

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 106A

FINAL

ORDER

106A Teacher 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 adopt a new regulation 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. This regulation will become effective July 1, 2011 and will replace 14 DE Admin. Code 106 Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II). The changes from the current teacher appraisal process include re-defining the Student Improvement component of DPAS II to require a showing of Student Growth. Changes were also made to the Summative Evaluation ratings, adding a new "Highly Effective" rating and amending the means of determining the Summative rating. The amendments also change some of the appraisal cycles and the improvement plan components.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Thursday, December 3, 2009, in the form hereto attached as *Exhibit "A"*. Comments were received from Delaware administrators. One concern was related to the additional announced observation of novice teachers without additional administrative support. There were also comments on the need for clear criteria related to Student Achievement. The Department plans to engage in the development of clear criteria related to Student Achievement and Student Growth over the next several months. The Department also made technical changes based on the comments.

II. Findings of Facts

The Secretary finds that it is appropriate to add a new regulation 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised that reflects the additional rating of "Highly Effective" and emphasizes Student Improvement in a teacher's evaluation.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to add a new regulation 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 106A Teacher 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** 106A Teacher 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** 106A Teacher 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** 106A Teacher 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 January 14, 2010. 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 14th day of January 2010.

DEPARTMENT OF EDUCATION

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

Approved this 14th day of January 2010

STATE BOARD OF EDUCATION

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106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised

1.0 Effective Date

The Teacher Appraisal Process, Delaware Performance Appraisal System (DPAS II) Revised shall be effective for all school districts and charter schools beginning July 1, 2011 and shall, at such time, replace the current 14 **DE Admin. Code** 106 Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II).

2.0 Definitions

The following definitions shall be apply for purposes of this regulation:

"**Announced Observation**" shall consist of the Pre-observation Form and conference with the evaluator, an observation by the evaluator at an agreed upon date and time, using the associated formative conferences and reports. The observation shall be of sufficient length, at least thirty (30) minutes, to analyze the lesson and assess teacher performance.

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

"**Credentialed Evaluator**" shall mean the individual, usually the supervisor of the teacher, who has 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 Teachers**" shall mean the manual that contains the prescribed forms, detailed procedures, specific details about the five (5) components of evaluation and other relevant documents that are used to implement the appraisal process.

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

"**Experienced Teacher**" shall mean a teacher who holds a valid and current Continuing or Advanced License, issued pursuant to Chapter 12 of Title 14 of the **Delaware Code**; or Standard or Professional Status Certificate issued prior to August 1, 2003.

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

"**Interim assessment**" shall mean an assessment given at regular and specified intervals throughout the school year, and designed to evaluate students' knowledge and skills relative to a specific set of academic standards, and the results of which can be aggregated (e.g., by course, grade level, school,

or school district) in order to inform teachers and administrators at the student, classroom, school, and district levels.

"**Novice Teacher**" shall mean a teacher who holds a valid and current Initial License issued pursuant to Chapter 12 of Title 14 of the **Delaware Code**.

"**Satisfactory Component Rating**" shall mean the teacher's performance demonstrates an understanding of the concepts of the component under Chapter 12 of Title 14 of the **Delaware Code**.

"**Satisfactory Evaluation**" shall be equivalent to the overall "Highly Effective", "Effective" or "Needs Improvement" rating on the Summative Evaluation and shall be used to qualify for a continuing license.

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

"**Student Achievement**" shall mean

(a) For tested grades and subjects:

(1) A student's score on the DSTP or successor statewide assessment; 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 must be approved by the Department and developed in partnership with the local collective bargaining representatives.

"**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.

"**Unannounced Observation**" shall consist of an observation by the evaluator at a date and time that has not been previously arranged using the associated formative conferences and reports. The observation shall be of sufficient length, at least thirty (30) minutes, to analyze the lesson and assess teacher performance.

"**Unsatisfactory Component Rating**" shall mean the teacher'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 teachers who have earned a rating of "Highly Effective" on their most recent Summative Evaluation shall receive a minimum of one (1) Announced Observation each year with a Summative Evaluation at least once every two (2) years. The Student Improvement component for Highly Effective teachers shall be evaluated each year, regardless of whether or not a Summative Evaluation is conducted. If a Highly Effective teacher does not achieve a Satisfactory rating on the Student Improvement Component, the teacher shall receive a Summative Evaluation the following year, regardless of whether the teacher would otherwise be due for a Summative Evaluation pursuant to this section.

3.2 Experienced teachers who have earned a rating of "Effective" and have earned "Satisfactory" ratings on [at least] four (4) of the components found in 5.0, including Student Improvement, on his or her most recent Summative Evaluation shall receive a minimum of one (1) Announced Observation each year with a Summative Evaluation at least once every two (2) years.

