisfactory evaluation using the discretion of the credentialed evaluator. Discretion shall be based on the length of time in a position, change in assignment, and/or previous ratings.~~

"Student Achievement" means:-

(a) For tested grades and subjects:

(1) Student scores on the state assessment system; and, as appropriate,

~~(2) Other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms.~~

~~(b) For non-tested grades and subjects: alternative measures of student learning and performance such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.~~

~~Such alternative measures shall be approved by the Department and developed in partnership with the Delaware Association of School Administrators (DASA) and the Delaware School Boards Association (DSBA).~~

~~"Student Growth" means the change in Student Achievement data for an individual student between two points in time. Growth may also include other measures that are rigorous and comparable across classrooms.~~

~~"Summative Evaluation" or "Evaluation" means the final evaluation at the conclusion of the Annual Appraisal Cycle.~~

~~"Unsatisfactory Evaluation" shall be the equivalent to the overall "Developing" rating on the Summative Evaluation. An overall rating of "Emerging" may also be deemed an unsatisfactory evaluation using the discretion of the credentialed evaluator. Discretion shall be based on the length of time in a position, change in assignment or previous ratings.~~

~~"Working Day" means a day when the employee would normally be working in that district or charter school.~~

15 DE Reg. 836 (12/01/11)

18 DE Reg. 48 (07/01/14)

19 DE Reg. 41 (07/01/15)

21 DE Reg. 40 (07/01/17)

22 DE Reg. 1002 (06/01/19)

3.0 Annual Appraisal Cycles

3.1 All administrators shall receive a yearly appraisal in all ~~five (5)~~ 5 Appraisal Components, including Student Improvement, that includes a minimum of ~~one (1) Goal-Setting~~ 1 Goal-Setting Conference, ~~one (1)~~ 1 Mid-Year Conference and ~~one (1)~~ 1 Summative Evaluation each year.

3.1.1 The Goal-Setting Conference shall include establishing goals for the year and discussing areas of support, as described in the *DPAS II Guide for Administrators*.

3.1.2 The Mid-Year Conference shall include a discussion of progress toward goals and areas of support, as described in the *DPAS II Guide for Administrators*.

3.2 The Annual Appraisal Cycle shall be led by the administrator's Credentialed ~~Evaluator~~ Administrator and may include other supports and opportunities for feedback from ~~his or her the administrator's~~ Credentialed Evaluator Administrator or other Credentialed ~~Evaluators~~ Administrators, as outlined in the *DPAS II Guide for Administrators*. A superintendent or head of charter school shall be evaluated by members of the local board of education or charter school board of directors who have successfully completed the DPAS II foundational training and credentialing assessment in accordance with Section 10.0.

15 DE Reg. 836 (12/01/11)

18 DE Reg. 48 (07/01/14)

22 DE Reg. 1002 (06/01/19)

4.0 DPAS II Guide for Administrators

4.1 All districts and charter schools shall use the ~~manuals entitled~~ manual titled *DPAS II Guide for Administrators* as developed and as may be amended by the Department of Education in collaboration with administrators, which shall include ~~but not be limited to~~ representatives from DSBA Delaware School Boards Association (DSBA) and DASA Delaware Association of School Administrators (DASA) to implement the appraisal system.

4.1.1 The Guide shall contain at a minimum the following:

4.1.1.1 Specific details about each of the ~~five (5)~~ 5 Appraisal Components pursuant to subsection 5.1, including the Appraisal Criteria within each Component that form the basis for ratings.

4.1.1.2 All forms or documents needed to complete the requirements of the Annual Appraisal Cycle.

4.1.1.3 Specific procedures to implement the Annual Appraisal Cycle, including information on the required Goal-Setting Conference, Mid-Year Conference and Summative Evaluation as well as other recommended supports and opportunities for feedback.

4.1.1.4 Guidance related to evidence collection, including relevant definitions, samples of quality evidence and other resources.

