

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))  
14 **DE Admin. Code** 108A

### FINAL

#### REGULATORY IMPLEMENTING ORDER

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

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

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. The amendments include, but are not limited to: 1) changing the effective date to the more broad date of the 2011-2012 school year; 2) revising language to reflect the new state assessment; 3) revising the definition of "Highly Effective"; 4) providing interim provisions for the determination of pattern of ineffective administrative performance; 5) revising the parameters around when an Improvement Plan is needed; 6) specifying in the Challenge Process that the process includes meeting with the administrator; and 7) that the Department will monitor the evaluation implementation.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on October 3, 2011, in the form hereto attached as *Exhibit "A"*. Comments were received from the Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities. The first comment related to formatting. This was a Register of Regulations issue and corrected. The Councils also commented on the definitions used within the regulation. A majority of the definitions have been used consistently since DPAS II was put in place initially. These and other terms, such as, "Exceeds" are further described in the DPAS II Revised Guide for Administrators that has been developed with stakeholder input. The DPAS II Revised Guide for Administrators is published by the Register of Regulations along with this Order.

A comment was made regarding the "Student Improvement" component. The "Student Improvement" component of DPAS II is not a new component and is required by 14 **Del.C.** §1270, which also states that this component must be weighted at least as high as any other component. The policy to increase the weight of this component has been in place since the first DPAS II Revised was approved by action of the State Board of Education in January 2010. The Councils expressed concern over the "pattern of ineffective teaching." The Department with input made adjustments to the DPAS II Revised regulations, recognizing that the 2011-2012 school year is an interim year. This is because not all measure of student growth have been developed and approved. The results of those discussions are reflected in this regulation.

###### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised in order to make several changes and amendments as noted in the summary above.

###### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised 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 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 108A Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised in the *Administrative Code of Regulations* for the Department of Education.

###### V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on November 17, 2011. 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 17th day of November 2011.

**Department of Education**

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 17th day of November 2011

**State Board of Education**

Teri Quinn Gray, Ph.D., President

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

**1.0 Effective Date**

- 1.1 The Administrator Appraisal Process, Delaware Performance Appraisal System (DPAS II) Revised shall be effective for all school districts and charter schools beginning ~~July 1, 2011~~ with the 2011-12 school year, and shall, at such time, replace the current 14 **DE Admin. Code** 108 Administrator Appraisal Process Delaware Performance Appraisal System (DPAS II).
- 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).

**2.0 Definitions**

The following definitions shall apply for purposes of this regulation:

**"Board"** shall mean the local board of education or charter school board of directors.

**"Credentialed Evaluator"** shall mean the individual, usually the supervisor of the administrator, who has successfully completed the evaluation training in accordance with 10.0. A superintendent shall be evaluated by member(s) of the local school board of education who shall also have successfully completed the evaluation training in accordance with 10.0. The Credentialed Evaluator may also be referred to as "Evaluator".

**"DASA"** shall mean the Delaware Association of School Administrators.

**"DPAS II Revised Guide for Administrators"** shall mean the manual that contains the prescribed forms, detailed procedures, evaluation criteria and other relevant documents that are used to implement the appraisal process.

**"DSEA"** shall mean the Delaware State Education Association.

**"Experienced Administrator"** shall mean an administrator who has three (3) or more years of service as an administrator.

**"Formative Process"** shall consist of the Goal Setting Conference, self evaluation, a survey of staff that are supervised by the administrator, and formative conferences and reports as outlined in the DPAS II Guide for Administrators.

**"Improvement Plan"** shall be the plan that an administrator and evaluator mutually develop in accordance with 8.0.

**"Inexperienced Administrator"** shall mean an administrator who has less than three (3) years of service as an administrator.

**"Satisfactory Component Rating"** shall mean the administrator's performance demonstrates an understanding of the concepts of the component.

**"Satisfactory Evaluation"** shall be equivalent to the overall "Effective" or "Needs Improvement" rating on the Summative Evaluation.

