
Delaware Register of Regulations

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IN THIS ISSUE:

Regulations:
Proposed
Final

Calendar of Events &
Hearing Notices



Pursuant to 29 **Del.C.** Chapter 11, Subchapter III, this issue of the *Register* contains all documents required to be published, and received, on or before June 15, 2010.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

DELAWARE REGISTER OF REGULATIONS

The *Delaware Register of Regulations* is an official State publication established by authority of 69 *Del. Laws*, c. 107 and is published on the first of each month throughout the year.

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

The *Register* will also publish some or all of the following information:

- Governor's Executive Orders
 - Governor's Appointments
 - Agency Hearing and Meeting Notices
 - Other documents considered to be in the public interest.
-

CITATION TO THE DELAWARE REGISTER

The *Delaware Register of Regulations* is cited by volume, issue, page number and date. An example would be:

13 **DE Reg.** 24-47 (07/01/09)

Refers to Volume 13, pages 24-47 of the *Delaware Register* issued on July 1, 2009.

SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the *Delaware Register of Regulations* is \$135.00. Single copies are available at a cost of \$12.00 per issue, including postage. For more information contact the Division of Research at 302-744-4114 or 1-800-282-8545 in Delaware.

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

Delaware citizens and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the *Register of Regulations*. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt, within the time allowed, of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the *Register of Regulations*, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.

No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.

When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.

Except as provided in the preceding section, no judicial review of a regulation is available unless a complaint therefor is filed in the Court within 30 days of the day the agency order with respect to the regulation was published in the *Register of Regulations*.

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
August 1	July 15	4:30 p.m.
September 1	August 16	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 15	4:30 p.m.

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Symbol Key

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text. Language which is ~~stricken~~ through indicates text being deleted.

Proposed Regulations

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the *Register of Regulations*. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

DEPARTMENT OF EDUCATION**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 501

501 State Content Standards**Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)****A. Type of Regulatory Action Required**

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education or intends to amend 14 **DE Admin. Code** 501 State Content Standards to reflect the State's adoption of the Common Core Standards in English language arts and mathematics. The Common Core Standards were developed in partnership with the National Governors Association (NGA) and the Council of Chief State School Officers (CCSSO). State stakeholders participated in the review of the standards.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 3, 2010 to Susan Haberstroh, Education Associate, Regulation Review, Department of Education, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation is available from the above address or may be viewed at the Department of Education business office.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation reflects changes to the English language arts and mathematics standards as developed in partnership with the National Governors Association and the Council of Chief State School Officers (CCSSO).

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to 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 is related to content standards and does not impact the health and safety of students.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation is related to content standards and should continue to ensure all students' legal rights are respected as related to content standards.

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 affect the authority or flexibility of decision making at the local board and school levels.

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 upon decision makers at the local board and school levels.

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 content standards does not change by the amendments to this regulation.

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 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? Any additional costs for the implementation of the revised content standards have been addressed through available funds.

501 State Content Standards

1.0 Instructional Programs

1.1 Instructional programs offered in the public schools of Delaware shall be in alignment with the appropriate content standards documents. These documents are: English Language Arts Curriculum Framework, Mathematics Curriculum Framework, Science Curriculum Framework, Social Studies Curriculum Framework, Health Education Curriculum Framework and Assessment, Physical Education Content Standards, Visual and Performing Arts Content Standards, Agriscience Curriculum Framework Content Standards, Business Finance and Marketing Education Curriculum Framework Content Standards, World Language Curriculum Framework Content Standards, Technology Education Curriculum Framework Content Standards, Skilled and Technical Sciences Content Standards and the Family and Consumer Sciences Content Standards.

1.1.1 The content standards documents may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education.

1.1.1.1 Effective with the 2010-2011 school year, Delaware Content Standards in English language arts and mathematics shall be comprised of the Common Core Standards developed in partnership with the National Governors Association and the Council of Chief State School Officers.

1.1.2 Integration of the content standards shall be provided for within and across the curricula.

1.1.3 Instructional materials and curricula content shall be kept current and consistent with provisions of 14 DE Admin. Code 502 Alignment of Local School District Curricula to the State Content Standards and 14 DE Admin. Code 503 Instructional Program Requirements.

1 DE Reg. 153 (8/1/97)

1 DE Reg. 729 (12/1/97)

4 DE Reg. 343 (8/1/00)
4 DE Reg. 850 (10/1/00)
4 DE Reg. 853 (11/1/00)
5 DE Reg. 865 (10/1/01)
8 DE Reg. 445 (9/1/04)
13 DE Reg. 256 (8/1/09)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

PUBLIC NOTICE

Child Care Subsidy Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Income and Making Income Determinations*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by July 31, 2010.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSED CHANGES

The proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Income and Making Income Determinations*.

Statutory Authority

45 CFR §98.11(b)(2), *Administration under contracts and agreements*

Summary of Proposed Changes

1) **DSSM 11003.9.1**, *Income*: The purpose of this rule change is to clarify the rules regarding determining countable income and to remove procedures. This amendment clarifies how to decide what income to count to determine eligibility for subsidized child care.

2) **DSSM 11003.9.5**, *Making Income Determinations*: The purpose of this rule change is to clarify the rules regarding determining financial eligibility and to remove procedures. The revised rule clarifies how to count income to arrive at a monthly amount.

DSS PROPOSED REGULATIONS #10-29

REVISIONS:

11003.9.1 Income

45 CFR 98.11(b)(2)

A. Countable Income. All sources of income, earned (such as wages) and unearned (such as child support, social security pensions, etc.) are countable income when determining a family's monthly gross income. Monthly gross income typically includes the following:

1. ~~Money from wages or salary, such as total money earnings~~ Money earned from work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece rate payments and cash bonuses. Count the amount earned before deductions are made for taxes, bonds, pensions, union dues, etc. This is gross income. Wages need to be equal to the federal minimum wage or an equivalent.

~~Gross income from farm or non farm self employment is determined by subtracting the self employment standard deduction for producing income as described below. The individual's personal expenses (lunch, transportation, income tax, etc.) are not deducted as business expenses but are deducted by using the TANF standard allowance for work connected expenses. In the case of unusual situations (such as parent/caretaker just beginning business), refer to DSSM 9056 and 9074.~~

Earnings from self-employment are counted after applying a standard deduction for self-employment expenses. To get the self-employment deduction, self-employed households must verify at least one business cost to produce income.

Self-Employment Standard Deduction for Producing Income

The cost for producing income is a standard deduction of the gross income. This standard deduction is a percentage of the gross income determined annually and listed in the Cost-of-Living Adjustment (COLA) notice each October. The standard deduction is considered the cost to produce income.

~~The standard deduction is considered the cost to produce income. The gross income test is applied after the standard deduction. The earned income deductions are then applied to the net self-employment income and any other earned income in the household.~~

~~The standard deduction applies to all self-employed households with costs to produce income. To receive the standard deduction, the self-employed household must provide and verify they have business costs to produce income. The verifications can include, but are not limited to, tax records, ledgers, business records, receipts, check receipts, and business statements. The self-employed household does not have to verify all its business costs to receive the standard deduction.~~

~~Self-employed households not claiming or verifying any costs to produce income will not receive the standard deduction.~~

2. Social Security pensions, Supplemental Security Income, Veteran's benefits, public assistance payments, net rental income, unemployment compensation, workers compensation, pensions, annuities, alimony, adoption assistance, disability benefits, military allotments, Rail Road Retirement, and child support.

B. Disregarded Income

Monies received from the following sources are not counted:

1. per capita payments to or funds held in trust for any individual in satisfaction of a judgment of Indian Claims Commission or the Court of Claims;
2. payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under ESM 21(a) of the Act;
3. money received from the sale of property such as stocks, bonds, a house or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds are counted as income from self-employment);
4. withdrawal of bank deposits;
5. money borrowed or given as gifts;
6. capital gains;
7. the value of USDA donated foods and Food Stamp Act of 1964 as amended;
8. the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;
9. any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
10. loans or grants such as scholarships obtained and used under conditions that preclude their use for current living costs;
11. any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act;
12. home produce ~~utilized~~ used for household consumption;
13. all of the earned income of a ~~minor or minor parent (under 18) who is a full-time student or a part-time child under age 18 who is a~~ student who is working but is not a full-time employee (such as high school students who are employed full-time during summer);
14. all payments derived from participation in projects under the Food ~~Stamp~~ Benefit Employment & Training (FS FB E&T) program or other job training programs;
15. all Vista income; and
16. all income derived as a Census taker.

Resources (such as cars, homes, savings accounts, life insurance, etc.) are not considered when determining financial eligibility or the parent fee.

(Break In Continuity of Sections)

11003.9.5 Making Income Determinations

45 CFR 98.11(b)(2)

~~DSS programmed the DCIS II Child Care Sub-system to automatically make financial eligibility decisions. As long as the appropriate income for the appropriate persons is entered into the system, and as long as the correct family size is entered, the DCIS II Child Care Sub-system will calculate income and determine eligibility.~~

~~In the event of system failure, use 4 1/3 weeks per month to compute a person's monthly gross income. If there is a variance in wages, use the average of the last month's wages or the average of the last three month's wages, whichever is less.~~

~~The following are examples for converting various pay schedules to monthly income.~~

- ~~A. Client A is paid \$200.00 per week — $\$200 \times 4.33 = \$866/\text{month}$.~~
- ~~B. Client A is paid \$200 per week, but has a varying work schedule. Week one — \$200; week two \$100; week three — \$176; week four — \$200. $\$200 + \$100 + \$176 + \$200 = \$676$ divided by 4 = $\$169/\text{week average}$. $\$169 \times 4.33 = \$731.77/\text{month}$.~~
- ~~C. Client B is paid \$400 every other week. $\$400 \times 2.16 = \864 .~~
- ~~D. Client C is paid \$950 twice a month. $\$950 \times 2 = \$1900/\text{month}$.~~

~~E. Other sources of income, such as child support, are added to wages either as the actual amount received or as an average of the amount received in the past three months.~~

Staff will use gross monthly income in all cases except for self-employment income. Gross income is income before any deductions. See 11003.9.1 for disregarded income.

