

**DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 **Del.C.** §§1203, 1205(b), & 1220)

PROPOSED

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

1585 School Behavior Analyst

A. TYPE OF REGULATORY ACTION REQUESTED

Adoption of a New Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed 14 **DE Admin. Code** 1585 School Behavior Analyst. The proposed regulation concerns the requirements for a School Behavior Analyst Standard Certificate in accordance with 14 **Del.C.** §1220. Proposed Section 1.0 provides who would be required to hold the School Behavior Analyst Standard Certificate; Section 2.0 provides definitions for the proposed regulation; Section 3.0 concerns the issuance of a School Behavior Analyst Standard Certificate; Section 4.0 provides the prescribed education, knowledge, and skill requirements for the issuance of a School Behavior Analyst Standard Certificate; Section 5.0 provides the application requirements; Section 6.0 concerns Secretary of Education review; Section 7.0 concerns the validity of a School Behavior Analyst Standard Certificate; Section 8.0 concerns the requirements to retain the School Behavior Analyst Standard Certificate; Section 9.0 concerns disciplinary actions; and Section 10.0 concerns applicants' and Educators' contact information with the Department and specifies how they can change their name or address.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before July 3, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the new regulation help improve student achievement as measured against state achievement standards? The education, knowledge, and skill requirements in proposed Section 4.0 are designed to improve the quality of the educator workforce, which will help to improve student achievement.

2. Will the new regulation help ensure that all students receive an equitable education? The education, knowledge, and skill requirements in proposed Section 4.0 are designed to improve the quality of the educator workforce, which will help to ensure students in Delaware public schools receive an equitable education.

3. Will the new regulation help to ensure all students' health and safety are adequately protected? The proposed new regulation addresses a standard certificate for educators and is not designed to help ensure students' health and safety is protected.

4. Will the new regulation help to ensure that all students' legal rights are respected? The proposed new regulation addresses a standard certificate for educators and is not designed to help ensure students' legal rights are respected.

5. Will the new regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The proposed new regulation does not change authority or flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 1224), a school district or charter school may request that the Secretary of Education review the credentials of an applicant who does not meet the requirements for a School Behavior Analyst Standard Certificate but whose effectiveness is documented by the district or school. Section 6.0 is consistent with the statute.

6. Will the new regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The proposed new regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The application requirements in Section 5.0 apply to individual applicants. In addition, the requirements in Section 10.0 apply to individual applicants and Educators.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12

relating to licensure and certification of educators.

8. Will the new regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The proposed new regulation is consistent with, and not an impediment to, the implementation of other state educational policies, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

9. Is there a less burdensome method for addressing the purpose of the new regulation? There is not a less burdensome method for addressing the purpose of this proposed new regulation.

10. What is the cost to the state and to the local school boards of compliance with the new regulation? There is no expected cost to the state or to the local school boards of complying with this proposed new regulation.

1585 School Behavior Analyst

1.0 Content

This regulation shall apply to the issuance of a School Behavior Analyst Standard Certificate pursuant to 14 Del.C. §1220(a). The School Behavior Analyst Standard Certificate is required for all behavior analysts who provide behavior analytic services in Delaware public schools. The School Behavior Analyst Standard Certificate is not required for educators who provide behavior analytic services in the course of their work and are licensed and certified to practice in other areas such as, but not limited to, teachers or school psychologists. Applied Behavior Analysis Technicians (ABATs), Board Certified Assistant Behavior Analyst (BCaBA), Qualified Autism Service Practitioner - Supervisors (QASP-Ss), and Registered Behavior Technicians (RBTs) are not eligible to hold the School Behavior Analyst Standard Certificate.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

"Employing Authority" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.

"Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.

"Regionally Accredited" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

"Standards Board" means the Professional Standards Board established pursuant to 14 Del.C. §1201.

