

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)
14 **DE Admin. Code** 1034

PROPOSED

PUBLIC NOTICE

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

1034 DIAA Health and Safety Requirements

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes amendments to 14 **DE Admin. Code** 1034 DIAA Health and Safety Requirements. The regulation provides health and safety requirements that are designed to protect the physical well-being of student athletes and to promote healthy, adolescent lifestyles in accordance with 14 **Del.C.** §301. The proposed amendments include adding and striking terms in Section 2.0, revising Section 4.0, and embedding the definition of "Qualified Healthcare Professional" within Section 7.0. The proposed amendments are consistent with HS 1 for HB 193 of the 152nd General Assembly, which was signed into law on September 21, 2023, and were recommended to the Board by the Board's Sports Medicine Advisory Committee.

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/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before December 4, 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 concerns health and safety requirements that are designed to protect the physical well-being of student athletes and to promote healthy, adolescent lifestyles and is not designed to help improve student achievement as measured against state achievement standards. The regulation is being amended as a result of HS 1 for HB 193 of the 152nd General Assembly. The proposed amendments are consistent with the bill that was signed into law on September 21, 2023.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation concerns health and safety requirements that are designed to protect the physical well-being of student athletes and to promote healthy, adolescent lifestyles and is not designed to help ensure that all students receive an equitable education. The regulation is being amended as a result of HS 1 for HB 193 of the 152nd General Assembly. The proposed amendments are consistent with the bill that was signed into law on September 21, 2023.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation concerns health and safety requirements that are designed to protect the physical well-being of student athletes and to promote healthy, adolescent lifestyles, so the regulation will help to ensure that 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 concerns health and safety requirements that are designed to protect the physical well-being of student athletes and to promote healthy, adolescent lifestyles and is not designed to help ensure all students' legal rights are respected. The regulation is being amended as a result of HS 1 for HB 193 of the 152nd General Assembly. The proposed amendments are consistent with the bill that was signed into law on September 21, 2023.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change the authority or flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** §303), DIAA develops rules and regulations relating to middle and secondary school interscholastic athletics for schools in Delaware, including the regulation of athletic programs of all public schools and such nonpublic schools that elect to become full or associate DIAA Member Schools. The Board enforces the regulations (14 **Del.C.** §304).

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 unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Board enforces the regulations relating to interscholastic athletics in Delaware (14 Del.C. §304).

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 concerns health and safety requirements that are designed to protect the physical well-being of student athletes and to promote healthy, adolescent lifestyles. The regulation is being amended as a result of HS 1 for HB 193 of the 152nd General Assembly. The proposed amendments are consistent with the bill that was signed into law on September 21, 2023.

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

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

1034 DIAA Health and Safety Requirements

1.0 Content

In accordance with 14 Del.C. §§301 and 303, this regulation provides health and safety requirements that are designed to protect the physical well-being of student athletes and to promote healthy, adolescent lifestyles, including physical examinations for student athletes at the middle and high school levels, the concussion protocol for all student athletes pursuant to 14 Del.C. §303(d), wrestling weight control programs, requiring medical personnel in attendance at football games, and requiring certain certifications for individuals who oversee certain interscholastic athletic activities.

2.0 Definitions

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

"Administrative Head" means the chief or head individual in charge of a DIAA member school, traditionally referred to or generally known as the principal or headmaster.

"Board" means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 Del.C. Ch. 3.

"Conditioning Program" means a voluntary conditioning program that is available to all interested, accepted and registered students at a Member School, is not restricted to members of a particular team, and in which sport-specific equipment and organized drills in the skills and techniques of a particular sport are prohibited.

"Executive Director" means the Executive Director of the DIAA.

"Guardian" or "Legal Guardian" means an individual who legally has responsibility for the care and management of the student during the student's minority. The relationship is a legal one and must be created by a court order signed by a judge, commissioner, or master of a court of competent jurisdiction.

"Informal Instruction" means drills to teach sport-specific skills with only demonstration-level contact permitted. Informal instruction does not involve team competitions or contests. Intentional or direct contact is not permitted.

"Member School" means a full or associate member school of the DIAA.

"Practice" means working on skills for a particular sport within a single team at a Member School as guided by coaches and includes team workouts and inner-team scrimmages.

~~**"Qualified Healthcare Professional"** means a Doctor of Medicine (MD); a Doctor of Osteopathic Medicine (DO); or a school nurse, nurse practitioner, physician assistant, or athletic trainer. Qualified Healthcare Professionals shall be licensed by their state and in good standing with the State of Delaware.~~

"Qualified Healthcare Provider" means a Doctor of Medicine (MD), a Doctor of Osteopathic Medicine (DO), a Physician Assistant, an Advanced Practice Registered Nurse, athletic trainer, or sports physical therapist who is trained and experienced in the evaluation, management, and care of concussions or a licensed psychologist with training in neuropsychology and in the evaluation and management of concussions. Qualified Healthcare Providers shall be licensed by their state and in good standing with the State of Delaware.