- 18 DE Reg. 48 (07/01/14)
- 21 DE Reg. 40 (07/01/17)
- 22 DE Reg. 1002 (06/01/19)

5.0 Appraisal Components and Appraisal Criteria

- 5.1 The following ~~five (5)~~ 5 Appraisal Components, including Appraisal Criteria specified for each in the Guide, shall be the basis upon which the performance of an administrator shall be evaluated by the Credentialed ~~Evaluator~~ Administrator:
 - 5.1.1 Component 1: Leadership for Purpose and Improvement: Focuses on the administrator's actions to develop, advocate, and enact systems aligned to the mission, vision, and core values of the school or district, including the alignment to the school or district success ~~plan(s)~~ plans to promote each student's academic success and well-being.
 - 5.1.2 Component 2: Leadership for Self and Others: Focuses on the administrator's actions to act ethically and strive for enacting systems that promote the equity of educational opportunities and culturally responsive practices for each student's academic success and well-being.
 - 5.1.3 Component 3: Leadership for Student Success: Focuses on the administrator's actions to enact intellectually rigorous and coherent systems of curriculum, instruction, and assessment within an environment that is inclusive, caring, and supporting to promote each student's academic success and well-being.
 - 5.1.4 Component 4: Leadership for the Learning Community: Focuses on the administrator's actions to systematically develop the professional capacity of teachers, staff, and personnel, as well as meaningfully engaging families and community members in ways that promote each student's academic success and well-being.
 - 5.1.5 Component 5: Student Improvement: Students collectively demonstrate appropriate levels of ~~Student Growth~~ student growth as benchmarked against standards to be set by the Secretary based on input from stakeholder groups. For the purpose of this regulation, "student growth" means the change in student achievement data for an individual student between two points in time and may include other measures that are as rigorous and comparable across classrooms. For non-tested grades and subjects, student achievement data means alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms, developed in partnership with the Delaware Association of School Administrators (DASA) and the Delaware School Boards Association (DSBA) and approved by the Department. For tested grades and subjects, student achievement data means student scores on the State assessment system and, as appropriate, other measures of student learning, such as those specified for non-tested grades and subjects, provided they are rigorous and comparable across classrooms.

- 15 DE Reg. 836 (12/01/11)
- 18 DE Reg. 48 (07/01/14)
- 22 DE Reg. 1002 (06/01/19)

6.0 Summative Evaluation Ratings

- 6.1 Appraisal Components 1 through 4 shall be assigned a rating of "Distinguished", "Accomplished", "Emerging", or "Developing" on the Summative Evaluation. Component 5: Student Improvement shall be assigned a rating of "Highly Effective", "Effective", "Needs Improvement", or "Ineffective" on the Summative Evaluation. The rating for each of the ~~five (5)~~ 5 Appraisal Components shall reflect the standards as described in the *DPAS II Guide for Administrators*.
 - 6.1.1 Each Component rating shall be equal to an assigned point value. A "Distinguished" or "~~Highly Effective~~" Component rating shall earn ~~four (4)~~ 4 points, an "Accomplished" or "~~Effective~~" Component rating shall earn ~~three (3)~~ 3 points, an "Emerging" or "~~Needs Improvement~~" Component rating shall earn ~~two (2)~~ 2 points, and a "Developing" or "~~Ineffective~~" Component rating shall earn ~~one (1)~~ 1 point. No partial points shall be awarded.
 - 6.1.2 Once all Component ratings are assigned, a Summative Evaluation rating is determined by the sum of all ~~five (5)~~ 5 Components.
 - 6.1.3 Satisfactory performance on a component of the evaluation is a rating equivalent to "Distinguished" or "Accomplished." The Credentialed Administrator may deem a rating equivalent to "Emerging" as satisfactory performance on a component of the evaluation based on the length of time in a position, change in assignment, or previous ratings.

6.1.4 Unsatisfactory performance on a component of the evaluation is a rating equivalent to "Developing." The Credentialed Administrator may deem a rating equivalent to "Emerging" as unsatisfactory performance on a component of the evaluation based on the length of time in a position, change in assignment, or previous ratings.

6.2 The Summative Evaluation shall also include one of four overall ratings: "Distinguished", "Accomplished", "Emerging", or "Developing".

6.2.1 "**Distinguished**" means that the administrator has earned a sum of 19 or 20 Component rating points.

6.2.2 "**Accomplished**" means that the administrator has earned a sum of 14 to 18 Component rating points.

6.2.3 "**Emerging**" means that the administrator has earned a sum of 9 to 13 Component rating points.

6.2.4 "**Developing**" means that the administrator has earned a sum of 5 to 8 Component rating points.

6.2.5 Satisfactory performance on the overall evaluation is a rating equivalent to "Distinguished" or "Accomplished." The Credentialed Administrator may deem an overall evaluation rating equivalent to "Emerging" as satisfactory performance based on the length of time in a position, change in assignment, or previous ratings.

6.2.6 Unsatisfactory performance on the overall evaluation is a rating equivalent to "Developing." The Credentialed Administrator may deem an overall evaluation rating equivalent to "Emerging" as unsatisfactory performance based on the length of time in a position, change in assignment, or previous ratings.