Determine the monthly amount of income using the conversion method below. This applies to earned and unearned income.

A. Weekly gross income is multiplied by 4.33 to calculate the monthly income.

B. Bi-weekly gross income is multiplied by 2.16 to calculate the monthly income. Bi-weekly income is income that is received every other week.

C. Semi-monthly gross income is multiplied by 2 to calculate the monthly income. Semi-monthly income is income that is received twice each month.

If the income is different from pay to pay, use the income from the previous month or the average of the last three months income, whichever is less. This applies for earned and unearned income.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

PUBLIC NOTICE

Child Care Subsidy Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Interviews and Authorizing Service*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by July 31, 2010.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSED CHANGES

The proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Interviews and Authorizing Service*.

Statutory Authority

45 CFR §98.11, *Administration under contracts and agreements*

Summary of Proposed Changes

1) **DSSM 11004.2, Interviews:** The purpose of this rule change is to clarify current policy regarding interviews and to remove procedures. The original text is also reformatted to further clarify interview requirements for child care services. The intent of the proposed amendment is to simplify language and improve readability.

2) ~~DSSM 11004.9, *Authorizing Service* Authorizing Child Care Services~~: The purpose of this rule change is to add program guidelines for authorizing services and to remove procedures. The amended policy states that Purchase of Care (POC) funds cannot be paid for parents/caretakers to provide direct care to their own children in a home or any other child care facility.

DSS PROPOSED REGULATIONS #10-30

REVISIONS:

11004.2 Interviews and Necessary Documentation

45 CFR 98.11

~~Complete an interview either over the phone or in person.~~

~~When scheduling an applicant for an interview do so in the following manner.~~

~~A As soon as reasonably possible after the parent/caretaker makes an informal contact set a specific day and time for an interview. Consider the parent/caretaker's schedule and attempt to schedule appointments at parent/caretaker convenience.~~

~~B Advise the parents/caretakers of the information they will need to bring to the interview. At a minimum parent/caretakers should bring:~~

~~1. if employed, current pay stubs covering the 30 days immediately before the date of application or a letter or employer statement (on company letterhead) noting the employer's name, the parent/caretaker's work schedule, earnings, frequency of pay, and start date;~~

~~2. if in training and/or school, a statement from the school/training program with starting and completion dates and days and hours required to attend or a copy of a registration form and class schedule;~~

~~3. any other income information;~~

~~4. any other information which may have a bearing on establishing need, such as:~~

~~a. in cases of a special need for either a child or an adult, parents/caretakers must complete the Special Needs Form;~~

~~b. for a protective need, a completed Division of Family Services Referral; or~~

~~c. written documentation from a recognized professional (such as doctor, social worker, nurse, school counselor, etc.) of the special needs.~~

~~C. Along with appointment information, send and/or give parents/caretakers a child care certificate package and a list of approximately five available contracted providers. Instruct parents/caretakers to select a provider prior to the formal interview. Even though parents/caretakers may ultimately select providers under contract with DSS, provide them with enough information to make an informed choice. Therefore, in all instances, send and/or give parents/caretakers a certificate package and Guide to Quality Child Care booklet. Inform clients that if they fail to provide the DSS Case Manager with a provider within 60 days of eligibility confirmation and noticing, their case will close.~~

~~D. For parents/caretakers who come into the office without a scheduled appointment, conduct the formal interview process that same day if possible. However, the parents/caretakers need to select a child care provider before care can be authorized.~~

~~E Though verification of the appropriate information to establish need is important, the system will authorize Presumptive Child Care service can be authorized for approximately one month while certain information verification is pending. In this case, the system will, give notice of needed information, authorize child care for approximately one month (depending on the date of application) and end date the authorization. If the system does not authorize Presumptive Child Care, parents/caretakers will be given ten days from the date of the initial application to secure and provide the necessary documentation. If the parents/caretakers receive Presumptive Child Care and the initial application date occurs between the first and the ninth of the month, the authorization for care will extend to the end of the current month. If the initial application occurs from the tenth of the month or after, authorization for care will extend to the end of the following month. (For more information on Presumptive Child Care see section 11004.8)~~

~~EXAMPLE 1: A parent comes into the office on January 6 and needs care to start work beginning January 7. The parent meets eligibility criteria. The system will authorize Presumptive Child Care until January 31 and give the parent until January 16 to provide proof of employment. If by January 16 the parent provides proof, enter the information and verification into the system and run SFU/EDBC. The system will generate a new authorization with the end date of June 30th. If by January 17 the parent fails to provide proof, a DCIS II Child Care Sub system notice is mailed informing the parent that child care services will end as of January 31.~~

~~EXAMPLE 2: A parent comes into the office on January 12 and needs to start work beginning January 13. The parent meets eligibility requirements. The system will authorize care until February 28 and give the parent until January 22 to provide proof. If by January 22 the parent provides proof, enter the information and verification into the system and run SFU/EDBC. The system will generate a new authorization with an end date of June 30th. If by January 22 the parent fails to provide proof, a DCIS II Child Care Sub system notice is mailed informing the parent that child care will end as of February 28.~~

Complete an interview either over the phone or in person. Conduct the interview the same day if possible. Parents will need to supply the following verifications:

1. if employed:
 - a. pay stubs for the 30 days before the date of application, or
 - b. a letter or employer statement (on company letterhead) noting the employer's name, telephone number, the parent's/caretaker's work schedule, earnings, frequency of pay, and start date,
2. any unearned income, such as child support, Social Security, and unemployment compensation
3. if in training and/or school:
 - a. a statement from the school/training program with starting and completion dates and days and hours required to attend, or
 - b. a copy of a registration form and class schedule;
4. any other information which will help in determining the need for service, such as documentation of a special need. Documentation of the special need may be provided on the Special Needs Form or any other written correspondence submitted by a physician or medical professional with the authority to do so. For a protective need, a referral from Division of Family Services must be submitted.

Parents must be given any information that will help them to make an informed decision regarding their child care services. Provide parents/caretakers with a list of providers and a child care certificate packet as needed. Although verifications are needed, Presumptive Child Care may be opened pending information. Presumptive Care can be authorized for approximately one month, depending on the date of application. (For more information on Presumptive Child Care see DSSM 11004.8).

(Break In Continuity of Sections)

11004.9 ~~Authorizing Service~~ Authorizing Child Care Services

45 CFR 98.11

~~Once a case is created, service must be authorized before parents/caretakers can receive subsidized child care. Authorization is both the name for the form (618d) and the process to grant parents/caretakers child care services (see Section 11002.9 for definition).~~

~~Complete a separate authorization for each child who is eligible to receive child care services. Therefore, if there is more than one child in a family who needs service, complete separate authorizations for each child. Complete an authorization by creating one in the DCIS II Child Care Sub system. Again, as when entering a case,~~

PROPOSED REGULATIONS

~~in DCIS II authorization data screens have required data fields which are highlighted. Complete these data fields before proceeding. Follow the rules below in creating authorizations.~~

~~A. Obtain provider information before completing an authorization. This means that if parents/caretakers wish to select a provider by using a child care certificate, they must have the certificate returned before an authorization can be issued.~~

~~B. Parents/caretakers can only choose providers who are either self-arranged, licensed exempt or who can be matched to existing information in the Site Referral function of the DCIS II Child Care Sub system. If the provider selected has a contract with DSS, this provider will be listed in the DCIS II under the Site Referral section. Access these providers through their site ID# or site search. Finally, if parent/caretakers parents/caretakers use a certificate and they select a contracted provider, consider this as contracted care even though the parent/caretaker used a certificate.~~

~~C. When parents/caretakers wish to self-arrange child care, ensure the parent submits the information on the Self Arranged Provider Agreement and Registration Form. When parents/caretakers wish to arrange certificate child care, ensure the parent submits the information on the Child Care Certificate Provider Agreement and Registration Form. Send the appropriate form to the Child Care Monitor for CCMIS processing. The monitor will notify the Case Manager when the information is data entered.~~

~~D. When the monitor notifies the Case Manager that data has been entered in CCMIS, enter effective and expiration dates on the authorization. Effective dates will always start when service is due to begin. In most cases, service will begin either the same day the authorization is completed or on a date in the near future. However, there may be occasions when service will begin prior to the actual date of the child care interview.~~

~~EXAMPLE 1: The TANF parent who self-initiates a Food Stamp Employment & Training (FS E&T) training or education component. In this case, make the authorization effective as of the date the parent started the component activity if the parent needed child care for the activity and was financially eligible.~~

~~EXAMPLE 2: When a Child Care Case Manager receives a protective referral from Family Services after child care services have already started.~~

~~The ending date for the authorization period means the last day for which Case Managers can authorize care. The authorization period can not exceed the recertification date. This is for all categories of care.~~

~~As noted above, the ending date will always be the last day of the month of the authorization period.~~

~~E. Ensure that service is authorized only for the days and hours that parent/caretakers parents/caretakers actually need care. Therefore, only enter the following on the DCIS II Child Care Authorization Detail screens-~~

~~1. the appropriate number of days per week that parent/caretakers parents/caretakers will need care, for example 1, 2, 3, 4, or 5 days;~~

~~2. the appropriate type of care needed, half-day (P), full-day (X), day and a half (T), or two full days (D) (supervisory approval is necessary for T and D care);~~

~~3. whether absent days are paid (absent days correspond to the number of authorized days, however, when care is self-arranged, DSS pays only for the days the child attends care). If a client is authorized for 7 days s/ he does not receive paid absent days;~~

~~4. whether extended care is authorized; and~~

~~5. whether school care is authorized.~~

~~F. The remaining fields (Category, Waive Fee Reason, Family Size, and Family Income) of the authorization screen are system completed, depending upon the information previously entered. Press the appropriate key to post the authorization in the system. Click the 'save' button. Complete separate authorizations if there are more children who need care.~~

All child care services must be authorized before parents/caretakers can receive subsidized child care. Parents/caretakers can choose any provider who is either licensed, licensed exempt or self arranged. No parent/caretaker can receive POC funds to provide child care services to their own children in a home or any other child care facility

where the parent/caretaker provides direct care to that child. These children may be able to get another type of child care.