~~**"Qualified Physician"** means a Doctor of Medicine (MD) or a Doctor of Osteopathic Medicine (DO) who is licensed by their state and in good standing with the State of Delaware.~~

"Relative Caregiver" means an adult who, by blood, marriage or adoption, is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, step parent, brother,

sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the student.

"Scrimmage" means an informal competition between schools in which a final score is not kept, the time periods are permitted to be modified, the results of the competition are not reported to the media, the coaches are permitted to interrupt the play to provide instruction, and the competition is strictly for practice purposes.

"Summer" means the period of time from the last scheduled date for DIAA spring sport championships to August 1st.

"Workout" means generic conditioning activities engaged in by individual student athletes, including aerobic, agility, balance, flexibility, and resistance training.

3.0 Physical Examinations

- 3.1 A student athlete shall not be eligible to try out, Practice, Scrimmage, or compete in an interscholastic contest unless a licensed physician (MD or DO), a licensed nurse practitioner, or a licensed physician's assistant verifies in writing on or after April 1 and before beginning such athletic activity for the current school year that the student athlete has been adequately examined within the last 12 months and is cleared medically to participate. However, should any conditions found in subsection 3.3 of this regulation occur since the last examination, a reexamination is required before the student athlete can be medically cleared. A student athlete who participates in a contest without a preparticipation physical evaluation shall be considered an ineligible athlete and the athlete and the student athlete's Member School shall be subject to penalties.
 - 3.1.1 A student shall not participate in any Conditioning Programs during the Summer or school year without a current preparticipation physical evaluation.
 - 3.1.2 Student athletes without a current preparticipation physical evaluation are required to submit an up-to-date physical and medical history form in order to participate in interscholastic athletic activities.
- 3.2 A DIAA approved form certifying the examination as well as the parent's, Legal Guardian's, or Relative Caregiver's consent, shall be on file with the Administrative Head prior to the student athlete participating in a Practice, Scrimmage, or game.
- 3.3 For any subsequent sports season in the school year, a limited reexamination shall be performed if any of the following circumstances exist: the student athlete has been treated for an injury during the preceding sports season, the student athlete has been out of school during the preceding sports season with an illness other than the usual minor upper respiratory or gastrointestinal upset, an operation has been performed on the student athlete during the preceding sports season, or the student athlete has a remedial defect.
- 3.4 The medical history of the student athlete shall be available at the time of each examination.
- 3.5 A student athlete is temporarily ineligible to participate if the student athlete who is otherwise properly certified to participate in interscholastic athletics is physically unable to participate due to illness or injury for 5 consecutive days on which a Practice, Scrimmage or contest is held. Prior to resuming participation, the student athlete shall present to the Administrative Head or the Administrative Head's designee, a statement from a licensed physician (MD or DO), a nurse practitioner, or a physician's assistant that the student athlete is again physically able to participate. If a student athlete is physically unable to participate due to a head injury, the concussion protocol in Section 4.0 shall be followed.

4.0 Concussion Protocol

- 4.1 If a student athlete is suspected of sustaining a concussion or exhibits signs or symptoms of a concussion, the student athlete shall be removed from the Practice or game immediately.
- 4.2 A Qualified Healthcare ~~Professional~~ Provider shall determine whether an apparent concussion has occurred. The Qualified Healthcare ~~Professional~~ Provider shall be approved by the host school to provide on-site evaluations of student athletes who are suspected of sustaining a concussion or exhibit signs or symptoms of a concussion. If a Qualified Healthcare ~~Professional~~ Provider is not present or is not appointed or approved by the host school, the injury shall be treated as a concussion and the student athlete shall not return to play until the student athlete is evaluated by a Qualified Healthcare ~~Professional~~ Provider in an appropriate medical setting.
- 4.3 If a Qualified Healthcare ~~Professional~~ Provider determines that the student athlete did not sustain a concussion, the student athlete may return to play.
- 4.4 If a Qualified Healthcare ~~Professional~~ Provider determines that the student athlete sustained a concussion or is unable to rule out a concussion, the ~~student athlete shall be referred for further evaluation by a Qualified Physician.~~ The student athlete shall be ineligible to participate in Practices, Scrimmages, or contests until the student athlete receives written clearance from a Qualified ~~Physician~~ Healthcare Provider on the DIAA Acute Concussion Evaluation (ACE) and Return to Play Form.

4.4.1 Clearance to enter Stage 5 of the return to play protocol shall be made by a Qualified Healthcare Provider who is not employed by the member school.

4.4.2 For the purpose of this subsection, a licensed athletic trainer or school nurse shall provide final clearance after completion of the return to play protocol.