**"State Assessment"** shall mean the ~~Delaware Student Testing Program (DSTP) or its successor~~ Delaware Comprehensive Assessment System (DCAS).

**"Student Achievement"** shall mean

(a) For tested grades and subjects:

- (1) Students scores on the ~~DSTP or successor statewide assessment~~ DCAS; 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 measure 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"** shall mean the change in 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"** shall be the final evaluation at the conclusion of the appraisal cycle.

**"Unsatisfactory Component Rating"** shall mean the administrator's performance does not demonstrate an understanding of the concepts of the component.

**"Unsatisfactory Evaluation"** shall be the equivalent to the overall "Ineffective" rating on the Summative Evaluation.

**"Working Day"** shall mean a day when the employee would normally be working in that district or charter school.

### 3.0 Appraisal Cycles

- 3.1 Experienced administrators who have earned a rating of "Highly Effective" on their most recent Summative Evaluation shall receive a minimum of one (1) Formative Process each year with a Summative Evaluation at least once every two (2) years. The Student Improvement component for Highly Effective administrators shall be evaluated each year, regardless of whether or not a Summative Evaluation is conducted. If a Highly Effective administrator does not achieve a Satisfactory rating on the Student Improvement Component, the administrator shall receive a Summative Evaluation the following year, regardless of whether the administrator would otherwise be due for a Summative Evaluation pursuant to this section.
- 3.2 Experienced administrators who have earned a rating of "Effective" and have earned Satisfactory ratings in four (4) of the Appraisal Components found in 5.0, including Student Improvement on his or her most recent Summative Evaluation shall receive a minimum of one (1) Formative Process each year with a Summative Evaluation at least once every two (2) years. The Student Improvement component for Effective administrators shall be evaluated each year, regardless of whether or not a Summative Evaluation is conducted. If an Effective administrator does not achieve a Satisfactory rating on the Student Improvement Component, the administrator shall receive a Summative Evaluation the following year, regardless of whether the administrator would otherwise be due for a Summative Evaluation pursuant to this section.
- 3.3 Experienced administrators who are not otherwise included in 3.1 or 3.2 shall receive a minimum of one (1) Formative Process with a Summative Evaluation at the end of the one year period. These administrators shall have an Improvement Plan which may require additional Formative Process(es) or other types of monitoring as outlined in the DPAS II Revised Guide for Administrators.
- 3.4 Inexperienced administrators shall have a minimum of one (1) Formative Process with a Summative Evaluation every year. Inexperienced administrators who have earned a rating of "Needs Improvement" or "Ineffective" on their most recent Summative Evaluation shall have an Improvement Plan which may require additional Formative Process(es) or other types of monitoring as outlined in the DPAS II Revised Guide for Administrators.

### 4.0 DPAS II Revised Guide for Administrators

- 4.1 All districts and charter schools shall use the manual entitled DPAS II Revised Guide for Administrators as developed and as may be amended by the Department of Education in collaboration with DSEA and DASA to implement the appraisal system.
  - 4.1.1 The manual shall contain at a minimum the following:
    - 4.1.1.1 Specific details about each of the five (5) Appraisal Components pursuant to 5.1.
    - 4.1.1.2 All forms or documents needed to complete the requirements of the appraisal process.
    - 4.1.1.3 Specific procedures to implement the appraisal system.