3.3 Experienced teachers who are not otherwise included in 3.1 or 3.2 shall receive a minimum of one (1) Announced Observation and one (1) Unannounced Observation with a Summative Evaluation at the end of the one (1) year period. These teachers shall have an Improvement Plan which may require

additional observations and other types of monitoring as outlined in the DPAS II Revised Guide for Teachers.

- 3.4 Novice teachers shall receive a minimum of two (2) Announced Observations and one (1) Unannounced Observation with a Summative Evaluation every year. Novice teachers 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 observations or other types of monitoring as outlined in the DPAS II Revised Guide for Teachers.

4.0 DPAS II Guide for Teachers

- 4.1 All school districts and charter schools shall use the manual entitled DPAS II Guide Revised for Teachers as developed and as may be amended by the Department of Education in collaboration with DASA and DSEA to implement the appraisal system.
- 4.2 The manual shall contain, at a minimum, the following:
- 4.2.1 Specific details about each of the five (5) components listed in 5.1.
 - 4.2.2 All forms or documents needed to complete the requirements of the appraisal process.
 - 4.2.3 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 a teacher shall be evaluated by a credentialed evaluator:
- 5.1.1 Planning and Preparation
 - 5.1.1.1 Selecting Instructional Goals: Teacher selects instructional goals that are aligned with the DE content standards and the district or charter school's curricula. Goals are appropriate for the learners and reflect high expectations for all students, consistent with State Assessment levels of performance where applicable.
 - 5.1.1.2 Designing Coherent Instruction: Teacher plans for learning activities that align with the instructional goals and support student learning. Instructional planning shows a structure and selection of materials and activities that support student learning relative to the district or charter school's curricula.
 - 5.1.1.3 Demonstrating Knowledge of Content and Pedagogy: Teacher shows his or her knowledge of content and how to teach it to a variety of learners. The teacher's plans include natural connections among content areas that deepen student learning. The content that he or she teaches is aligned to the district or charter school's curricula.
 - 5.1.1.4 Demonstrating Knowledge of Students: Teacher shows his or her knowledge of student developmental characteristics; approaches to learning, knowledge, and skills; interests; cultural heritage; and, where applicable, State Assessment performance levels.
 - 5.1.2 Classroom Environment
 - 5.1.2.1 Managing Classroom Procedures: Teacher has clearly defined procedures for managing learning time, transitions between learning events, and routines that maximize learning time.
 - 5.1.2.2 Managing Student Behavior: Teacher establishes behavioral expectations and consequences and monitors student conduct. Teacher responds to student behavior in appropriate and effective ways to minimize disruptions.
 - 5.1.2.3 Creating an Environment to Support Learning: Teacher creates an atmosphere in which learning is valued. Teacher-to-student and student-to-student interactions show rapport that is grounded in mutual respect.
 - 5.1.2.4 Organizing Physical Space: Teacher organizes, allocates, and manages physical space to create a safe learning environment. Teacher uses physical resources to contribute to effective instruction and makes resources accessible to all students.
 - 5.1.3 Instruction

- 5.1.3.1 Engaging Students in Learning: Content is appropriate, clear, and linked to student knowledge and experience. Content is aligned with the district or charter school's curricula. Activities and assignments engage all students. Instructional materials are suitable to the instructional goals. The instruction is coherent and paced appropriately for all students.
- 5.1.3.2 Demonstrating Flexibility and Responsiveness: Teacher has a repertoire of instructional strategies and makes use of them to make modifications to lessons as needed. Teacher differentiates instruction based on learner characteristics and achievement data.
- 5.1.3.3 Communicating Clearly and Accurately: Verbal and written communication is clear and appropriate to students' ages, backgrounds, and levels of understanding.
- 5.1.3.4 Using Questioning and Discussion Techniques: Questions are appropriate to the content and level of students' understanding. Teacher encourages students to pose their own questions and is responsive to student questions. Teacher facilitates student led discussions.
- 5.1.4 Professional Responsibilities
 - 5.1.4.1 Communicating with Families: Teacher shares information about the school's educational program and expectations for student performance. Teacher develops a mechanism for two way communication with families about student progress, behavior, and personal needs or concerns.
 - 5.1.4.2 Developing a Student Record System: Teacher keeps records of attendance, disciplinary actions, emergency contact information, and personal information. Teacher shares relevant information with appropriate school personnel.
 - 5.1.4.3 Growing and Developing Professionally: Teacher chooses and participates in professional development that is aligned with his or her professional needs and aligned with the needs of the school, district or charter school, or students.
 - 5.1.4.4 Reflecting on Professional Practice: Teacher engages in reflective thinking as an individual, as a team participant, or as a school community member with the goal of improving instruction and learning for all students.
- 5.1.5 Student Improvement
 - 5.1.5.1 Measuring Student Improvement: Teacher'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 teacher 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 teacher 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 teacher has earned a Satisfactory Component rating in four (4) of the five (5) Appraisal Components in accordance with 5.0 and that the teacher's students on average achieve high rates of student growth, that is, more than one grade level improvement in an academic year.
 - 6.2.2 "**Effective**" shall mean that:
 - 6.2.2.1 The teacher has received a Satisfactory Component Rating in at least three (3) Appraisal Components including the Student Improvement Component, and