4.5 Failure to comply with the requirements of this regulation shall result in the student athlete being considered ineligible. The student athlete and Member School shall be penalized by the Board for violations of the concussion protocol.

4.6 If an official observes an apparent injury, the official shall report the injury to the student athlete's coach.

4.7 The Sports Medicine Advisory Committee may recommend amendments to the Concussion Protocol to the Rules and Regulations Committee and the Board.

5.0 High School Wrestling Weight Control Program

5.1 For health and safety reasons, the DIAA Wrestling Committee has recommended the Wrestling Weight Control Program which requires each student athlete to establish their minimum weight class via body composition testing. The Wrestling Weight Control Program, as recommended by the DIAA Wrestling Committee, is adopted by the Board. The DIAA Wrestling Committee may recommend amendments to the Board. The program requires hydration testing with a specific gravity not greater than 1.025, which immediately precedes the body composition assessment. A minimum weight class is determined by a body fat assessment. Male student athletes shall not compete at a weight class lower than 7% body fat and female student athletes shall not compete at a weight class lower than 12% body fat. Any student athlete's assessment that is below 7% for males and 12% for females shall require a medical release signed by a licensed physician (MD or DO). The release shall not allow a student athlete to participate at a weight class below that for which the initial assessment allows. The program restricts student athletes to an average weight loss of 1.5% a week, with descent, until the student athlete has reached the minimum weight determined by the initial body composition testing. A 2-pound growth allowance shall be permitted on or after December 26th each year for student athletes who have certified at their approved minimum weight class. Student athletes shall not receive the 2-pound growth allowance until they have certified at their minimum weight.

5.2 Student athletes shall certify at their minimum weight class on or before the last competition date for wrestling in order to be eligible to participate at their minimum weight class in the dual meet and state tournaments series, including qualifying tournaments.

5.3 The Wrestling Weight Control Program includes an online roster management program utilizing the National Wrestling Coaches Association weight management program. The program creates an "alpha master roster" which must be presented to the opposing coach or tournament director prior to weighing in. Each Member School shall have access to the alpha master roster of all Member Schools.

6.0 Middle School Wrestling Weight Control Program

6.1 Each year, 4 weeks from the first day a student athlete appears at wrestling Practice, the student athlete shall establish the student athlete's minimum weight class at a weigh in witnessed by and attested to in writing by the athletic director or a designated staff member (excluding coaches) of the school the student athlete attends. A student athlete may recertify at a lower weight during the 4 weeks from the first day they appear at Practice. However, once certified at a weight, a student athlete shall not weigh in more than 1 class above the weight of the certification without automatically recertifying at a higher weight. Once recertified to a higher weight class the student athlete can no longer recertify lower. After 4 weeks from the first Practice day, a student athlete shall not compete in a weight class below the student athlete's duly established weight class.

6.2 By the end of 4 weeks of Practice, a certified team roster listing the established minimum weight class of each student athlete shall be sent to the Executive Director. Further, duly attested notices of additions to the certified roster shall be sent to the Executive Director without delay.

6.3 Weight classifications and length of match shall be designated by the Board.

6.4 A team that begins its season in October shall receive a 1-pound growth allowance in November and an additional 1-pound growth allowance in December. A team that begins its season in November shall receive a 1-pound growth allowance in December, an additional 1-pound growth allowance in January, and a third 1-pound growth allowance in February.

6.5 Member Schools that desire to conduct their wrestling program at a time other than the specified season must request permission from the Board.

6.6 Except as modified by this section, the current edition of the NFHS Wrestling Rules Book shall apply.

7.0 Required Medical Personnel in Attendance at All Football Games

Provision shall be made for a ~~Qualified Healthcare Professional~~ Doctor of Medicine (MD), a Doctor of Osteopathic Medicine (DO), school nurse, nurse practitioner, physician assistant, or athletic trainer to be present at all interscholastic football games in which a Member School participates. The ~~Qualified Healthcare Professional~~ Doctor of Medicine (MD), a Doctor of Osteopathic Medicine (DO), school nurse, nurse practitioner, physician assistant, or athletic trainer shall be licensed by their state and in good standing with the State of Delaware and must be approved or appointed by the Administrative Head or the Administrative Head's designee. The host school shall provide this service. Failure by the host school to provide this service shall result in a \$250.00 fine.

8.0 Required Certifications for Individuals Who Oversee Workouts, Conditioning Programs, Open Gym Programs, and Informal Instruction

All certified, emergency, and volunteer coaches, including individuals overseeing Workouts, Conditioning Programs, open gym programs, and Informal Instruction, shall maintain current certification in CPR, AED, and first aid and complete the NFHS' "Concussion in Sports" course online through [NFHSLearn.com](https://www.nfhslearn.com) every 2 years.

26 DE Reg. 200 (09/01/22)

27 DE Reg. 309 (11/01/23) (Prop.)