Authorizations always start after service has been approved. The exact date is selected by the parent/caretaker. An authorization ends on the last day of the month of the authorization period. At no time can the authorization period exceed the review date. Child care may be authorized only for the days and hours that parents/caretakers need care. The types of care that can be authorized are part time (P), full day (X), day and a half (T) and double time (D) which is two days. All licensed and licensed exempt child care providers can receive up to five (5) absent days, depending on the number of days the child is authorized to attend. Children in self arranged care and children authorized for seven (7) days do not receive absent days.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

PUBLIC NOTICE

Child Care Subsidy Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Overpayments*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by July 31, 2010.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSED CHANGES

The proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Overpayments*.

Statutory Authority

45 CFR §98.11, Administration under contracts and agreements

Summary of Proposed Changes

DSSM 11005.4, 11005.4.1, 11005.4.2 and 11005.4.3 [Reserved], *Child Care Overpayments*: The purpose of this rule change is to clarify current policy guidelines regarding overpayments and to remove the examples. The original text is also reformatted to simplify language and improve readability.

DSS PROPOSED REGULATION #10-31

REVISIONS:

11005.4 Child Care Overpayments

45 CFR 98.11

A child care overpayment occurs when DSS pays providers for more child care service than parents/caretakers are eligible to receive. The overpayment may result because of agency or parent/caretaker error.

~~EXAMPLE 1: A Case Manager incorrectly enters parent income information resulting in a lower parent fee. After several months, the Case Manager realizes the mistake. Because DSS has already made payment to the provider, the Case Manager must process this change as an overpayment.~~

~~EXAMPLE 2: A parent reports income of \$500.00 for a family size of three. However, after several months, the Case Manager discovers income actually was \$750.00. The lower income resulted in the parent paying a smaller fee than the parent should have paid. Because DSS has already made payment to the provider, the Case Manager must process this change as an overpayment.~~

~~The CCMIS will not process changes to an authorization for a prior period of time through the Correct Transactions function when the result is negative. A negative change means parents/caretakers receive less service because of a change in circumstances; for example, the change results in the parent paying a higher fee. In these situations, process an overpayment, using the child care overpayment notice and complete a Change Authorization to correct the error for future authorizations.~~

~~DSS is to attempt recovery in all cases of suspected fraud, in all cases involving current recipients, and in all cases where the overpayment amount would equal or exceed the costs of recovery.~~

~~11005.4.1 Determine the Overpayment Amount~~

~~Determine the amount of the overpayment by:~~

- ~~A. subtracting the difference between what DSS paid the provider versus what DSS should have paid, or~~
- ~~B. subtracting the difference between the fee the parent paid and the fee the parent should have paid.~~

~~EXAMPLE: A child over age two in a center is paid \$13.00/day or \$299.00 (\$13.00 x 23 days) for a full month of child care. The parent paid no fee; DSS paid the full fee. However, the parent should have paid a fee amounting to \$1.00/day. DSS should have paid \$12.00/day if the parent paid \$1.00/day fee, or \$276.00 monthly.~~

~~\$299.00 DSS paid~~

~~276.00 DSS should have paid~~

~~23.00 Overpayment~~

~~If this overpayment continued for six months, the total overpayment is \$138.00. The Case Manager must complete an overpayment notice, noting the amount of the overpayment and the child care category under which the child received service.~~

~~DCIS provides case managers with access to the Claims Management function of the CCMIS to assist in determining the overpayment amount. Access is limited to child transactions and is inquiry only. The Claims Management function provides access to the actual provider payment.~~

~~11005.4.2 Overpayment Notices~~

~~Once the overpayment amount is determined, complete an overpayment notice in detail. Submit the notice to the supervisor who will check it for accuracy.~~

~~Send the original notice to the parent/caretaker and, after waiting 10 days, send a copy to the Audit and Recovery Unit. Audit and Recovery are responsible for establishing repayment agreements with parents/caretakers and for collecting and tracking payments on overpayment debts.~~

~~To provide parent/caretakers who disagree with the overpayment amount the opportunity to request a fair hearing, wait 10 days before sending the copy of the overpayment notice to Audit and Recovery. This allows parents/caretakers with an opportunity to contact case managers to possibly resolve the matter before intervention by Audit and Recovery.~~

11005.4.3 Role of Audit and Recovery

~~Collection of the overpayment by Audit and Recovery follows current policy as noted in DSSM 7000. Note that DSS can only recoup child care payments from child care benefits. Any attempt to recover child care overpayments from AFDC benefits can only occur if there is a voluntary request from the recipient family. The recipient family can only make such a voluntary request if the child care they were receiving was Food Stamp Employment & Training (FS E&T) AFDC Child Care, At Risk, or Transitional Child Care.~~

~~In addition to establishing repayment agreements and overseeing the collection of overpayments, Audit and Recovery also investigate overpayments for suspicion of fraud. Case managers will not make fraud determinations, but in cases where they suspect fraud, they should notify Audit and Recovery of their suspicions.~~

~~The Provider Administrator, along with Child Care Monitors, will continue to assume responsibility for situations involving provider overpayments.~~

A child care overpayment occurs when DSS pays for more child care service than parents/caretakers are eligible to receive. Overpayments may be the result of an agency, provider or parent/caretaker action.

DHSS will attempt recovery in all cases of suspected fraud, in all cases involving current recipients, and in all cases where the overpayment amount would equal or exceed the costs of recovery. Each in the adult child care household is liable for repayment of the overpayment.

11005.4.1 Determining the Overpayment Amount

To determine the amount of the overpayment subtract the amount that the parent should have paid the provider from the DSS calculated parent fee. The difference is the overpayment amount.

11005.4.2 Overpayment Notices

Notify parents/caretakers in writing of any overpayment. The overpayment notice will contain:

1. a statement of the client's right to a fair hearing as provided in DSSM 5300
2. the method by which s/he may request a fair hearing
3. what to do to continue receiving your benefits after requesting a fair hearing
4. a statement that s/he may represent him/herself or that s/he may be represented by counsel or by another person
5. the reason for the overpayment
6. the amount of the overpayment
7. the overpayment time period
8. the name of the child/ren associated with the overpayment.

DSS can only recoup child care over payments from child care benefits. Any attempt to recover child care overpayments from TANF benefits can only occur if there is a voluntary request from the recipient family. Audit and Recovery Management Services (ARMS) is the agency responsible for establishing repayment agreements and the collection of overpayments.

11005.4.3 RESERVED

PROPOSED REGULATIONS

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Statutory Authority: 16 Delaware Code, Chapter 22 (16 **Del.C.**, Ch. 22)
16 **DE Admin. Code** 6001

PUBLIC NOTICE

CHILD CARE SUBSIDY PROGRAM

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the Delaware Code, Chapter 22, Delaware Health and Social Services (DHSS)/ Division of Substance Abuse and Mental Health (DSAMH) is proposing to amend the Standards for Substance and Abuse and Treatment Programs to clarify state standards for the provision of substance abuse and mental health in Delaware treatment programs.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Frann Anderson, Quality Control, Division of Substance Abuse and Mental Health, Main Administration Building, 1901 North DuPont Highway, New Castle, Delaware 19720-0906 or by fax to (302) 255-4428 by July 31, 2010.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSED CHANGES

The proposed change described below amends Standards for Substance and Abuse and Treatment Programs.

Statutory Authority

16 **Del.C.** Ch. 22

Summary of Proposed Changes

The purpose of the revision is to update the current standards of care for substance use disorder treatment programs in the state of Delaware. The revision also includes standards of care for co-occurring treatment programs and Ambulatory Detoxification programs in the State of Delaware. These standards of care allow DSAMH to license all substance use disorder treatment programs in all three counties of Delaware.

***Please Note: Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

[6001 Substance Abuse Facility Licensing Standards](#)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF WATER RESOURCES

Surface Water Discharges Section

Statutory Authority: 7 Delaware Code, Section 6000 (7 Del.C. §6000)
7 DE Admin. Code 7201

REGISTER NOTICE SAN # 2010-16

1. Title of the Regulations:

Section 9.5: Concentrated Animal Feeding Operations of 7201 Regulations Governing the Control of Water Pollution (Title 7, Delaware Administrative Code 7200, §9.5).