### 5.0 Appraisal Components and Appraisal Criteria

- 5.1 The following five (5) Appraisal Components, including any Appraisal Criteria specified for each, shall be the basis upon which the performance of an administrator shall be evaluated by a certified evaluator(s):
  - 5.1.1 Vision and Goals

- 5.1.1.1 Using Data: Administrator, in collaboration with others such as the school or district improvement team or board, uses multiple sources of information and assists in analyzing data to establish rigorous and concrete school or district improvement goals in the context of student achievement and instructional programs.
- 5.1.1.2 Implementing Vision and Goals: Administrator provides leadership for major initiatives and change efforts relative to the school or district improvement goals. Administrator is committed to doing the work required for continuous school and district improvement.
- 5.1.1.3 Promoting Vision and Goals: Administrator promotes high expectations for teaching and learning. Administrator is committed to ensuring that all students have the knowledge and skills necessary to become successful in future educational activities.
- 5.1.1.4 Communicating the Vision and Goals: Administrator communicates effectively to appropriate stakeholders about progress towards meeting the school or district improvement plan goals. Administrator participates in a process to regularly monitor, evaluate and revise school or district improvement goals.
- 5.1.2 Culture of Learning
  - 5.1.2.1 Advocating a Culture of Learning: Administrator provides leadership for assessing, developing and improving the school or district culture and instructional program that is conducive to student learning. Administrator can articulate the desired school or district instructional program and shows evidence about how he or she reinforces the instructional program and culture.
  - 5.1.2.2 Monitoring the Culture of Learning: Administrator participates in monitoring and evaluating the effectiveness of the curriculum, instruction or assessment of students. Administrator evaluates staff and provides on-going coaching for improvement. Administrator uses a variety of sources of information to make decisions.
  - 5.1.2.3 Sustaining the Culture of Learning: Administrator helps to ensure that staff have professional development opportunities that enhance their performance and improve student learning. Administrator is accessible and approachable by staff, families, and community and is visible in the school or district community. Administrator supports the use of technology as appropriate in teaching and learning.
  - 5.1.2.4 Maintaining the Culture of Learning: Administrator systematically and fairly recognizes accomplishments of staff and students towards a positive school or district culture. Administrator uses and analyzes data to instill the importance of continually developing programs and strategies to enhance opportunities for learning.
- 5.1.3 Management
  - 5.1.3.1 Solving Problems or Concerns: Administrator addresses and resolves issues as they arise in a timely manner and works to prevent potential problems. Operational procedures are designed and managed to maximize opportunities for learning for all students.
  - 5.1.3.2 Managing Resources: Administrator manages fiscal and physical resources responsibly, efficiently and effectively. Administrator protects instructional time by managing operational procedures in such a way as to maximize learning. Administrator efficiently manages his or her time so that teaching and learning are a high priority.
  - 5.1.3.3 Complying with Policies: Administrator complies with federal, state, and board policies. School or district contractual agreements are effectively managed. Administrator maintains confidentiality and privacy of school or district records, including student or staff information.
  - 5.1.3.4 Protecting the Welfare and Safety of Students and Staff: Administrator works to ensure a safe and secure school or district environment and a culture that is conducive to teaching and learning. Challenges that could potentially interrupt teaching and learning are addressed and resolved.
- 5.1.4 Professional Responsibilities
  - 5.1.4.1 Maintaining Professional Relationships: Administrator fosters and maintains positive professional relationships with staff. Administrator is respectful of other's opinions and demonstrates an appreciation for and sensitivity to diversity in the school or district community.
  - 5.1.4.2 Promoting Family and Community Involvement: Administrator collaboratively works to establish a culture that encourages and welcomes families and community members and seeks ways in which to engage them in student learning.
  - 5.1.4.3 Demonstrating Fairness: Administrator is fair and consistent when dealing with students and staff. Administrator demonstrates values, beliefs and attitudes that inspire all students and staff to higher levels of performance.

5.1.4.4 Growing and Developing Professionally: Administrator chooses and participates in professional development that is aligned with his or her professional needs and aligned with the needs of the school or district.

5.1.5 Student Improvement

5.1.5.1 Measuring Student Improvement: ~~Administrator's~~ Students collectively demonstrate appropriate levels of Student Growth as benchmarked against standards to be set by the Secretary based on input from stakeholder groups.