15 DE Reg. 836 (12/01/11)

18 DE Reg. 48 (07/01/14)

19 DE Reg. 41 (07/01/15)

21 DE Reg. 40 (07/01/17)

22 DE Reg. 1002 (06/01/19)

7.0 Pattern of Ineffective Administrative Performance

~~A pattern of ineffective administrative performance shall be based on the most recent Summative Evaluation ratings of an administrator using the DPAS II process. At~~ For the purpose of this regulation, and as required by 14 Del.C. §1270B(b), "pattern of ineffective practice" means at least two 2 consecutive ratings of "Developing" or three 3 consecutive ratings that are a combination of "Emerging" and "Developing" on the most recent Summative Evaluations of an administrator using the DPAS II process and shall be deemed as a pattern of ineffective administrative performance.

15 DE Reg. 836 (12/01/11)

15 DE Reg. 1596 (05/01/12)

18 DE Reg. 48 (07/01/14)

22 DE Reg. 1002 (06/01/19)

8.0 Supports for Improvement

8.1 An Improvement Plan shall be developed for an administrator who receives an overall rating of "Developing" on the Summative Evaluation or a rating of Needs Improvement or Ineffective on Component ~~Five, 5: Student Improvement, Improvement~~ in Section 5.0 on the Summative Evaluation regardless of the overall rating.

8.1.1 An Improvement Plan may also be developed if an administrator's performance during the Annual Appraisal Cycle is unsatisfactory, as outlined in the *DPAS II Guide for Administrators*.

8.1.2 The Improvement Plan shall be developed cooperatively by the administrator and ~~his or her the administrator's~~ Credentialed Evaluator Administrator. If the plan cannot be cooperatively developed, the administrator's ~~Evaluator~~ Credentialed Administrator shall have the authority and responsibility to determine the plan as specified in subsection 8.1 above.

8.1.3 The administrator shall be held accountable for the implementation and completion of the Improvement Plan.

8.1.4 Upon completion of the Improvement Plan, the administrator and ~~his or her the administrator's~~ Credentialed Evaluator Administrator shall sign the documentation that determines the satisfactory or unsatisfactory performance of the plan.

8.2 Leadership ~~Priorities~~ priorities shall be developed for an administrator who receives an overall rating of "Emerging" on the Summative Evaluation or a rating of "Developing" or "Emerging" in Component 1, Component 2, Component 3, or Component 4. Leadership ~~Priorities~~ priorities shall be completed as outlined in the *DPAS II Guide for Administrators*. For the purpose of this regulation, leadership priorities mean a document

for annually recording specific areas of leadership practices where improvement would contribute to overall growth as a leader and to improved student outcomes.

15 DE Reg. 836 (12/01/11)

15 DE Reg. 1596 (05/01/12)

18 DE Reg. 48 (07/01/14)

21 DE Reg. 40 (07/01/17)

22 DE Reg. 1002 (06/01/19)

9.0 Challenge Process

9.1 An administrator may challenge any rating on the Summative Evaluation, either an Appraisal Component Rating or the Overall Rating, or an administrator may challenge unsatisfactory performance identified by ~~his or her~~ the administrator's Credentialed Evaluator Administrator during the Annual Appraisal Cycle, pursuant to subsection 8.1.1. To initiate a challenge, an administrator shall submit additional information specific to the point of disagreement in writing within ~~fifteen (15) working days~~ 15 Working Days of the date of administrator's receipt of the Summative Evaluation. Such written response shall become part of the appraisal record and shall be attached to the Summative Evaluation. All challenges together with the record shall be forwarded to the supervisor of the ~~evaluator~~ Credentialed Administrator, if any.

9.1.1 Within ~~fifteen (15) working days~~ 15 Working Days of receiving the written challenge, the supervisor of the ~~evaluator~~ Credentialed Administrator shall review the record which consists of all documents used in the appraisal and the written challenge, meet with the administrator, and issue a written decision.

9.1.2 If the challenge is denied, the written decision shall state the reasons for denial.

9.1.3 The decision of the supervisor of the ~~evaluator~~ Credentialed Administrator shall be final.

15 DE Reg. 836 (12/01/11)

18 DE Reg. 48 (07/01/14)

21 DE Reg. 40 (07/01/17)

10.0 ~~Evaluator(s) Credentials~~ Credentialed Administrators

10.1 Credentialing processes and assessments shall be established and conducted by the Department of ~~Education~~, and developed in collaboration with school and district level administrators.

