

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 107

FINAL

REGULATORY IMPLEMENTING ORDER

107 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II)

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** 701 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II). The amendments include an effective date and a cross reference to a new proposed regulation designed to replace this regulation with the 2011-2012 school year. Other technical amendments have been made.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Wednesday, March 3, 2010, in the form hereto attached as Exhibit "A". The Department did not receive comments on this regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 701 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) in order to include an effective date and a cross reference to a new proposed regulation designed to replace this regulation with the 2011-2012 school year. Other technical amendments have been made.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 701 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II). Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 701 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 701 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) 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** 701 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 701 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) 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 April 15, 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 15th day of April 2010.
DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed.D., Secretary of Education
Approved this 15th day of April 2010

STATE BOARD OF EDUCATION

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107 Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II)

1.0 The Specialist Appraisal Process

- 1.1 Delaware Performance Appraisal System (DPAS II), shall be effective for the following school districts and charter schools beginning with the 2007-08 school year:
 - Appoquinimink
 - Caesar Rodney
 - Colonial
 - Lake Forest
 - Laurel
 - Sussex Technical
 - MOT Charter
 - Providence Creek Academy Charter
 - Sussex Academy of the Arts and Sciences
- 1.2 The Specialist Appraisal Process, Delaware Performance Appraisal System (DPAS II), shall be effective for all public school districts and charter schools beginning with the 2008-2009 school year.
 - 1.2.1 Specialist shall mean a staff person who delivers professional services to students, teachers, staff or families, licensed or certified by the Department of Education or a professional board regulated by the Division of Professional Regulation. Specialists include, but are not limited to, guidance counselors, instructional support specialists, library media specialists, school psychologists, speech pathologists, school nurses, student support specialists, and therapeutic services specialists.

11 DE Reg. 506 (10/01/07)

2.0 Definitions

The following definitions shall 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 for the specialist may be a collection of data over a specified period of time, up to four (4) weeks, or it may be an observation of sufficient length, at least thirty (30) minutes, to gather appropriate data and assess specialist performance.

“Board” shall mean a local board of education or a charter school board of directors.

“Credentialed Evaluator” shall mean the individual, usually the supervisor of the specialist, 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 Guide for Specialists” 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 system.

“DSEA” shall mean the Delaware State Education Association.

“Experienced Specialist” shall mean a specialist 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 or holds a valid and current license from his or her respective licensure body.

“Improvement Plan” shall be the plan that a specialist and evaluator mutually develop in accordance with 8.0.

“Novice Specialist” shall mean a specialist who holds a valid and current Initial License issued pursuant to Chapter 12 of Title 14 of the *Delaware Code*; or holds a valid and current license from his or her respective licensure body.

“Satisfactory Component Rating” shall mean the specialist’s performance demonstrates an understanding of the concepts of the component issued pursuant to Chapter 12 of Title 14 of the *Delaware Code*.

“Satisfactory Evaluation” shall be equivalent to the overall “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.

“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 gather appropriate data and assess specialist performance.

“Unsatisfactory Component Rating” shall mean the specialist’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.

11 DE Reg. 506 (10/01/07)

3.0 Appraisal Cycles

- 3.1 Experienced specialists who have earned a rating of “Effective” 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.
- 3.2 Experienced specialists who have earned a rating of “Needs Improvement” or “Ineffective” on their most recent Summative Evaluation shall receive a minimum of one (1) Announced Observation and one (1) Unannounced Observation with a Summative Evaluation at the end of the one year period. These specialists shall have an Improvement Plan which may require additional observations and other types of monitoring as outlined in the *DPAS II Guide for Specialists*.
- 3.3 Novice specialists shall receive a minimum of one (1) Announced Observation and one (1) Unannounced Observation with a Summative Evaluation at the end of the one year period. Novice specialists 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 Guide for Specialists*.

11 DE Reg. 506 (10/01/07)

4.0 DPAS II Guide for Specialists

- 4.1 All districts and charter schools shall use the manual entitled *DPAS II Guide for Specialists* 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.

11 DE Reg. 506 (10/01/07)

5.0 Appraisal Components and Appraisal Criteria

5.1 The following five (5) Appraisal eComponents, including the four (4) Appraisal Criteria specified for each, shall be the basis upon which the performance of a specialist shall be evaluated by a credentialed evaluator:

5.1.1 Planning and Preparation

5.1.1.1 Designing Coherent Programs or Services: Specialist designs activities and plans for services that support the needs of the students or clients served.

5.1.1.2 Demonstrating Knowledge of Best Practice and Models of Delivery: Specialist uses practices and models of delivery that are aligned with local and national standards.

5.1.1.3 Demonstrating Knowledge of Students or Clients: Specialist shows knowledge of the needs and characteristics of the students or clients, including their approaches to learning, knowledge, skills, and interests.

5.1.1.4 Demonstrating Knowledge of Resources: Specialist selects appropriate resources, either within or outside of the school, that support the needs of students or clients.

5.1.2 Professional Practice and Delivery of Services

5.1.2.1 Creating an Environment to Support Student or Client Needs: Specialist creates an environment in which student or client needs are identified and valued. Specialist and student or client interactions show rapport that is grounded in mutual respect.

5.1.2.2 Demonstrating Flexibility and Responsiveness: Specialist has a repertoire of instructional or professional strategies and makes modifications to services based on needs of the students or clients.

5.1.2.3 Communicating Clearly and Accurately: Verbal and written communication is clear and appropriate to students' or clients' ages, backgrounds, needs, or levels of understanding.