**6.0 Summative Evaluation Ratings**

6.1 Each Appraisal Component shall be assigned a rating of Satisfactory or Unsatisfactory on the Summative Evaluation.

6.1.1 A satisfactory rating for each of the first four Appraisal Components shall mean the administrator demonstrates acceptable performance by meeting at least three (3) of the four (4) Appraisal Criteria specified in each of the components.

6.1.2 A satisfactory rating for the Student Improvement component shall mean that the administrator has demonstrated acceptable performance by meeting the standards set by the Secretary pursuant to 5.1.5.1.

6.2 The Summative Evaluation shall also include one of four overall ratings: "Highly Effective", "Effective", "Needs Improvement" or "Ineffective".

6.2.1 "Highly Effective" shall mean that the administrator has a Satisfactory Component Rating in four (4) of the five (5) Appraisal Components in accordance with 5.0, including an Exceeds rating in the Student Improvement Component meaning and that the administrator's students collectively demonstrate on average achieve high rates of student growth, as defined in the DPAS II Revised Guide for Administrators, as the same may be amended from time to time, developed pursuant to 4.0, that is, more than one grade level improvement in an academic year.

6.2.2 "Effective" shall mean that:

6.2.2.1 The administrator has ~~received~~ earned a Satisfactory Component Rating in at least three (3) Appraisal Components, including a Satisfactory rating in the Student Improvement Component, and

6.2.2.2 The administrator does not meet the requirement for a "Highly Effective" rating found in 6.2.1.

6.2.3 "Needs Improvement" shall mean that:

6.2.3.1 The administrator has ~~received~~ earned one (1) or two (2) Satisfactory Component Ratings out of the five (5) Appraisal Components in accordance with 5.0, including a Satisfactory rating in the Student Improvement Component, or

6.2.3.2 The administrator has ~~received~~ earned three (3) or four (4) Satisfactory Component Ratings out of the five (5) Appraisal Components in accordance with 5.0 and the administrator has ~~received~~ earned an Unsatisfactory rating in the Student Improvement Component.

6.2.4 "Ineffective" shall mean that:

6.2.4.1 The administrator has ~~received~~ earned zero (0), one (1), or two (2) Satisfactory Component Ratings out of the five (5) Appraisal Components in accordance with 5.0, and

6.2.4.2 The administrator has ~~received~~ earned an Unsatisfactory Component Rating in the Student Improvement Component.

6.2.5 If an administrator's overall Summative Evaluation rating is determined to be "Needs Improvement" for the third consecutive year, the administrator's rating shall be re-categorized as "Ineffective".

**7.0 Pattern of Ineffective Administrative Performance**

7.1 A pattern of ineffective administrative performance shall be based on the most recent Summative Evaluation ratings of an administrator using the DPAS II process. Two consecutive ratings of "Ineffective" shall be deemed as a pattern of ineffective administration. The following chart shows the consecutive Summative Evaluation ratings determined to be a pattern of ineffective administrative performance:

Year 1	Year 2	Year 3
Ineffective	Ineffective	
Needs Improvement	Ineffective	Needs Improvement
Needs Improvement	Needs Improvement	Ineffective
Ineffective	Needs Improvement	Ineffective

Ineffective  
Needs Improvement

Needs Improvement  
Ineffective

Needs Improvement  
Ineffective

7.2 Notwithstanding the chart above, for the 2011-2012 school year an administrator with an overall Summative Rating of "Needs Improvement" or "Ineffective" that is based on the following component rating results shall not have that year's summative rating used for any purpose in the determination of a pattern of ineffective administrative performance:

7.2.1 Satisfactory Component ratings in the first four (4) components pursuant to 5.1, with an Unsatisfactory Component rating in 5.1.5 Student Improvement.

7.2.2 Satisfactory Component ratings in three (3) of the first four (4) components pursuant to 5.1, with an Unsatisfactory Component rating in 5.1.5 Student Improvement.

7.2.3 Satisfactory Component ratings in two (2) of the first four (4) components pursuant to 5.1, with an Unsatisfactory Component rating in 5.1.5 Student Improvement.