2. Brief Synopsis of the Subject, Substance and Issues:

These proposed regulations have been developed pursuant to 3 Del.C. §§2201-2290 and 7 Del.C. §6000 et.al. and under DNREC's delegated authority. These statutory and regulatory authorities establish the requirement that a National Pollutant Discharge Elimination System (NPDES) permitting program for Concentrated Animal Feeding Operations (CAFOs) be implemented. These proposed regulations replace the current regulations and will function as the baseline CAFO standards for compliance of NPDES CAFO permits applicable to certain farms. The Delaware Department of Agriculture (DDA) will administer these regulations in conjunction with DNREC. In general, NPDES CAFO permits, as provided in these regulations, are effective for five years. These regulations were developed by the Delaware Nutrient Management Commission, the Delaware Department of Agriculture and the Delaware Department of Natural Resources and Environmental Control. They are adopted with the guidance, advice and consent of the Delaware Nutrient Management Commission.

3. Possible Terms of the Agency Action:

The revised regulation will expand the current application, approval and reporting requirements for CAFO NPDES permits. In addition, the state's current 372 NPDES CAFO permits expire on September 11, 2010. Current permit holders will need to submit a new application (Notice of Intent) within 90 days following promulgation of the final regulations. Failure to promulgate revised regulations compliant with requirements of the Clean Water Act may result in forfeiture of the State NPDES program and subject Delaware farmers to federal enforcement action and third party lawsuits.

4. Statutory Basis or Legal Authority to Act:

7 Del.C. §6000 et. al.; 3 Del.C. §2200 et. al, and 40 CFR 122 and 412.

5. Other Regulations That May Be Affected by the Proposal:

Delaware Nutrient Management Regulations 3 Del.C. §2200

6. Notice of Public Comment:

The proposed regulations are posted on the Delaware Department of Agriculture website (www.dda.delaware.gov) and the DNREC website at www.dnrec.delaware.gov. Hard copies of the proposed regulations may be obtained from the Delaware Department of Agriculture. Comments may be submitted in writing and/or e-mail to the Mark Davis, Nutrient Management Program Administrator (mark.davis@state.de.us), at the Delaware Department of Agriculture, on or before 4:30 PM on July 31, 2010, and/or in person at a public hearing to be held on July 21, 2010 at 7pm at the Department of Agriculture, 2320 South DuPont Highway, Dover, DE 19901. Statements and testimony may be presented either orally or in writing at the public hearing. It is requested that those interested in presenting statements at the public hearing register in advance and that written statements and comments be addressed to:

Mark Davis
Department of Agriculture

2320 South DuPont Highway
Dover, DE 19901
Mark.davis@state.de.us

7. Prepared By:

Jennifer Walls 302.739.9062 16 June 2010
Email address jennifer.walls@state.de.us

***Please Note: Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

[7201 Regulations Governing the Control of Water Pollution](#)

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION

COMBATIVE SPORTS AND COMBATIVE SPORTS ENTERTAINMENT
Statutory Authority: 24 Delaware Code, Section 103(b)(1)
24 DE Admin. Code 8800

8800 Combative Sports Entertainment Regulations

The Division of Professional Regulation (the "Division") in accordance with 24 **Del.C.** §103(b)(1) has proposed amendments to the regulations governing combative sports and combative sports entertainment events in Delaware. The amendments include deleting the term "Boxing" in the title of the regulations and replacing it with "Combative Sports."

Changes are being made to Part C of the regulations related to Professional Mixed Martial Arts. The regulations being amended include 4.0 Bandage Wraps; 13.0 Fouls and Violations; 14.0 Legal Strikes; 18.0 Physical Exams and Other Testing; 19.0 Requirements of the Division; 20.0 Responsibilities of the Promoter; 22.0 Requirements of Seconds/Cornermen.

Changes are also being made to Part D of the regulations governing Amateur Mixed Martial Arts. The regulations being amended include 1.0 Weight Classes; 4.0 Bandage Wraps; 7.0 Gloves; 13.0 Fouls and Violations; 14.0 Legal Strikes; 18.0 Physical Exams and Other Testing; 19.0 Requirements of the Sanctioning Body; 20.0 Responsibilities of the Promoter; 21 Responsibilities of Fighter; and, 22.0 Requirements of Seconds/Cornermen.

A public hearing will be held on August 2, 2010 at 1:00 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Division of Professional Regulation, Office of the Director, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Director at the above address. The final date to receive written comments will be at the public hearing.

The Director will consider promulgating the proposed regulations following the public hearing.

***Please Note: Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

[8800 Combative Sports Entertainment Regulations](#)

DEPARTMENT OF TRANSPORTATION DIVISION OF PLANNING

Statutory Authority: 17 Delaware Code, Sections 132, 137 and 149; 29 Delaware Code, Section 8404 (17 Del.C. §§132, 137 & 149 29 Del.C. §8404)
2 DE Admin. Code 2311

PUBLIC NOTICE

2311 Long-Term Lease Policies and Practices

Background

The Delaware Department of Transportation (DelDOT), through its Division of Planning, is seeking to adopt regulations to manage its real estate leasing practices and policies.

On occasion, circumstances involving parcels of land under DelDOT's control may present an appropriate opportunity for leasing, as a means of managing the Department's property assets until they are either needed for implementation of the State's transportation program, or are determined to be no longer necessary for such purposes, and made available for disposition under the provisions of 17 Del.C. §137.

Public Comment Period

The Department will take written comments on the proposed Leasing Policies and Practices Regulations from July 1, 2010 through July 31, 2010. The proposed Regulations appear below.

Any requests for copies of the proposed Regulations, or any questions or comments regarding this document should be directed to:

V. Wayne Rizzo, Assistant Director
Real Estate Services
Division of Planning
Delaware Department of Transportation
PO Box 778
Dover, DE 19903
(302) 760-2228 (telephone); (302) 739-NEEDFAX (fax)
Wayne.rizzo@state.de.us

2311 Long-Term Lease Policies and Practices

1.0 Long-Term Leases

Any future lease of DelDOT-owned property for a term of five (5) years or more inclusive of any renewal option shall be deemed a "long-term lease", and DelDOT shall follow the regulation below to determine the value of the leasehold interest. This regulation shall not apply to any leaseback transactions; i.e. any lease by and between DelDOT and the owner /tenant in legal occupancy on the date the property was originally acquired by DelDOT.

2.0 Competitive Sealed Bid Process

Unless DelDOT seeks to proceed under 3.0 below, DelDOT will provide an opportunity for parties to publicly bid on the lease of the property through a competitive sealed bid process. DelDOT shall retain the right to reject all bids. Notice of the proposed leasing will be advertised at least twenty (20) days prior to bid opening in a newspaper of general circulation in the county in which the parcel is located.

Conspicuous notice shall also be displayed on the property in question at least 20 days prior to bid opening. The second notice will be published approximately ten (10) days prior to bid opening in a newspaper of general circulation in the county in which the parcel is located. DeIDOT shall offer the property for lease at not less than 85 percent of the approved market value rent established by a licensed appraiser.

3.0 Economic and Civic/Benevolent Purpose Consideration.

- 3.1 In the event DeIDOT should be asked by a party or otherwise consider entering into a long-term lease for economic development consideration or civic/benevolent purposes, DeIDOT will first determine market value rent through a licensed appraiser. For purposes of this regulation, an economic development or civic/benevolent purpose proposal is defined as changes to material conditions under the lease that result in less direct monetary value to DeIDOT in exchange for the development of jobs, economic growth and/or the furtherance of a civic/benevolent purpose. The purpose of this value determination is to allow for a fair, thorough and transparent consideration of the proposed incentive or grant being considered.
- 3.2 In cases where the request involves a potential economic development opportunity, DeIDOT, after making the value determination referenced above, shall refer the matter to the Delaware Economic Development Office ("DEDO") for its determination of whether the economic development benefits justify the value of the reduced lease. To the extent DEDO recommends moving forward with the lease transaction, DEDO and DeIDOT shall first present such proposal to the Council on Development Finance ("CDF") for CDF review and approval, following the required notice provisions for CDF proceedings. In addition, DeIDOT shall provide conspicuous notice on the property in question at least 20 day prior to the CDF meeting where the proposal is considered. If approved by the CDF, DeIDOT may enter into the lease agreement on the condition that the nature of the lease, terms of rent and other material conditions are consistent with the recommendations of DEDO and approval of CDF. DeIDOT will continue to manage the properties during the lease term.
- 3.3 In the cases where the request involves a potential civic or other benevolent purpose, DeIDOT shall hold a public meeting in the general vicinity of property in question. The notice shall clearly state the proposed lessee, the proposed lease term, the estimated value of the reduced lease terms and such notice will be advertised at least twenty (20) days prior to the hearing in a newspaper of general circulation in the county in which the parcel is located. Conspicuous notice shall also be displayed on the property in question at least 20 days prior to bid opening. A second notice will be published approximately ten (10) days prior to bid opening in a newspaper of general circulation in the county in which the parcel is located. In addition, DeIDOT shall notify in writing and seek input from the elected State Representative and Senator of the district where the property is located. Upon conclusion of the hearing and a period of 10 days for additional written comments, the Secretary will determine whether or not DeIDOT will lease the property as proposed.

4.0 General Policies Governing Long-Term Leases of DeIDOT Owned Property

- 4.1 Form leases shall be prepared by in-house legal counsel.
- 4.2 All long-term leases or modifications thereof shall require the review of in-house legal counsel and the signature of the Secretary or the Secretary's designee.
-

Symbol Key

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. **[Bracketed Bold language]** indicates text added at the time the final order was issued. ~~**[Bracketed stricken through]**~~ indicates language deleted at the time the final order was issued.

