

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(a) (14 Del.C. §122(a))
14 DE Admin. Code 415

PROPOSED

PUBLIC NOTICE

Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)

415 Voluntary School Assessments

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. §122(a), the Secretary of Education intends to amend 14 DE Admin. Code 415 Voluntary School Assessments. This amendment is needed to include the collection of Voluntary School Assessments (VSA) in Sussex County as authorized by Senate Bill 186 of the 152nd General Assembly. Additional amendments to alter the style or form of the regulation are also included.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, 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/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before December 1, 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 amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will 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 amended regulation will help ensure all students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' 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 or mandates 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 amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.

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 amended regulation 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 no less burdensome method for addressing the purpose of the amended regulation.

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

415 Voluntary School Assessments

1.0 General Provisions

Pursuant to 14 **Del.C.** §103(c), this regulation shall apply to Voluntary School Assessments that are required in lieu of Certifications of Adequate Capacity for proposed residential developments in New Castle County and Sussex County.

22 DE Reg. 296 (10/01/18)

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning ~~unless the context clearly indicates otherwise:~~

"Building Valuation Data" or **"BVD"** means the average construction costs as published biannually by the International Code Council, which can be used for determining permit fees for a jurisdiction.

"Certification of Adequate Capacity" means a certification that the school district in which a proposed development is located has 85% or less capacity for the elementary, middle, and high schools in the proposed development's feeder pattern. Such certification is issued by the Secretary based on information provided to the Department by the school ~~district and district,~~ New Castle County Department of Land ~~Use Use, or Sussex County.~~

"Department" means the Delaware Department of Education.

"Gross Area" means the calculated square footage of a residential unit.

"Secretary" means the Secretary of the Delaware Department of Education or ~~his or her~~ the Secretary's designee.

"Voluntary School Assessment" means the assessment amount calculated by the Secretary pursuant to 14 **Del.C.** §103(c).

22 DE Reg. 296 (10/01/18)

3.0 Certification of Adequate Capacity

3.1 The Secretary shall issue a Certification of Adequate Capacity for a proposed development if the school district in which the proposed development is located has adequate capacity for the increased demand that will result from the proposed development.

3.2 Determining Adequate Capacity

~~3.1.4~~ 3.2.1A school district has adequate capacity for a proposed development if the elementary, middle, and high schools in the proposed development's feeder pattern each do not exceed 85 percent of the maximum number of students the schools can contain based on each school's physical space and class size for each grade level.

~~3.1.2~~ 3.2.2Capacity shall include students who are enrolled in the proposed development's feeder pattern schools based on their residence, as provided in 14 **Del.C.** §202(c), and through the Delaware's School District Enrollment Choice Program as provided in 14 **Del.C.** Ch. 4.

~~3.1.3~~ 3.2.3Capacity is determined by the district at the time a developer submits a completed request for a Certification of Adequate Capacity.

22 DE Reg. 296 (10/01/18)

4.0 Determining Total Cost of a Residential Unit

4.1 Pursuant to 14 **Del.C.** §103(c)(3), a Voluntary School Assessment shall not exceed 5 percent of the total cost of a residential unit.

4.2 Determining Total Cost of a Residential Unit

~~4.1.4~~ 4.2.1For the purpose of this regulation, the total cost of a residential unit shall mean the total cost to construct the unit.

~~4.1.4.1~~ 4.2.1.1The total cost shall equal the Gross Area of the unit multiplied by the square footage construction cost that is derived from the Building Valuation Data table that is first issued for the current calendar year.

~~4.1.4.2~~ 4.2.1.2The total cost shall not include the cost of land and site work.

~~4.1.2~~ 4.2.2The developer shall contact the Department to identify residential units subject to the 5 percent limitation.

18 DE Reg. 304 (10/01/14)

22 DE Reg. 296 (10/01/18)

27 DE Reg. 292 (11/01/23) (Prop.)