5.1.2.4 Delivering Services to Students or Clients: Specialist is responsive to the identified needs of the students or clients and meets standards of professional practice. The resources and materials are suitable and match the needs of the students or clients. The delivery of service is coherent.

5.1.3 Professional Collaboration and Consultation

5.1.3.1 Collaborating with Others: Specialist develops partnerships with school or district staff or external agencies to provide integrated services that meet student or client needs.

5.1.3.2 Serving as a Consultant to the School Community: Specialist shares expertise with school staff to assist them in their work or to respond to school wide issues, problems, or concerns.

5.1.3.3 Providing Resources and Access: Specialist provides school, district or external based resources to appropriate staff, students, or clients or gives information about the effective use of the resources.

5.1.3.4 Maintaining Standards of Professional Practice: Specialist adheres to his or her professional standards of practice, including issues surrounding confidentiality.

5.1.4 Professional Responsibilities

5.1.4.1 Communicating with Families: Specialist shares information about district or school educational programs and expectations for student or client performance. Specialist develops a mechanism for two way communication with families about student or client progress, behavior, personal needs, or concerns.

5.1.4.2 Developing a Record System: Specialist keeps student or client records relevant to their services and shares information with appropriate school personnel.

- 5.1.4.3 Growing and Developing Professionally: Specialist 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 students.
- 5.1.4.4 Reflecting on Professional Practice: Specialist engages in reflective thinking as an individual, as a team participant, or as a school and community member with the goal of improving professional practice and delivery of service.
- 5.1.5 Student Improvement
 - 5.1.5.1 Showing Student Improvement: Specialist uses school or district goals from the school or district improvement process to set his or her annual data driven goal(s) for student improvement. Data used to establish goals shall include school or district accountability data, State Assessment data where available, and other assessment data where available.
 - 5.1.5.2 Using Assessments to Promote Student or Client Improvement: Specialist uses assessments related to his or her field of expertise that accurately measure progress towards the student improvement goal(s).
 - 5.1.5.3 Measuring Student Improvement: Specialist has specific, measurable evidence to show progress towards or attainment of goal(s) for student improvement.
 - 5.1.5.4 Reflecting on Student Improvement: Specialist reflects on goal setting process and outcomes for the purpose of continuous professional improvement and shares student improvement information with other staff as appropriate.

11 DE Reg. 506 (10/01/07)

6.0 Summative Evaluation Ratings

- 6.1 Each of the five (5) components pursuant to 5.0 shall be weighted equally and assigned a rating of Satisfactory or Unsatisfactory on the Summative Evaluation.
 - 6.1.1 A satisfactory rating for each Appraisal eComponents shall mean the specialist demonstrates acceptable performance by meeting at least three (3) of the four (4) Appraisal Criteria specified in each of the five (5) components set forth in 5.1.
- 6.2 The Summative Evaluation shall also include one of three overall ratings: "Effective", "Needs Improvement" or "Ineffective".
 - 6.2.1 "Effective" shall mean that the specialist has received Satisfactory Component ratings in at least four (4) out of five (5) components in accordance with the Appraisal Criteria in 5.0.
 - 6.2.2 "Needs Improvement" shall mean that the specialist has received three (3) Satisfactory Component ratings out of the five (5) components in accordance with the Appraisal Criteria in 5.0.
 - 6.2.3 "Ineffective" shall mean that the specialist has received two (2) or fewer Satisfactory Component ratings out of the five (5) components in accordance with the Appraisal Criteria in 5.0.
 - 6.2.3.1 If a specialist's overall Summative Evaluation rating is determined to be "Needs Improvement" for the third consecutive year, the rating shall be re-categorized as "Ineffective".

11 DE Reg. 506 (10/01/07)

7.0 Pattern of Ineffective Practice Defined

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

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
Needs Improvement	Ineffective	Ineffective

11 DE Reg. 506 (10/01/07)

8.0 Improvement Plan

- 8.1 An Improvement Plan shall be developed for a specialist who receives an overall rating of "Needs Improvement" or "Ineffective" on the Summative Evaluation or a rating of Unsatisfactory on any 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 specialist's overall performance during an observation 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 specialist 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.
- 8.3 The Improvement Plan shall be developed cooperatively by the specialist 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.
- 8.4 The specialist shall be held accountable for the implementation and completion of the Improvement Plan.
- 8.5 Upon completion of the Improvement Plan, the specialist and evaluator shall sign the documentation that determines the satisfactory or unsatisfactory performance of the plan.

11 DE Reg. 506 (10/01/07)

9.0 Challenge Process

- 9.1 A specialist may challenge any rating on the Summative Evaluation, either a Component Rating or the Overall Rating, or a specialist may challenge the conclusions of an observation if the statement "PERFORMANCE IS UNSATISFACTORY" has been included on the Formative Feedback form. To initiate a challenge, a specialist shall submit additional information specific to the point of disagreement in writing within fifteen (15) working days of the date of the specialist'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 specialist. 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 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 level credentialed evaluator shall be final.

11 DE Reg. 506 (10/01/07)

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 for the certificate of completion shall include techniques for observation and conferencing, content and relationships of frameworks for practice and a thorough review of the *DPAS II Guide for Specialists*. 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 DE Reg. 506 (10/01/07)

11.0 Evaluation of Process

- 11.1 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 Guide for Teachers shall be presented to the State Board of Education for review on an annual basis.

8 DE Reg. 431 (9/1/04)

9 DE Reg. 528 (10/1/05)

11 DE Reg. 506 (10/01/07)

12.0 Effective Date

- 12.1 This regulation shall be in effect until the effective date of 14 DE Admin. Code 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised.

13 DE Reg. 1443 (05/01/10) (Final)