## **8.0 Improvement Plan**

8.1 An Improvement Plan shall be developed for an administrator who receives an overall rating of "Needs Improvement" or "Ineffective" on the Summative Evaluation or a rating of Unsatisfactory on any Appraisal Component in 5.0 on the Summative Evaluation regardless of the overall rating.

8.1.1 An Improvement Plan shall also be developed if an administrator's overall performance during the Formative Process is unsatisfactory. This unsatisfactory performance shall be noted by the evaluator(s) on the Formative Feedback form by noting "PERFORMANCE IS UNSATISFACTORY" and initialing the statement.

8.2 Notwithstanding 8.1, for the 2011-2012 school year, an Improvement Plan shall not be developed related to Appraisal Component 5.1.5, nor shall an Improvement Plan be developed for an administrator with an overall Summative Rating of "Needs Improvement" that is based on the following component rating results:

8.2.1 Satisfactory Component ratings in the first four (4) components pursuant to 5.1, with an Unsatisfactory Component rating in 5.1.5 Student Improvement.

8.23 The Improvement Plan shall contain the following:

8.23.1 Identification of the specific deficiencies and recommended area(s) for growth;

8.23.2 Measurable goals for improving the deficiencies to satisfactory levels;

8.23.3 Specific professional development or activities to accomplish the goals;

8.23.4 Specific resources necessary to implement the plan, including but not limited to, opportunities for the administrator to work with curriculum specialist(s) or others with relevant experience;

8.23.5 Procedures and evidence that must be collected to determine that the goals of the plan were met;

8.23.6 Timeline for the plan, including intermediate check points to determine progress;

8.23.7 Procedures for determining satisfactory improvement.

8.34 Any state or federally funded professional development that is completed during the time that the Improvement Plan is in effect shall be certified by the Department and shall be directly related to areas identified as needing improvement.

8.45 The Improvement Plan shall be developed cooperatively by the administrator and evaluator. If the plan cannot be cooperatively developed, the evaluator shall have the authority and responsibility to determine the plan as specified in 8.2 above.

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

8.67 Upon completion of the Improvement Plan, the administrator and evaluator(s) shall sign the documentation that determines the satisfactory or unsatisfactory performance of the plan.

## **9.0 Challenge Process**

9.1 An administrator may challenge any rating on the Summative Evaluation, either a Component Rating or the Overall Rating, or an administrator may challenge the conclusions of the Formative Process if the statement "PERFORMANCE IS UNSATISFACTORY" has been included on the Formative Feedback form. To initiate a challenge, an administrator shall submit additional information specific to the point of disagreement in writing within fifteen (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, if any.

- 9.1.1 Within fifteen (15) working days of receiving the written challenge, the supervisor of the evaluator 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 shall be final.

## **10.0 Evaluator(s) Credentials**

- 10.1 Evaluators shall have successfully completed the DPAS II training as developed by the Department of Education. Evaluators shall receive a certificate of completion which is valid for five (5) years and is renewable upon completion of professional development focused on DPAS II as specified by the Department of Education.
  - 10.1.1 The Department of Education shall annually monitor evaluation implementation.
- 10.2 The training shall occur no less than once every three (3) years and shall include techniques for observation and conferencing, content and relationships of ISLLC standards, and a thorough review of the DPAS II Revised Guide for Administrators. Activities in which participants practice implementation of DPAS II procedures shall be included in the training.
- 10.3 The credentialing process shall be conducted by the Department of Education.

## **11.0 Evaluation of Process**

The Department of Education shall conduct an annual evaluation of the teacher appraisal process. The evaluation shall, at a minimum, include a survey of teachers and evaluators and interviews with a sampling of teachers and evaluators. Data from the evaluation and proposed changes to the DPAS II Revised Guide for Administrators shall be presented to the State Board of Education for review on an annual basis.

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

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