

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 1270 (14 Del.C. §1270)
14 DE Admin. Code 107A

PROPOSED

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. §122(d)

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

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

Pursuant to 14 Del.C. §1270, the Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. This regulation is being amended to clarify the definitions of “Credentialed Observer” and “Evaluator” and to ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 5, 2019 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOERegulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to improve student achievement as measured against state achievement standards by helping to ensure that specialists are performing satisfactorily.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments do not address students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all student's legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

8. Will the amended 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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

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

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

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

1.0 Effective Date

The Specialist Appraisal Process, Delaware Performance Appraisal System (DPAS II) Revised shall be effective for all

school districts and charter schools beginning with the 2017-2018 school year, unless another specialist appraisal system has been approved by the Department pursuant to Chapter 12 of Title 14 of the Delaware Code.

15 DE Reg. 835 (12/01/11)

17 DE Reg. 216 (08/01/13)

18 DE Reg. 40 (07/01/14)

19 DE Reg. 38 (07/01/15)

21 DE Reg. 38 (07/01/17)

2.0 Definitions

In this regulation, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Announced Observation" means an observation by a Credentialed Observer at a date and time that has been previously arranged, using the associated formative conferences and reports, which may include the use of an observation form. The observation shall be of sufficient length, at least thirty (30) minutes, to analyze the lesson and assess specialist performance.

"Board" means a local board of education or a charter school board of directors.

"Credentialed Observer" means an ~~individual educator~~, not always the supervisor of the specialist, who has successfully completed DPAS II credentialing in accordance with Section 10.0. ~~The Credentialed Observer denotes any individual who may conduct observations in addition to those observations completed by an Evaluator as part of a specialist's appraisal process. The term Credentialed Observer encompasses those administrators who are Evaluators.~~

"DASA" means the Delaware Association of School Administrators.

"Department" means the Delaware Department of Education.

"DPAS II Revised Guide for Specialists" means 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" means the Delaware State Education Association.

"Evaluator" means a ~~Credentialed Observer~~ an administrator who is responsible for a specialist's Summative Evaluation. A specialist's Summative Evaluation includes the required observations as part of the appraisal cycle. The assigned Evaluator shall generally be conducted by the assigned Evaluator; however, the assigned Evaluator conduct the required observations but may designate a district or school administrator who is also a Credentialed Observer to conduct the required observations.

"Experienced Specialist" means a specialist who holds a valid and current Continuing or Advanced License, issued pursuant to Chapter 12 of Title 14 of the ~~Delaware Code~~ **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" means the plan that a specialist and Evaluator mutually develop in accordance with Section 8.0.

"Novice Specialist" means a specialist who holds a valid and current Provisional or Initial License issued pursuant to Chapter 12 of Title 14 of the ~~Delaware Code~~ **Delaware Code** or holds a valid and current license from his or her respective licensure body.

"Satisfactory Evaluation" shall be equivalent to the overall "Highly Effective" or "Effective" rating on the Summative Evaluation and shall be used to qualify for a ~~continuing license~~ Continuing License.

"Specialist" means an educator other than a teacher or administrator and includes, but is not limited to, School Counselors, Library Media Specialists, School Psychologists, and School Nurses.

"Student Achievement" 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 assessment; and other measures of student achievement that are rigorous and comparable across classrooms. Such alternative measures shall be approved by the Department of Education and developed in partnership with input from the relevant specialist organizations or respective licensure body and the Delaware State Education Association (DSEA).

“Student Growth” 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” or **“Evaluation”** means the comprehensive, end-of-cycle appraisal and shall incorporate the results of the minimum required observations and required component-level data. At the discretion of the Evaluator, it may also include additional Announced or Unannounced observation data, beyond the required observation data, provided by other Credentialed Observers.

“Unannounced Observation” means an observation by a Credentialed Observer at a date and time that has not been previously arranged, using the associated formative conferences and reports, and which may include the use of the observation form. The observation shall be of sufficient length, at least thirty (30) minutes, to gather appropriate data and assess specialist performance.

“Unsatisfactory Evaluation” shall be the equivalent to the overall “Needs Improvement” or Ineffective rating on the Summative Evaluation as it pertains to educators seeking a ~~continuing license~~ Continuing License.

“Working Day” means a day when the employee would normally be working in that district or charter school.