10.2 ~~Evaluator~~ Credentialed Administrator credentials for the utilization of each of the DPAS II ~~Guide~~ Guides are earned upon successful completion of the credentialing assessment. ~~Evaluator~~ Credentialed Administrators credentials are valid for ~~five~~ 5 years from the date of issue. ~~Evaluators~~ Credentialed Administrators may seek to renew their credentials within 24 months prior to the expiration date. If the educator does not renew the educator's credentials, the educator shall not complete DPAS II.

10.2.1 Completion of a foundational DPAS II training shall allow ~~evaluators~~ Credentialed Administrators to conduct administrator evaluations until the credentialing assessment is established and implemented for Credentialed Administrators.

10.2.2 Upon the initial implementation of the credentialing assessment, the Department shall establish a time period during which the assessment will be offered at least ~~three (3)~~ 3 times in order to provide multiple opportunities for an individual to earn the credential. Once available, an administrator shall have the opportunity to take the assessment at least ~~three~~ 3 times. Administrators shall earn their credential during one of those opportunities before continuing their work. If administrators do not earn a credential, they will not be permitted to conduct administrator evaluations, but, in order to earn their credential, shall have the opportunity to take the assessment again during the next time period that such a credentialing assessment is offered.

15 DE Reg. 836 (12/01/11)

18 DE Reg. 48 (07/01/14)

19 DE Reg. 41 (07/01/15)

21 DE Reg. 40 (07/01/17)

22 DE Reg. 1002 (06/01/19)

11.0 ~~Evaluator~~ Credentialed Administrator Training

11.1 Training opportunities shall be offered annually and shall include techniques for observation and conferencing and a review of the *DPAS II Guide for Administrators*. Activities in which participants practice implementation of DPAS II procedures may be included.

- 11.2 ~~Evaluators~~ Credentialed Administrators shall complete a DPAS II training developed by the Department of Education upon notice to superintendents and heads of charter schools from the Department subsequent to substantive changes to an applicable ~~DPAS-II~~ DPAS II Guide for Administrators.

19 DE Reg. 41 (07/01/15)

22 DE Reg. 1002 (06/01/19)

12.0 Waiver of DPAS II Provisions

- 12.1 In accordance with 14 Del.C. §1270B(f), a school district or charter school may submit an application to the Department for a waiver of the provisions of the DPAS II. The waiver request shall be based on a locally developed evaluation process that meets all of the requirements in subsections 12.1.1 through 12.1.4.
- 12.1.1 The applicant's evaluation process is demonstrated to be the product of the collective bargaining process pursuant to 14 Del.C. Ch. 40 and community review.
- 12.1.2 The applicant's evaluation process is as rigorous and as educationally sound as DPAS II.
- 12.1.3 The applicant's evaluation process provides for evaluating administrator performance by measuring student growth using multiple measures over the course of a curricular year.
- 12.1.4 The applicant's evaluation process contains a mechanism for certifying evaluators and for quality control.
- 12.2 The school district or charter school shall submit the application and supporting documentation to the Department's Educator Excellence Workgroup by March 1.
- 12.3 The Department will review the application to determine if it is complete. If the application is incomplete, the school district or charter school may resubmit the application. If the application is complete, the Department will determine whether to grant the application based on the rubric in the application.
- 12.4 The Department may grant an application for a waiver for up to 3 years.
- 12.5 If the school district or charter school is granted a waiver, and the waiver expires, the school district or charter school shall submit a new application in order for the Department to grant another waiver.

42.0 ~~13.0~~ DPAS II for Administrator Monitoring

The Department of ~~Education~~ shall annually monitor implementation of DPAS II for ~~Administrators~~ administrators.

19 DE Reg. 41 (07/01/15)

43.0 ~~14.0~~ Evaluation of Process

The Department of ~~Education~~ shall conduct a biennial evaluation of the administrator appraisal process. The evaluation shall, at a minimum, include a survey of administrators and interviews with a sampling of administrators. Data from the evaluation and proposed changes to DPAS II shall be presented to the State Board of Education for review on a biennial basis.

13 DE Reg. 1072 (02/01/10)

15 DE Reg. 836 (12/01/11)

15 DE Reg. 1596 (05/01/12)

18 DE Reg. 48 (07/01/14)

19 DE Reg. 41 (07/01/15)

21 DE Reg. 40 (07/01/17)

22 DE Reg. 1002 (06/01/19)

27 DE Reg. 102 (08/01/23) (Final)