

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))  
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, clarifying the possible combination of summative ratings for "Needs Improvement", clarifying the processes to earn credentials to evaluate administrators utilizing DPAS-II, and issuing the proposed amended regulation to be in effect beginning with the 2015-2016 school year.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on April 27, 2015, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities.

The first comment was related to clarification needed in 1.1 and 2.0 relative to the Department not using the statewide assessment scores to evaluate educators in the 2015-2016 school year dependent upon federal approval. The Department only included the "may" language due to the fact federal approval has not yet been granted. The Department fully intends to implement the changes associated with the request upon federal approval of the ESEA Flexibility Proposal; however, it cannot do so until federal approval is granted.

The second comment was related to the definition of "Credentialed Evaluator", and noted clarification may be needed as to the number of members of the Board who shall evaluate a superintendent or head of a charter school. The Department's intent was to provide the opportunity for multiple individuals (i.e. local board of education members (plural)) to evaluate the administrator and thus edited the proposed regulation to remove the parentheses around the "s" in the word "members". This ensures that the option to have multiple credentialed evaluators partaking in an individual's evaluation exists. No further clarification is needed.

The third comment was regarding clarification of the definitions of "Goal Setting" and "Mid-Year Conference". The Department notes that the content within an administrator's improvement plan could be incorporated into Goal-Setting and Mid-Year conferences. Such detail, however, would be outlined within the procedures found in the respective Guides and not noted here in the regulation.

The fourth comment requested that the Department further define the charts in 7.0. Section 7.0 already includes a heading titled "Pattern of Ineffective Administrative Performance" and explanatory text is provided before the chart. The Department does not believe any further clarification is needed for the chart.

The fifth comment requested grammatical correction to the use of plural pronouns with singular antecedents. These were corrected to ensure the sentences are grammatically correct.

#### 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 clarify the possible combination of summative ratings for "Needs Improvement", clarify the processes to earn credentials to evaluate various administrators utilizing DPAS-II, and issue the proposed amended regulation to be in effect beginning with the 2015-2016 school year.

#### 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 **June 18, 2015**. 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 18th day of June 2015.

### Department of Education

Mark T. Murphy, Secretary of Education

Approved this 18th day of June 2015

### State Board of Education

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

### 1.0 Effective Date

- 1.1 This regulation shall be effective for all school districts and charter schools beginning with the ~~2014-15~~ 2015-16 school year, unless another administrator appraisal system has been approved by the Department pursuant to Chapter 12 of Title 14 of the Delaware Code.
- 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).

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

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

### 2.0 Definitions

The following definitions shall apply for purposes of this regulation:

**"Annual Appraisal Cycle"** means the administrator appraisal process that occurs ~~within one school~~ each year.

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

**"Credentialed Evaluator"** ~~shall~~ means the individual, usually the supervisor of the administrator, who has successfully completed the ~~evaluation~~ foundational DPAS II training and credentialing assessment in accordance with 10.0. A superintendent or head of charter school shall be evaluated by member(s) of the Board who shall also have successfully completed the ~~evaluation~~ DPAS II foundational training and credentialing assessment in accordance with 10.0. The Credentialed Evaluator may also be referred to as "Evaluator".

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

**"Department"** ~~shall~~ means the Delaware Department of Education.

**"DPAS II Revised Guides for Administrators"** ~~shall~~ means the manuals that contains the prescribed forms, detailed procedures, evaluation criteria and other relevant documents that are used to implement the appraisal process. The Department shall create up to four (4) manuals differentiated by administrator role. The DPAS II Revised Guides for Administrators may also be referred to collectively as "Guides" or individually as "Guide."

**"DSBA"** ~~shall~~ means the Delaware School Boards Association.

**"Goal-Setting Conference"** ~~shall~~ means a meeting that occurs between the administrator and the Credentialed Evaluator 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 Revised Guides for Administrators.

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

**"Mid-Year Conference"** ~~shall~~ means a meeting that occurs between the administrator and the Credentialed Evaluator 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 Revised Guides for Administrators.

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

**"Student Achievement"** ~~shall~~ 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 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).