"Valid and Current License or Certificate" means a current full or permanent certificate or license as an educator issued by another state or jurisdiction. This means the applicant is fully credentialed by having met all of the requirements for full licensure or certification as an educator in another state or jurisdiction and is in good standing in that state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 Issuance of a Standard Certificate

3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a School Behavior Analyst Standard Certificate to an applicant who:

3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 and meets the requirements set forth in Section 4.0 of this regulation;

3.1.2 Has met the requirements for an educator's license in Delaware and presents proof of a Valid and Current License or Certificate as a school behavior analyst issued by another state or jurisdiction.

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a School Behavior Analyst Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office,

incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 An applicant for a School Behavior Analyst Standard Certificate shall have satisfied the requirement in subsection 4.1.1.
 - 4.1.1 The applicant shall hold 1 of the certifications in subsections 4.1.1.1 through 4.1.1.2.
 - 4.1.1.1 The applicant holds a Board Certified Behavior Analyst (BCBA) certification issued by the Behavior Analyst Certification Board.
 - 4.1.1.2 The applicant holds a Qualified Behavior Analyst (QBA) issued by the Qualified Applied Behavior Analysis Credentialing Board.

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 If the applicant is also applying for the issuance or renewal of an educator's license or paraeducator's permit, the applicant must disclose the applicant's criminal conviction history upon application. Failure to disclose a criminal conviction history is grounds for denial of the license or permit application as specified in 14 **Del.C.** §1219 and it could delay the processing or result in the denial of the application for a School Behavior Analyst Standard Certificate.
- 5.3 For applicants who are applying for the School Behavior Analyst Standard Certificate under subsection 3.1.1, the following documentation is required:
 - 5.3.1 Proof the applicant holds 1 of the certificates listed in subsection 4.1.1; and
 - 5.3.2 Additional documentation as required by the Department.
- 5.4 For applicants who are applying for the School Behavior Analyst Standard Certificate under subsection 3.1.2, the following documentation is required:
 - 5.4.1 An official copy of the Valid and Current License or Certificate; and
 - 5.4.2 Additional documentation as required by the Department.

6.0 Secretary of Education Review

- 6.1 The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a School Behavior Analyst Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a School Behavior Analyst Standard Certificate but whose effectiveness is documented by the local school district or charter school.
 - 6.1.1 For school districts, requests shall be approved by the superintendent of the school district.
 - 6.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other applicants shall be approved by the charter school's head of school.

7.0 Validity of a Standard Certificate

- 7.1 A School Behavior Analyst Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 7.2 A School Behavior Analyst Standard Certificate is not subject to renewal.

8.0 Requirements Related to Retention of the School Behavior Analyst Standard Certificate

- 8.1 In order to retain a School Behavior Analyst Standard Certificate, the Educator shall:
 - 8.1.1 Hold an Initial, Continuing, or Advanced License and meet any requirements related to retention of the license.
 - 8.1.2 Maintain the Educator's certification issued by the Behavior Analyst Certification Board or the Qualified Applied Behavior Analysis Credentialing Board.
- 8.2 If an Educator fails to meet any of the requirements related to retaining a School Behavior Analyst Standard Certificate, the Educator shall immediately notify the Department in writing.

8.3 The requirements set forth in subsection 8.1 apply to all Educators regardless of the date the School Behavior Analyst Standard Certificate was issued.

9.0 Disciplinary Action

9.1 An Educator's School Behavior Analyst Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits or for the Educator's failure to comply with the requirements related to the retention of the School Behavior Analyst Standard Certificate as provided in Section 8.0.

9.2 An Educator's School Behavior Analyst Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 Del.C. §1222.

9.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 DE Admin. Code 1515 Hearing Procedures and Rules.

10.0 Contact Information and Change of Name or Address

10.1 All applicants and Educators are required to update their contact information in DEEDS if their contact information changes.

10.2 An Educator who legally changes the Educator's name and wishes to change the name on the School Behavior Analyst Standard Certificate shall provide a notarized copy of evidence of the name change such as a marriage license or court action.

10.3 An applicant or Educator whose mailing address, email address, or phone number changes shall provide the Department with the new mailing address, email address, or phone number within 14 calendar days of the change.

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