Final Regulations

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the **Register of Regulations**. At the conclusion of all hearings and after receipt within the time allowed of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the **Register of Regulations**, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

DEPARTMENT OF AGRICULTURE HARNESS RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10005 (3 **Del.C.** §10005)
3 **DE Admin. Code** 501

ORDER

Pursuant to 29 **Del.C.** §10118 and 3 **Del.C.** §10005, the Delaware Harness Racing Commission issues this Order adopting proposed amendments to the Commission's Rules. Following notice and a public hearing on May 11, 2010, the Commission makes the following findings and conclusions:

Summary of the Evidence

1. The Commission posted public notice of the proposed amendments to DHRC Rule 5.1.8 in the April 1, 2010 *Register of Regulations* (Volume 13, Issue 10) and for two consecutive weeks in April in *The News Journal* and *Delaware State News*. The Commission proposed to update Rule 5.1.8 in its entirety after Rules Committee review.

2. The Commission received no written comments. The Commission held a public hearing on May 11, 2010, in which no public comments were made.

Findings of Fact and Conclusions

3. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission's Rules.

4. After considering the rule changes as proposed, the Commission hereby adopts the rule changes as proposed. The Commission believes that these rule changes will allow the Delaware Harness Racing Commission rules to more accurately reflect current policy and procedures.

5. The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on July 1, 2010.

IT IS SO ORDERED this 8th June, 2010.

Beverly H. Steele, Chairman

Robert (Breezy) Brown, Commissioner

George P. Staats, Commissioner

Larry Talley, Commissioner

Patt Wagner, Commissioner

501 Harness Racing Rules and Regulations

(Break in Continuity of Sections)

5.0 Licensees

5.1 General Provisions

(Break in Continuity within Section)

5.1.8 Substance Abuse/Addiction Controlled Substances

5.1.8.1 It is the right and obligation of the Commission to test and establish rules governing substance abuse and controlled substances to preserve the safety and integrity of harness racing.

5.1.8.1.1 All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.

5.1.8.1.2 As used in this regulation, the terms "controlled substance" and "drug paraphernalia" have the meanings provided in the Uniform Controlled Substance Act, 16 Del.C., Ch. 47.

5.1.8.2 It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:

5.1.8.2.1 Is engaged in the illegal sale or distribution of alcohol or any controlled substance;

5.1.8.2.2 Possesses, without a valid prescription, any controlled substance;

5.1.8.2.3 Is intoxicated or under the influence of alcohol or any controlled substance;

5.1.8.2.4 ~~Is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the Commission;~~ Has in his or her possession any drug paraphernalia;

5.1.8.2.5 ~~Has in his possession within the enclosure any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;~~ Refuses to submit to breathalyzer, urine or other alcohol or drug testing when requested by the Presiding Judge or Chief Investigator;

5.1.8.2.6 ~~Refuses to submit to urine or drug testing, when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is~~

- ~~using drugs or alcohol or is based on the licensee's acting as if in an impaired condition; or~~
- 5.1.8.2.7 Presently has ~~drugs (controlled substances) or alcohol~~ in his or her body. ~~With regard to alcohol, t~~The results of a breathalyzer test showing a reading of more than ~~.05~~ 0.02 percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body; provided, however, that with respect to licensees under the age of 21, the presence of any measurable level of alcohol in the blood shall constitute a violation. ~~With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph.~~
- 5.1.8.2.6.1 The breathalyzer shall be maintained and tested to insure accuracy according to the guidelines of the manufacturer.
- 5.1.8.2.7 Presently has any controlled substance in his or her body. The presence of the drug controlled substance in any quantity measured by the testing instrument establishes the presence of the drug controlled substance for purposes of this paragraph.
- 5.1.8.2.7.1 A licensee is responsible for giving notice (on a Commission approved form) to the Chief Investigator that he or she is using a controlled substance or prescription drug under a valid prescription form a licensed physician. No licensee using a controlled substance or prescription drug will be allowed to participate in racing activities unless the physician has certified (on a Commission approved form) that the use of the controlled substance or prescription drug, when used as prescribed, will not adversely affect the licensee's ability to properly and safely carry out his or her responsibilities.
- 5.1.8.3 ~~At its discretion, the Commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the racetrack. The Commission may conduct random or episodic alcohol or drug testing, as well as alcohol or drug testing based on reasonable suspicion.~~
- 5.1.8.3.1 No notice need be given as to onset or cessation of alcohol or drug testing.
- 5.1.8.3.2 The testing of a licensee may include a field test.
- 5.1.8.3.2.1 For licensees whose field test results are positive under this regulation, the field test results shall be confirmed by a laboratory acceptable to the Commission, provided that the licensee may be summarily suspended for up to ten days pending the results of the laboratory confirmation test. If the laboratory test confirms the positive field test the licensee may continue to be summarily suspended pending a Commission hearing.
- 5.1.8.4 ~~When conducted, random drug testing shall apply equally to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.~~
- 5.1.8.5 ~~No notice need be given as to onset or cessation of random testing.~~
- 5.1.8.6 ~~For licensees who are tested under the provisions in this chapter, and whose urine testing shows the presence of drugs (controlled substances) or alcohol, any field screening test results shall be confirmed by a laboratory acceptable to the Commission which shall include Gas Chromatography/Mass Spectrometry (GC/MS) procedures.~~
- 5.1.8.7 ~~When the sample quantity permits, each test sample may be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized to obtain an independent analysis of the urine sample.~~
- 5.1.8.8.2.2 The Commission shall provide for a secure chain of custody for l the sample.
- 5.1.8.9 ~~Assuming that laboratory procedures confirm the field screening test results, all costs for the transportation and testing of the sample, including the costs of the independent~~

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- analysis of the divided portion of the sample, shall be the financial responsibility of the licensee.
- 5.1.8.10 Payment shall be due from the ~~requesting person~~ licensee immediately upon receipt of notice of the costs.
- 5.1.8.11 A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license.
- 5.1.8.12 If there has been a violation, as specified in 5.1.8.2 above, the following procedures will be followed:
- 5.1.8.12.1 The Commission or Presiding Judge may, at its or his discretion,
- 5.1.8.3.3 The testing of a licensee may also include a laboratory test without a prior field test.
- 5.1.8.3.3.1 ~~[The specimen sample quantity collected should be adequate to~~ When the sample quantity permits, each test sample may] be divided into portions so that one portion may be used for the initial ~~[laboratory test test or confirmation]~~ procedure and another portion may be utilized to obtain an independent ~~[drug]~~ analysis of the ~~[specimen test]~~ sample.
- 5.1.8.3.3.2 All costs for the transportation and testing of an independent analysis of the specimen sample shall be the financial responsibility of the licensee. Payment shall be due from the licensee immediately upon receipt of notice of the costs.

*Please note that no additional changes were made to the regulation as originally proposed and published in the April 2010 issue of the *Register* at page 1397 (13 DE Reg. 1397). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

[501 Harness Racing Rules and Regulations](#)

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 251

REGULATORY IMPLEMENTING ORDER

251 Family Educational Rights and Privacy Act (FERPA)

I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 DE Admin. Code 251 Family Educational Rights and Privacy Act (FERPA). This regulation was reviewed subject to the five year review requirement. This regulation contemplates the state, local school districts and charter schools develop, adopt, and maintain policies for educational records that are consistent with the federal Family Educational Rights and Privacy Act (FERPA).

The regulation was proposed for re adoption in the December 2009 *Register of Regulations*. Based on comments received from the Governors Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities the Department is republishing with amendments. The amendments address students served in the Department of Correction system.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Thursday, May 3, 2010, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities endorsing the

amendment while offering a language change. The Department appreciates the recommendation; however, upon review, did not believe the language change was necessary.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 251 Family Educational Rights and Privacy Act (FERPA). This regulation contemplates the state, local school districts and charter schools develop, adopt, and maintain policies for educational records that are consistent with the federal Family Educational Rights and Privacy Act (FERPA).

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 251 Family Educational Rights and Privacy Act (FERPA). Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 251 Family Educational Rights and Privacy Act (FERPA) attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 251 Family Educational Rights and Privacy Act (FERPA) 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** 251 Family Educational Rights and Privacy Act (FERPA) amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 251 Family Educational Rights and Privacy Act (FERPA) 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 June 17, 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 17th day of June 2010.

DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 17th day of June 2010

***Please note that no changes were made to the regulation as originally proposed and published in the April 2010 issue of the *Register* at page 1380 (13 DE Reg. 1380). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[251 Family Educational Rights and Privacy Act \(FERPA\)](#)

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OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122 (14 **Del.C.** §122)
14 **DE Admin. Code** 545

REGULATORY IMPLEMENTING ORDER

545 K to 12 School Counseling Programs

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** 545 K to 12 School Counseling Programs. The amendments include the following: 1) requirement that each school have a written counseling plan rather than a district plan; 2) specificity of the American School Counselors Association's (ASCA) National Standards for School Counseling Programs; 3) the specific elements of the ASCA's national model; 4) the plans are to be updated annually rather than every 3 years; 4) requirement that the written plan be on file at the Department; and 5) clarification that the Department may periodically review the written school plans. In addition, a charter school is not required to follow this regulation for purposes of how the school is addressing the accepted models of student development (14 **DE Admin. Code** 275 Charter Schools).