15 DE Reg. 835 (12/01/11)

17 DE Reg. 216 (08/01/13)

18 DE Reg. 40 (07/01/14)

19 DE Reg. 38 (07/01/15)

21 DE Reg. 38 (07/01/17)

3.0 Appraisal Cycles

- 3.1 Experienced Specialists who have earned a rating of “Highly Effective” or “Effective” on their most recent Summative Evaluation shall receive a minimum of one (1) Announced or Unannounced Observation each year with a Summative Evaluation at least once every two (2) years.
- 3.2 Experienced Specialists who are not otherwise included in subsection 3.1 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 specialists shall have an Improvement Plan which may require additional observations and other types of monitoring as outlined in the *DPAS II Revised 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 Revised Guide for Specialists*.
- 3.4 Novice Specialists who have earned a minimum of three (3) consecutive “Highly Effective” or “Effective” ratings on their most recent Summative Evaluations may receive a minimum of one (1) Announced or Unannounced Observation each year with a Summative Evaluation at least once every two (2) years.

15 DE Reg. 835 (12/01/11)

17 DE Reg. 216 (08/01/13)

18 DE Reg. 40 (07/01/14)

19 DE Reg. 38 (07/01/15)

21 DE Reg. 38 (07/01/17)

4.0 DPAS II Guide for Specialists

- 4.1 All districts and charter schools shall use the manual entitled *DPAS II Revised 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) Appraisal Components listed in subsection 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.

21 DE Reg. 38 (07/01/17)

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 specialist shall be determined. In each academic year, for each of the first four (4) Appraisal Components, a school district or charter school may waive one (1) criterion identified as optional below. In addition, for the Professional Responsibilities Component (subsection 5.1.4), a school

district or charter school may substitute a locally determined alternative Appraisal Component, which must be approved by the Department no later than the last day of July of each year. Final notification of any such waiver or substitution shall be provided to all specialists in a school district or charter school and the Department of Education by the last day in August of each year:

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. (Optional)
- 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. (Optional)
- 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.
- 5.1.1.5 Demonstrating Knowledge of How to Design or Use Student Assessments: Specialist creates and ~~or~~ selects assessments that are congruent with instructional goals, criteria and standards. The specialist plans for the use of formative and summative assessments of the specialist's students.

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. (Optional)
- 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. (Optional)
- 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. (Optional)
- 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. (Optional)
- 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 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.
- 5.1.3.5 Use of Assessment in Planning and Delivery of Services: Specialist makes the criteria of the assessment known to the students, monitors the students' progress, provides descriptive feedback, and promotes student self-assessment and uses data to plan future instruction.

5.1.4 Professional Responsibilities

- 5.1.4.1 Maintaining Standards of Professional Practice: Specialist adheres to his or her professional standards of practice, including issues surrounding confidentiality.
- 5.1.4.2 Recording student data in a Record System: Specialist keeps student or client records relevant to their services and shares information with appropriate school personnel. (Optional)
- 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. (Optional)
- 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 Measuring Student Improvement: Students collectively demonstrate appropriate levels of Student Growth as benchmarked against standards set by the Secretary based on input from stakeholder groups.

15 DE Reg. 835 (12/01/11)

15 DE Reg. 1595 (05/01/12)

17 DE Reg. 216 (08/01/13)

18 DE Reg. 40 (07/01/14)

21 DE Reg. 38 (07/01/17)

6.0 Summative Evaluation Ratings

- 6.1 Each of the five (5) Appraisal Components (~~Component(s)~~) shall be equally weighted and assigned a rating of "Highly Effective," "Effective," "Needs Improvement" or "Ineffective" 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 Specialists.
- 6.1.1 Each Component rating shall be equal to an assigned point value. A "Highly Effective" Component rating shall earn four (4) points, an "Effective" Component rating shall earn three (3) points, a "Needs Improvement" Component rating shall earn two (2) points, and an "Ineffective" Component rating shall earn one (1) point. No partial points shall be awarded.
- 6.1.2 Once all Component ratings are assigned, a Summative Evaluation rating is determined by the sum of all five (5) Components.
- 6.2 The Summative Evaluation rating shall also include one of four overall ratings: "Highly Effective", "Effective", "Needs Improvement" or "Ineffective".
- 6.2.1 A "Highly Effective" Summative Evaluation rating shall mean that the specialist has earned a sum of 19 or 20 Component rating points.
- 6.2.2 An "Effective" Summative Evaluation rating shall mean that the specialist has earned a sum of 14 to 18 Component rating points.
- 6.2.3 A "Needs Improvement" Summative Evaluation rating shall mean that the specialist has earned a sum of 9 to 13 Component rating points.
- 6.2.4 An "Ineffective" Summative Evaluation rating shall mean that the specialist has earned a sum of 5 to 8 Component rating points.
- 6.2.5 Experienced Specialists receiving a Summative Evaluation every two years in accordance with subsection 3.1 above shall earn an overall Student Improvement Component rating on the Summative Evaluation in accordance with the chart in the DPAS II Revised Guide for Specialists.
- 6.2.6 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".