(c) For the 2014-15 school year only, student scores on the Smarter English Language Arts and Smarter Mathematics statewide assessments shall not be incorporated into any administrator's 2014-15 performance appraisal. This may be extended by the Department for the 2015-2016 school year.

**"Student Growth"** ~~shall~~ 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"** ~~shall be~~ means the final evaluation at the conclusion of the Annual Appraisal Cycle.

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

**"Working Day"** ~~shall~~ 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)**

### **3.0 Annual Appraisal Cycles**

All administrators shall receive a yearly appraisal in all five (5) Appraisal Components, including Student Improvement, that includes a minimum of one (1) Goal Setting Conference, one (1) Mid-Year Conference and one (1) Summative Evaluation each year. The Annual Appraisal Cycle shall be led by the administrator's Credentialed Evaluator and may include other supports and opportunities for feedback from his or her Credentialed Evaluator or other Credentialed Evaluators, as outlined in the DPAS II Revised Guides for Administrators.

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

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

### **4.0 DPAS II Revised Guides for Administrators**

4.1 All districts and charter schools shall use the manuals entitled DPAS II Revised Guides 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 and DASA to implement the appraisal system. For any administrator role for which a Guide is not available, Credentialed Evaluators shall use the Appraisal Components in Section 5.0 of this regulation for the purpose of the Annual Appraisal Cycle until such time as a Guide becomes available.

4.1.1 The Guides 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, 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)**

**5.0 Appraisal Components and Appraisal Criteria**

- 5.1 The following five (5) Appraisal Components, including Appraisal Criteria specified for each in the Guides, shall be the basis upon which the performance of an administrator shall be evaluated by his or her Credentialed Evaluator; Appraisal Criteria for each Appraisal Component, as appropriate, shall be differentiated by administrator role in the DPAS II Revised Guides for Administrators.
  - 5.1.1 Vision and Goals: Focuses on the administrator's actions to establish, implement, promote and communicate the vision and goals of the school or district, including the use of data to establish goals aligned to the school or district success plan. The goals and strategies contained within the district or school success plan also align to an administrator's individual goals in Component Five.
  - 5.1.2 Teaching and Learning: Focuses on the administrator's actions to implement rigorous curricula, assessments and high-quality instructional practices and to monitor student progress to inform instructional practices.
  - 5.1.3 People, Systems and Operations: Focuses on the administrator's actions to create and implement a strategic plan, manage resources and organize time, ensuring alignment with mandated policies and creating a safe, efficient and effective environment in the school or district that supports student learning. Also focuses on the administrator's actions to attract, support, develop, evaluate and retain educators based upon performance indicators.
  - 5.1.4 Professional Responsibilities: Focuses on the administrator's personal leadership actions, including building trusting relationships, engaging in self-reflection and ongoing learning, problem solving with a constant focus on student learning, constructively managing change and effectively communicating with and engaging families and other stakeholders.
  - 5.1.5 Student Improvement: Students collectively demonstrate appropriate levels of Student Growth as benchmarked against standards to be set by the Secretary based on input from stakeholder groups.

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

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

**6.0 Summative Evaluation Ratings**

- 6.1 Each of the first four (4) Appraisal Components shall be assigned a rating of Highly Effective, Effective, Needs Improvement or Ineffective on the Summative Evaluation. The rating for the Student Improvement Component shall be assigned a rating of Exceeds, Satisfactory or Unsatisfactory on the Summative Evaluation. The rating for each of the five (5) Appraisal Components shall reflect the standards as described in the DPAS II Revised Guides for Administrators.
  - 6.1.1 Ratings for each of the first four (4) Appraisal Components shall be informed by Criteria-level ratings, as described in the DPAS II Revised Guides for Administrators. Each Appraisal Criterion shall be assigned a rating of Highly Effective, Effective, Needs Improvement or Ineffective on the Summative Evaluation.
- 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 earned an Effective or Highly Effective rating in the first four (4) Appraisal Components and an Exceeds rating in the Student Improvement Component.
  - 6.2.2 **"Effective"** shall mean that the administrator has earned an Effective or Highly Effective rating in at least three (3) of the first four (4) Appraisal Components with zero (0) Ineffective ratings and a Satisfactory or Exceeds rating in the Student Improvement Component.
  - 6.2.3 **"Needs Improvement"** shall mean that:
    - 6.2.3.1 The administrator has earned Effective or Highly Effective ratings in one (1) or two (2) of the first four (4) Appraisal Components with zero (0), one (1) or two (2) Ineffective ratings and a Satisfactory or Exceeds rating in the Student Improvement Component, or
    - 6.2.3.2 The administrator has earned Effective or Highly Effective ratings in three (3) or four (4) of the first four (4) Appraisal Components and an Unsatisfactory rating in the Student Improvement Component.
    - 6.2.3.3 The administrator has earned three (3) Effective or Highly Effective and one (1) Ineffective rating on the first four Appraisal Components and a Satisfactory or Exceeds rating in the Student Improvement Component.