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on Monday, May 3, 2010, in the form hereto attached as Exhibit "A". The Department received comments from both the State Council for Persons with Disabilities and the Governor's Advisory Council for Exceptional Citizens endorsing the amendments.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 545 K to 12 School Counseling Program. The amendments include the following: 1) requirement that each school have a written counseling plan rather than a district plan; 2) specificity of the American School Counselors Association's (ASCA) National Standards for School Counseling Programs; 3) the specific elements of the ASCA's national model; 4) the plans are to be updated annually rather than every 3 years; 4) requirement that the written plan be on file at the Department; and 5) clarification that the Department may periodically review the written school plans. In addition, a charter school is not required to follow this regulation for purposes of how the school is addressing the accepted models of student development (14 **DE Admin. Code** 275 Charter Schools).

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 545 K to 12 School Counseling Program. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 545 K to 12 School Counseling Program attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 545 K to 12 School Counseling Program 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** 545 K to 12 School Counseling Program amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 545 K to 12 School Counseling Program 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 June 17, 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 17th day of June 2010.

DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 17th day of June 2010

STATE BOARD OF EDUCATION

Teri Quinn Gray, Ph.D., President

Jorge L. Melendez, Vice President

G. Patrick Heffernan

Barbara B. Rutt

Dennis J. Savage

Dr. Terry M. Whittaker, Ed.D.

Dr. James L. Wilson, Ed.D.

***Please note that no changes were made to the regulation as originally proposed and published in the April 2010 issue of the *Register* at page 1382 (13 DE Reg. 1382). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[545 K to 12 School Counseling Programs](#)

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 1205(b) (14 **Del.C.** §1205(b))
14 **DE Admin. Code** 1503

REGULATORY IMPLEMENTING ORDER

1503 Educator Mentoring

I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1503 Educator Mentoring. This regulation requires amendments to reflect recent changes in regulation 14 **DE Admin. Code** 1511 Issuance and Renewal of Continuing License. In addition, amendments include allowing additional mentoring opportunities for employing authorities and clarity in the Department's responsibilities.

Notice of the proposed amendment of the regulation was published in the *News Journal* and the *Delaware State News* on April 1, 2010 in the form hereto attached as Exhibit "A". The notice invited written comments. No written comments were received.

II. Findings of Facts

The Professional Standards Board and the State Board of Education find that it is appropriate to amend this regulation to comply with changes in statute.

III. Decision to Amend the Regulation

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation 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 the regulation amended shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 1503 of the *Administrative Code of Regulations* of the Department of Education.

V. Effective Date of Order

The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 3rd DAY OF JUNE, 2010

Kathleen Thomas, Chair
 Michael Casson
 Joanne Christian
 Samtra Devard
 Marilyn Dollard
 Karen Gordon
 Cristy Greaves
 Lori Hudson

David Kohan
 Jill Lewandowski
 Wendy Murray
 Gretchen Pikus
 Whitney Price
 Shelley Rouser
 Karen Schilling-Ross
 Juanita Wilson

IT IS SO ORDERED the 17th day of June, 2010.

DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 17th day of June, 2010

State Board of Education

Teri Quinn Gray, Ph.D., President
 Jorge L. Melendez, Vice President
 G. Patrick Heffernan
 Barbara B. Rutt

Dennis J. Savage
 Dr. Terry M. Whittaker, Ed.D.
 Dr. James L. Wilson, Ed.D.

1503 Educator Mentoring

1.0 Content

This regulation shall apply to mentoring activities required of ~~(1) all educators who hold an Initial License and (2) all educators who hold a Standard or Professional Status Certificate issued prior to August 1, 2003, or a Continuing, or Advanced License; who are new to the State of Delaware, new to an employing authority, or who move from one category of position to another (i.e., teacher to administrator), pursuant to 14 Del.C. §1210(e) Ch. 12.~~

2.0 Definitions

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

"Approved Mentoring Program" means a mentoring program approved by either the Department or the Standards Board.

"Contact Hours" means the face-to-face time a Mentor or Lead Mentor spends with his/her Protégé **[working specifically on mentoring activities].**

"Department" means the Delaware Department of Education.

"DPAS" means an approved State educator performance evaluation system pursuant to 14 Del.C. Ch. 12, Subchapter VII.

"Educator" means a ~~public school employee who holds a license issued~~ person licensed and certified by the State under the provisions of 14 Del.C. Ch. 12, and includes teachers, specialists, and administrators, and as otherwise defined by the Standards Board and the State Board pursuant to 14 Del.C. §1203, but does not include substitute teachers 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 Standards Board and approved by the State Board. For the purposes of this regulation, ~~[licensed and certified alternative routes and charter school teachers, and teachers or specialists individuals~~ **"the term educator" shall also include substitute teachers** who are employed on **[long-term]** temporary contracts of **[of including but not limited to]** ninety-one (91) days or longer in duration, ~~[shall also be included under the term "educator"~~ **with the intent or agreement to use the teaching experience to meet the alternative to the student teaching experience in the Initial License under 14 Del.C. §1210. This definition shall be construed to provide mentoring to long term substitute teachers who are currently working towards their Initial License.]**

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

"Experienced Educator" is an educator who holds a Continuing or Advanced License, or an educator who holds ~~held~~ a Standard or Professional Status Certificate issued prior to August 1, 2003, ~~and a Standard Certificate in the area assigned. An educator from another jurisdiction who has completed three (3) or more years of successful teaching may be considered an experienced educator.~~

"Lead Mentor" means a teacher, specialist, or administrator who holds a Standard or Professional Status Certificate issued prior to August 1, 2003, or a Continuing or Advanced License, who has participated in the training specified ~~approved by the Department for~~ **Lead m**Mentors and who is employed by an employing authority as a Lead Mentor and performs the duties and responsibilities assigned that position. Educators serving as Lead Mentors must have satisfactory DPAS evaluations, and may not be on a DPAS improvement plan.

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

"Mentor" means an educator ~~teacher, specialist, or administrator who holds a Standard or Professional Status Certificate issued prior to August 1, 2003, or a Continuing or Advanced License, who~~ **and** has participated in the training for Mentors specified by the Department and the employing authority. Educators serving as Mentors must have satisfactory DPAS evaluations, and may not be on a DPAS Improvement Plan.

~~“Mentoring” means activities prescribed by the Department or other employing authority in which a holder of an Initial License must engage during the three year term of the Initial License. Mentoring also means activities prescribed by the Department or other employing authority for educators who are new to Delaware or who move to another employing authority. training and service in mentoring support or assistance provided through a formally organized approved mentoring program or such supplemental mentoring programs as required by regulation or by the educator’s employing authority. Mentoring includes, but is not limited to the mentoring programs required for educators during their three (3) year Initial Licensure period, a Continuing Licensure period, or any other mentoring program as required by law.~~

~~“NASSP” means the National Association of Secondary School Principals.~~

~~“New to a Category” means that an educator has moved from the position of a teacher to the position of either a specialist or an administrator; has moved from the position of an administrator to the position of a teacher or a specialist; or has moved from the position of a specialist to the position of a teacher, an administrator or to a different type of certificated specialist position. Examples include but are not limited to a teacher changing positions to a school nurse, or a teacher changing positions to a principal or assistant principal, or a school nurse changing positions to a school counselor, or a teacher changing positions to a school counselor.~~

~~“New Educator” means an educator who holds an Initial License.~~

~~“Site Coordinator” means an individual appointed by an employing authority to oversee an educator mentoring program.~~

~~“Specialist” is 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.~~

~~“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.~~

~~“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.~~

~~["Successful Teaching" means the educator has demonstrated successful teaching experience by submitting documentation to the Department or employing authority of a minimum of three (3) years of teaching experience and of having received at least two (2) satisfactory evaluations from the other jurisdiction that the Department or employing authority finds are the equivalent of the two (2) satisfactory summative evaluations required of a Delaware educator.~~

~~"Teaching Experience" means meeting students on a regularly scheduled basis, planning and delivering instruction, developing or preparing instructional materials, and evaluating student performance under a State credential in any PreK to 12 public school setting or as approved by the Department.]~~

3.0 Mentoring Programs

- 3.1 The Department shall develop and approve educator mentoring programs for the following:
- 3.1.1 All mentoring programs for teachers shall be aligned with Danielson's (2007) "A Framework for Teaching" and shall include training and support of the components of DPAS, including descriptive, non-evaluative feedback.
 - 3.1.2 All mentoring programs for specialists shall be aligned with applicable national specialist standards, Danielson's (2007) "A Framework for Teaching" and shall include training and support of the components of DPAS, including descriptive, non-evaluative feedback.
 - 3.1.3 All mentoring programs for administrators shall be based on 14 **DE Admin. Code** 1590 Delaware Administrator Standards, aligned with Danielson's (2007) "A Framework for Teaching" and shall include training and support of the components of DPAS, including descriptive, non-evaluative feedback.
- 3.2 An employing authority may develop then implement a distinct educator mentoring program as specified in Sections 4, 5 or 6:
- 3.2.1 Each mentoring program shall meet the requirements in the distinct mentoring programs as listed in Sections 4, 5 or 6.