15 DE Reg. 835 (12/01/11)

15 DE Reg. 1595 (05/01/12)

17 DE Reg. 216 (08/01/13)

19 DE Reg. 38 (07/01/15)

21 DE Reg. 38 (07/01/17)

22 DE Reg. 51 (07/01/18)

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	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
15 DE Reg. 835 (12/01/11)
15 DE Reg. 1595 (05/01/12)
19 DE Reg. 38 (07/01/15)

Ineffective

Ineffective

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 "Needs Improvement" or "Ineffective" on any component in Section 5.0 on the Summative Evaluation regardless of the overall rating.
- 8.2 An Improvement Plan may be developed if a specialist's overall performance during an observation is unsatisfactory. In instances where an improvement plan is to be developed, the evaluator shall first have noted the unsatisfactory performance on the required forms by noting "Performance Requires an Improvement Plan" and initialing the statement.
- 8.3 The Improvement Plan shall contain the following:
 - 8.3.1 Identification of the specific deficiencies and recommended area(s) for growth;
 - 8.3.2 Measurable goals for improving the deficiencies to satisfactory levels;
 - 8.3.3 Specific professional development or activities to accomplish the goals;
 - 8.3.4 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;
 - 8.3.5 Procedures and evidence that must be collected to determine that the goals of the plan were met;
 - 8.3.6 Timeline for the plan, including intermediate check points to determine progress;
 - 8.3.7 Procedures for determining satisfactory improvement.
 - 8.3.8 Multiple observations and opportunity for feedback provided by a Credentialed Observer, a mentor, or lead specialist, or an instructional coach.
- 8.4 Professional development that is completed during the time that the Improvement Plan is in effect must directly relate to areas identified as needing improvement.
- 8.5 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 subsections 8.1 and 8.2 above.
- 8.6 The specialist shall be held accountable for the implementation and completion of the Improvement Plan.
- 8.7 Upon completion of the Improvement Plan, the specialist and Evaluator shall sign the documentation that determines the satisfactory or unsatisfactory performance of the plan.

15 DE Reg. 835 (12/01/11)
15 DE Reg. 1595 (05/01/12)
17 DE Reg. 216 (08/01/13)
19 DE Reg. 38 (07/01/15)
21 DE Reg. 38 (07/01/17)

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 Requires An Improvement Plan" has been included on the required form(s). 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 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 Evaluator shall review the record which consists of all documents used in the appraisal process and the written challenge, meet with the specialist, 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 Evaluator shall be final.

15 DE Reg. 835 (12/01/11)
17 DE Reg. 216 (08/01/13)
19 DE Reg. 38 (07/01/15)

10.0 Credentialing

- 10.1 Credentialing processes and assessments shall be established and conducted by the Department of Education and developed in collaboration with school and district level administrators.
- 10.2 Credentialed Observer credentials are earned upon successful completion of a credentialing assessment and related trainings. Credentialed Observer credentials are valid for five years from the date of issue. Credentialed Observers may seek to renew their credentials within 24 months prior to the expiration date.
 - 10.2.1 The Department shall establish an annual schedule during which the credentialing assessment will be offered in order to provide multiple opportunities for individuals to earn credentials. Individuals shall have the opportunity to sit for the assessment multiple times in order to earn credentials. The Department shall not limit the number of times individuals seeking credentials can sit for an assessment offered by the Department.
 - 10.2.2 The Department shall offer no less than six (6) opportunities annually to earn or renew a credential.

15 DE Reg. 835 (12/01/11)
17 DE Reg. 216 (08/01/13)
19 DE Reg. 1013 (05/01/16)

11.0 Evaluation of Process

The Department of Education shall conduct a biennial evaluation of the specialist appraisal process. The evaluation shall, at a minimum, include a survey of teachers, specialists and Evaluators and interviews with a sampling of teachers, specialists and Evaluators. Data from the evaluation and proposed changes to DPAS II Revised shall be presented to the State Board of Education for review on a biennial basis.

19 DE Reg. 1013 (05/01/16)
21 DE Reg. 38 (07/01/17)

12.0 DPAS II Monitoring

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

13 DE Reg. 1445 (05/01/10)
15 DE Reg. 835 (12/01/11)
15 DE Reg. 1595 (05/01/12)
17 DE Reg. 216 (08/01/13)
18 DE Reg. 40 (07/01/14)
19 DE Reg. 38 (07/01/15)
19 DE Reg. 1013 (05/01/16)
21 DE Reg. 38 (07/01/17)
22 DE Reg. 51 (07/01/18)
22 DE Reg. 897 (05/01/19) (Prop.)