- 6.2.2.2 The teacher does not meet the requirements for a "Highly Effective" rating found in 6.2.1.
- 6.2.3 **"Needs Improvement"** shall mean that:
- 6.2.3.1 The teacher has received 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 teacher has received three (3) or four (4) Satisfactory Component Ratings out of the five (5) Appraisal Components in accordance with 5.0, and the teacher has received an Unsatisfactory rating in the Student Improvement Component.
- 6.2.4 **"Ineffective"** shall mean that:
- 6.2.4.1 The teacher has received 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 teacher has received an Unsatisfactory Component Rating in the Student Improvement Component.
- 6.2.5 If a teacher's overall Summative Evaluation rating is determined to be "Needs Improvement" for the third consecutive year, the teacher's rating shall be re-categorized as "Ineffective."

7.0 Pattern of Ineffective Teaching Defined

A pattern of ineffective teaching shall be based on the most recent Summative Evaluation ratings of a teacher using the DPAS II process. Two consecutive ratings of "Ineffective" shall be deemed as a pattern of ineffective teaching. The following chart shows the consecutive Summative Evaluation ratings that shall be determined to be a pattern of ineffective teaching:

| <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|--------------------------|--------------------------|--------------------------|
| <u>Ineffective</u> | <u>Ineffective</u> | |
| <u>Needs Improvement</u> | <u>Ineffective</u> | <u>Needs Improvement</u> |
| <u>Needs Improvement</u> | <u>Needs Improvement</u> | <u>Ineffective</u> |
| <u>Ineffective</u> | <u>Needs Improvement</u> | <u>Ineffective</u> |
| <u>Ineffective</u> | <u>Needs Improvement</u> | <u>Needs Improvement</u> |
| <u>Needs Improvement</u> | <u>Ineffective</u> | <u>Ineffective</u> |

8.0 Improvement Plan

- 8.1 An Improvement Plan shall be developed for a teacher 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 a teacher's overall performance during an observed lesson is unsatisfactory. This unsatisfactory performance shall be noted by the evaluator on the Formative Feedback form by noting "PERFORMANCE IS UNSATISFACTORY" and initialing the statement.
- 8.2 The Improvement Plan shall contain the following:
- 8.2.1 Identification of the specific deficiencies and recommended area(s) for growth;
- 8.2.2 Measurable goals for improving the deficiencies to satisfactory levels;
- 8.2.3 Specific professional development or activities to accomplish the goals;
- 8.2.4 Specific resources necessary to implement the plan, including but not limited to, opportunities for the teacher to work with curriculum specialist(s), subject area specialist(s), instructional specialist(s) or others with relevant expertise;
- 8.2.5 Procedures and evidence that must be collected to determine that the goals of the plan were met;
- 8.2.6 Timeline for the plan, including intermediate check points to determine progress;
- 8.2.7 Procedures for determining satisfactory improvement;

- 8.2.8 Multiple observations and opportunity for feedback provided by a trained evaluator, a mentor, a lead teacher, or an instructional coach.
- 8.3 Any state or federally funded professional development that is completed during the time that the Improvement Plan is in effect must be certified by the Department and must directly relate to areas identified as needing improvement.
- 8.4 The Improvement Plan shall be developed cooperatively by the teacher 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.
- 8.5 The teacher shall be held accountable for the implementation and completion of the Improvement Plan.
- 8.6 Upon completion of the Improvement Plan, the teacher and evaluator shall sign the documentation that determines the satisfactory or unsatisfactory performance of the plan.

9.0 Challenge Process

- 9.1 A teacher may challenge any rating on the Summative Evaluation, either a Component Rating or the Overall Rating, or a teacher may challenge the conclusions of a lesson observation if the statement "PERFORMANCE IS UNSATISFACTORY" has been included on the Formative Feedback form. To initiate a challenge, a teacher shall submit additional information specific to the point of disagreement in writing within fifteen (15) working days of the date of the teacher'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 unless the supervisor of the evaluator is also in the same building as the teacher. In this situation, the challenge together with the record shall be forwarded to a designated district or charter school level credentialed evaluator.
 - 9.1.1 Within fifteen (15) working days of receiving the written challenge, the supervisor of the evaluator or the designated district or charter school level credentialed evaluator shall review the record which consists of all documents used in the appraisal process and the written challenge, 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 or the designated district or charter school's level credentialed evaluator shall be final.

10.0 Evaluator Credentials

- 10.1 Evaluators shall have 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.
- 10.2 The training shall occur no less than once every three (3) years and shall include techniques of observation and conferencing, content and relationships of frameworks for teaching, and a thorough review of the DPAS II Revised Guide for Teachers. 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 Teachers shall be presented to the State Board of Education for review on an annual basis.