- 3.2.2 The employing authority shall submit each distinct mentoring program plan to the Standards Board for review and consideration of approval.
- 3.2.3 The employing authority's mentoring program must be approved by the Standards Board a minimum of three (3) months prior to implementation.
- 3.3 Failure by an educator to successfully complete mentoring requirements[; shall result in the denial of the Continuing License or suspension of the license as provided in 14 DE Admin. Code 1511 Issuance and Renewal of Continuing License.
- ~~3.3.1 Failure by a new educator to successfully complete the requirements of a new educator mentoring program shall result in the denial of a Continuing License.~~
- ~~3.3.2 Failure by an experienced teacher, specialist or administrator new to the State of Delaware, or those educators who are new to a category, to successfully complete the requirements of the appropriate approved mentoring program within the stipulated timeframe shall result in the suspension of their Continuing or Advanced License.]~~
- 3.4 The Department shall also develop the following programs:
 - 3.4.1 A mentor training program for Lead Mentors, and
 - 3.4.2 A mentor training program for ~~[Administrative Administrator]~~ Lead Mentors

34.0 New Educator Mentoring

- 34.1 In accordance with 14 ~~Del.C.~~ §1210(c), educators ~~who are new to the profession and who hold an Initial License shall participate in mentoring activities prescribed~~ approved by the Department or the Standards Board. Each new educator ~~will~~ shall at a minimum be assigned a Mentor for his or her first year ~~in the profession on an active Initial License, with continuing support in years two and three, who,~~
- 4.1.1 The Mentor will shall assist the new educator in becoming acclimated to the role, the school or other setting, and the Delaware content standards ~~and, the~~ Delaware Professional Teaching Standards, applicable national specialist standards, or the Delaware Administrator Standards.
- 4.1.2 The new educator will shall meet with his or her Mentor for at least thirty (30) documented hours, which may include a combination of in school and after school time, during the first year of employment.
- 4.1.3 The assignment of a Mentor beyond the first year of employment in Delaware is at the discretion of the employing authority, based upon a review of the educator's performance.
- 4.1.4 The employing authority shall provide continuing support to the new educator during the second and third year of their Initial License.
- 34.2 The new educator shall;
 - 4.2.1 ~~during the three year term of the Initial License, a~~Attend such activities as are planned by the Department or employing authority during the three (3) year term of the Initial License, as part of the specified Nnew Eeducator Mmentoring Pprogram and offered ~~in~~ by individual employing authorities; and
- 3.3 The new educator shall participate in workshops and other activities ~~offered for new educators as part of the New Educator Mentoring Program by the employing authority.~~
- ~~34.2.2 The new educator shall e~~Complete the requirements of the ~~[appropriate applicable]~~ Nnew Eeducator Mmentoring Pprogram, which shall consist of no more than sixty (60) hours in the first year, inclusive of meetings between the Mentor and the new educator, and no more than thirty (30) hours in the second and third years.
- 3.4.4 The New Educator Mentoring Program shall be aligned with Danielson's (1996) "A Framework for Teaching" and shall include training and support in the components of the Delaware Performance Appraisal System, ~~including descriptive, non-evaluative feedback. In the first year, 18 hours of training shall be based on the Pathwise Induction Program.~~
- 3.5 Failure by a new educator to complete the requirements of the New Educator Mentoring Program shall result in the denial of a Continuing License.

45.0 Experienced Educators New to the State of Delaware

- 4.1 ~~Experienced teachers and specialists new to the State of Delaware who hold an Initial License shall participate in mentoring activities prescribed by the Department. Each teacher or specialist shall be assigned a mentor for the first year of employment in the State. The mentor will assist the new teacher or specialist in becoming acclimated to the role, the school or other setting, and Delaware content and teacher or specialist standards. The teacher or specialist will meet with his or her mentor at least 30 documented hours, which may include a combination of in school and after school time, during the first year of employment. The assignment of a mentor beyond the first year of employment in Delaware is at the discretion of the employing authority, based upon a review of the teacher's or specialist's performance.~~
- 4.1.1 ~~The teacher or specialist shall, during the three year term of the Initial License, attend such activities as are planned by the Department and offered by individual employing authorities.~~
- 4.1.2 ~~The teacher or specialist shall also participate in workshops and other activities concerning employing authority specific practices offered for new teachers and specialists by the employing authority.~~
- 4.2 ~~Experienced teachers and specialists~~ educators new to the State of Delaware who hold a Continuing or Advanced License shall, within the first year of employment, participate in, and successfully complete, an Department sponsored approved mentoring program consisting of at least thirty (30) documented hours, which focuses on current best practices in curriculum, instruction and assessment aligned to state or national standards.
- 4.3 ~~Experienced educators new to the State who are employed as school administrators shall participate in mentoring activities specified by the Department, as well as in mentoring activities required by the employing authority.~~
- 4.4 ~~Experienced teachers and specialists new to the State of Delaware who hold Initial Licenses shall complete the requirements of the New Educator Mentoring Program, which shall consist of no more than 60 hours, inclusive of meetings between the mentor and the experienced teachers and specialists.~~
- 4.4.1 ~~The Educator Mentoring Program shall be aligned with Danielson's (1996) "A Framework for Teaching" and shall include training and support in the components of the Delaware Performance Appraisal System, including descriptive, non evaluative feedback. In the first year, 18 hours of training shall be based on the Pathwise Induction Program.~~
- 4.5 ~~Failure by an experienced teacher or specialist new to the State of Delaware to complete the requirements of the Educator Mentoring Program shall result in the denial of a Continuing License.~~

5.0 Experienced Delaware Educators New to an Employing Authority

- 5.1 ~~Experienced Delaware educators who hold a Continuing or Advanced License, or a Standard or Professional Status Certificate issued prior to August 1, 2003, who move to a different employing authority shall, within the first year of employment, participate in, and complete, an employing authority sponsored mentoring program which focuses on current best practices in curriculum, instruction and assessment aligned to state standards.~~
- 5.2 ~~Experienced Delaware administrators moving to a new employing authority shall participate in that employing authority's designated mentoring program during the first year of employment.~~

6.0 Experienced Delaware Educators New to a Category of Employment [Reserved]

- 6.1 Experienced educators who are new to a category shall within the first year of employment be assigned a Mentor, and participate in and complete an approved mentoring program consisting of at least thirty (30) documented hours which focuses on current best practices in curriculum, instruction, assessment or a specialist's or an administrator's position within the district or charter school and is aligned to State and national standards.

6.1.1 The assignment of a Mentor beyond the first year of employment is at the discretion of the employing authority, based upon a review of the teacher's, specialist's or administrator's performance.

7.0 Duties and Responsibilities of Mentors

7.1 Lead Mentors

7.1.1 Lead Mentors shall work a minimum of forty-five (45) documented hours per school year in the Department specified or approved Lead Mentor activities. Lead Mentor activities may include, but are not limited to, a combination of in school and after school time per year in the program in a leadership position, planning mentor training, providing mentor training to aspiring Mentor, assisting Mentors with specific issues, and other responsibilities as directed by the site coordinator.

7.1.42 Teacher and Specialist ~~Lead m~~Mentors must shall: satisfactorily complete training in mentoring and coaching development approved by the Department for Lead Mentors. A minimum of one (1) Lead Mentor per district shall be trained in Danielson's (2007) "A Framework for Teaching" or the ~~[appropriate applicable]~~ Department approved specific specialist mentoring program.

~~7.1.1.1 Satisfactorily complete training in mentoring and coaching development provided by the Department for lead mentors. A minimum of one lead mentor per district shall be trained in the Pathwise Induction Program; and~~

~~7.1.1.2 Work a minimum of 45 documented hours per year in Lead Mentor Activities. Lead Mentor activities may include, but are not limited to, a combination of in school and after school time, per year in the program in a leadership position, planning mentor training, providing two day mentor training to aspiring mentors, assisting mentors with specific issues, and other responsibilities as directed by the site coordinator.~~

7.1.[23 ~~Administrative Administrator]~~ Lead Mentors must shall; satisfactorily complete training in mentoring and coaching development approved by the Department and based on 14 **DE Admin. Code** 1590 Delaware Administrator Standards and aligned with Danielson's (2007) "A Framework for Teaching".

~~7.1.2.1 Satisfactorily complete training in mentoring and coaching development provided by the NASSP Leadership Development and Assessment Program.~~

~~7.1.2.2 Satisfactorily complete training in the mentoring and coaching facilitator development provided by the NASSP Leadership Development and Assessment Program or Assessor Training for the Developmental Assessment Center provided by the NASSP Leadership Development and Assessment Program;~~

~~7.1.2.3 Work a minimum of 45 documented hours per year in Administrative Lead Mentor activities. Administrative Lead Mentor activities may include, but are not limited to, a combination of in school and after school time, in the program in a leadership position, planning mentor training, providing two day mentor training as prescribed by NASSP to aspiring mentors, assisting mentors with specific issues, and other responsibilities as directed by the site coordinator; and~~

~~7.1.2.4 Serve on the administrative mentoring program advisory committee.~~

7.2 Educator Mentors **[shall:]**

7.2.1 Facilitate thirty (30) documented contact hours, which may include a combination of in school and after school time, with their protégées annually which are designed to help the new teacher or specialist acquire additional skills and knowledge appropriate to their specific positions, and

7.2.2 Submit contact log documentation accounting for all mentoring activities provided during the specified time period to their coordinator by January 15 and May 15. This documentation shall be forwarded to the Department by May 30.