6.2.4 "Ineffective" shall mean that:

- 6.2.4.1 The administrator has earned Effective or Highly Effective ratings in zero (0), one (1), or two (2) of the first four (4) Appraisal Components and an Unsatisfactory rating in the Student Improvement Component, or
- 6.2.4.2 The administrator has earned Effective or Highly Effective ratings in zero (0) of the first four (4) Appraisal Components and Satisfactory or Exceeds rating in the Student Improvement Component; or
- 6.2.4.3 The administrator has earned Ineffective ratings in three (3) or four (4) of the first four (4) Appraisal Components.

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

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

## **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:

<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Ineffective	Ineffective	
Needs Improvement	Needs Improvement	Needs Improvement
Needs Improvement	Ineffective	Needs Improvement
Needs Improvement	Needs Improvement	Ineffective
Ineffective	Needs Improvement	Ineffective
Ineffective	Needs Improvement	Needs Improvement
Needs Improvement	Ineffective	Ineffective

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

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

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

## **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 Needs Improvement or Ineffective on any Appraisal Component in 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 Revised Guides for Administrators.

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

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

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

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

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

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

## **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 Credentialed Evaluator during the Annual Appraisal Cycle, pursuant to 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 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.

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

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

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

~~10.1.4 The Department of Education shall annually monitor implementation of DPAS II for Administrators.~~

~~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 the state standards for administrators, and a thorough review of the DPAS II Revised Guides for Administrators. Activities in which participants practice implementation of DPAS II procedures shall be included in the training. Evaluator credentials for the utilization of each of the DPAS II Revised Guides are earned upon successful completion of the credentialing assessment for the appropriate Guide. Evaluator credentials are valid for five years from the date of issue. Evaluators may seek to renew their credentials within 24 months prior to the expiration date. Credentialing assessment(s) for all Guides shall be established and implemented no later than August 1, 2017.~~

~~10.2.1 Completion of a foundational DPAS II training for the appropriate Guide(s) shall allow evaluators to conduct administrator evaluations until the credentialing assessment is established and implemented for the applicable DPAS II Revised Guide for 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) 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 for each applicable Guide three times. Administrators shall earn their credential during one of those opportunities before continuing their work. If **[an]** administrator**[s]** do**[es]** not earn a credential, they will not be permitted to conduct administrator evaluations in the applicable Guide(s), 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.~~

~~10.2.3 Thereafter, the Department shall establish a schedule during which each administrator shall have no less than three opportunities to renew **[their a]** credential, for each applicable Guide, prior to its expiration.~~

~~10.3 The credentialing process shall be conducted by the Department of Education.~~

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

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

## **11.0 Evaluator Training**

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

~~11.2 Evaluators shall complete a DPAS II training for the appropriate Guide(s) as developed by the Department of Education upon notice from the Department subsequent to substantive changes to an applicable DPAS-II Revised Guides for Administrators.~~

## **12.0 DPAS II for Administrator Monitoring**

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

## **4413.0 Evaluation of Process**

The Department of Education shall conduct an annual 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 Revised 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)**  
**18 DE Reg. 48 (07/01/14)**  
**19 DE Reg. 41 (07/01/15) (Final)**