7.2.43 Teacher and Specialist Mentors must shall:

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- 7.2.43.1 Satisfactorily complete training in mentoring and coaching development aligned with Danielson's (2007) "A Framework for Teaching" or the appropriate Department approved specific specialist mentoring program provided by the Lead Mentors; and
- 7.2.43.2 Attend structured meetings concerning the mentoring program as directed by the district; and
- 7.2.1.3 ~~Facilitate 30 documented contact hours, which may include a combination of in-school and after-school time, with their protégées annually which are designed to help the new teacher acquire additional skills and knowledge appropriate to their specific positions; and~~
- 7.2.1.4 ~~Submit contact log documentation to site coordinator January 15 and May 15. This documentation must be forwarded to the Department by May 30.~~
- 7.2.24 **[Administrative Administrator]** Mentors ~~must~~ shall:
- 7.2.24.1 Satisfactorily complete training in ~~Mentoring and Coaching Development provided by the NASSP Leadership Development and Assessment Program; based on 14 DE Admin. Code 1590 Delaware Administrator Standards and aligned with Danielson's (2007) "A Framework for Teaching" and DPAS, and~~
- 7.2.24.2 ~~Attend a minimum of three (3) structured meetings with protégées; Satisfactorily complete training in DPAS, and~~
- 7.2.24.3 ~~Facilitate 30 documented contact hours annually in Administrative mentoring activities. Administrative mentoring activities may include, but are not limited to, a combination of in-school and after-school activities which are designed to help the new administrator link school leadership theory and on-the-job practice; Attend a minimum of three (3) structured meetings with protégées;~~
- 7.2.2.4 ~~Submit contact log documentation to site coordinator January 15 and May 15. This documentation must be forwarded to the Department by May 30.~~

8.0 Payment of Salary Supplement

Mentors and Lead Mentors who are paid in accordance with the provisions of 14 **Del.C.** §1305 shall be paid an extra responsibility salary supplement annually, upon documentation of satisfactory fulfillment of duties and responsibilities, in accordance with the schedule adopted annually by the Standards Board, with concurrence of the State Board.

8 DE Reg. 347 (8/1/04)

13 DE Reg. 1260 (04/01/10)

Renumbered effective 6/1/07 - see Conversion Table

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Chapter 79, §7903
(16 **Del.C.**, Ch. 79, §7903)

ORDER

4455 Delaware Regulations Governing a Detailed Plumbing Code

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (“DHSS”) initiated proceedings to adopt the State of Delaware *Regulations Governing A Detailed Plumbing Code*. The DHSS proceedings to adopt regulations were initiated pursuant to 29 **Delaware Code** Chapter 101 and authority as prescribed by 16 **Delaware Code**, Chapter 79, § 7903.

On April 1, 2010 (Volume 13, Issue 10), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Delaware Code** Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by April 30, 2010, or be presented at a public hearing on April 22, 2010, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

Verbal comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the accompanying “Summary of Evidence.”

FINDINGS OF FACT:

Based on comments received, no changes were made to the proposed regulations. The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing A Detailed Plumbing Code are adopted and shall become effective July 10, 2010, after publication of the final regulation in the *Delaware Register of Regulations*.

Rita M. Landgraf, Secretary

SUMMARY OF EVIDENCE

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations Governing A Detailed Plumbing Code were published in the Delaware State News, the News Journal and the Delaware Register of Regulations. Verbal comments were received on the proposed regulations during the public comment period (April 1, 2010 through April 30, 2010). Entities offering verbal comments included:

- Mr. Dean Sherman, Professional Plumber, Vice-Chair for the Plumbing & Heating Board of Professional Regulation
- Mr. Rob Briccotto, President of the DE State Plumbing & HVACR Board
- Mr. Bruce Collins, Plumbing Contractor
- Mr. Frank Bucci, Plumber, I.D. Griffith
- Mr. Mike Mulvaney, Licensed Plumber
- Mr. Charles Robbins, Professional Plumber, NCC Technical Advisory Committee
- Mr. Carey Sadler, Licensed Professional Plumber, Harry Caswell
- Mr. Curtis Mitchell, Ferguson Enterprises

Public comments and the DHSS (Agency) responses are as follows:

- There was a comment expressing concern “about some of the vagueness of some of the intent of the adoption of the 2009 plumbing code (International Plumbing Code - IPC) along with the amendments.” The individual commenting indicated that he did not have any issues or problems with the IPC itself, as the IPC is developed by professionals in the industry. Rather, he is concerned about “what the intent of the Division of Public Health is to do, with the language in the amendments, along with a couple other legislative pieces that are already in effect, House Bill 72 and Senate Bill 160 ... and part of that plumbing

code is that there is a one hundred dollar permitting fee rolled up in that. That's why I am here, to hopefully learn exactly what your intent is".

Agency Response: The Agency appreciates and acknowledges your comment. The Division of Public Health is charged with enforcing Chapter 79 of Title 16 of the Delaware Code, Basic Plumbing Principles. Upon execution of the statewide plumbing regulations every political subdivision shall have the option of adopting and enforcing the proposed State of Delaware Regulations Governing a Detailed Plumbing Code, or adopting and enforcing the minimum standards set forth in the most recently adopted version of the International Plumbing Code. The Division of Public Health shall issue plumbing permits and a \$100 fee shall be assessed for all plumbing permits issued by the Division of Public Health. The Division of Public Health will not be issuing permits to a political subdivision that is adopting and enforcing the proposed State of Delaware Regulations Governing a Detailed Plumbing Code.

- There were multiple comments regarding a \$100 fee that the Division of Public Health shall assess for plumbing permits.

Agency Response: The Agency appreciates these comments but we are only taking comments from the public regarding the adoption of the most recent version of the International Plumbing Code as published in the April 1, 2010 edition of the Register of Regulations, Volume 13, Issue 10, the proposed Regulations Governing a Detailed Plumbing Code.

- The following comment was made, "I think where some of the unclarity comes, if you go to your amendment 2.27 that you're trying to change. The last line says, and has a permit issued by the Delaware Division of Public Health. That's all encompassing in the State of Delaware. You're not defining areas that are already covered by municipalities and towns that have a plumbing inspection department. So I think the wording needs to be changed on that last line."

Agency Response: The Agency respectfully disagrees. Amendment 2.27 states "Amend Subsection 917.1 by adding thereto after the last sentence the following: "Air admittance valves shall be approved by the Deputy Code Official prior to use or installation."

- The following comment was made, "I did have a question on 2.7, where it says, any permit issued by the State of Delaware... I was saying if the municipality has an inspection agency that would take care of it; the permit wouldn't need to be obtained from the state. Just some clarity..."

Agency Response: The Agency appreciates and acknowledges your comment. To provide clarity, the Division of Public Health is charged with enforcing Chapter 79 of Title 16 of the Delaware Code. Upon execution of the statewide plumbing regulations every political subdivision shall have the option of adopting and enforcing the proposed State of Delaware Regulations Governing a Detailed Plumbing Code, or adopting and enforcing the minimum standards set forth in the most recently adopted version of the International Plumbing Code. The Division of Public Health shall issue plumbing permits and a \$100 fee shall be assessed for all plumbing permits issued by the Division of Public Health. The Division of Public Health will not be issuing permits to anyone if there is a political subdivision that is adopting and enforcing the proposed State of Delaware Regulations Governing a Detailed Plumbing Code; therefore, if a municipality (political subdivision) has an inspection agency that adopts and enforces the proposed State of Delaware Regulations Governing a Detailed Plumbing Code, the Division of Public Health will not be issuing a permit to anyone in that municipality.

- There was a comment made in regard to amendment (Section) 2.8. "By reading ...it appears that your department has the ability to, in the line that says, any person who shall fail to comply with the requirement thereof of the plumbing code shall be subject to penalties provided by Title 16, Chapter 79 of the

Delaware Code. That puts you in the enforcement business of trying to address unlicensed plumbers out there”. Additional comments were also made regarding this issue.

Agency Response: The Agency respectfully disagrees. Section 2.8 of the amendments refers to Chapter 79 of Title 16 of the Delaware Code. Section 7934 of the Code states:

“§ 7934. Penalties.

Whoever violates or assists in the violation of this chapter or any order, code or regulation issued under this chapter shall be, for each offense, fined not less than \$25 nor more than \$100 or imprisoned not more than 60 days, or both.”

The issue of addressing unlicensed plumbers falls under Title 24 Chapter 18.

The public comment period was open from April 1 – April 30, 2010. Based on comments received, no changes were made to the proposed regulations.

Verifying documents are attached to the Hearing Officer’s record. The regulation has been approved by the Delaware Attorney General’s office and the Cabinet Secretary of DHSS.

***Please note that no changes were made to the regulation as originally proposed and published in the April 2010 issue of the *Register* at page 1276 (13 DE Reg. 1276). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[4455 Delaware Regulations Governing a Detailed Plumbing Code](#)

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

ORDER

11000 Child Care Subsidy Program

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (“Department”) / Division of Social Services initiated proceedings to provide information of public interest with respect to the Child Care Subsidy Program regarding [~~Authorizing Child Care Services Acceptable Service Authorizations~~]. The Department’s proceedings were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of public comment pursuant to 29 **Delaware Code** Section 10115 in the May 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 2010 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSED CHANGE

The proposed change described below amends Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding [~~Authorizing Child Care Services~~ **Acceptable Service Authorizations**].

Statutory Authority

45 CFR §98.40, *Compliance with applicable State and local regulatory requirements*

Summary of Proposed Change

DSSM 11006.3, ~~Service Authorization~~ [~~Authorizing Child Care Services~~ **Acceptable Service Authorizations]**: This change is proposed: 1) to rename this section to better describe its content; and, 2) to add information and to reformat the text to further clarify the requirements for authorizing child care services. The intent of the proposed amendment is to simplify language and improve readability.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. DSS has considered each comment and responds as follows.

First, the revisions represent an improvement over the current version since they use specific subparts which provide greater clarity and guidance to providers. Second, the GACEC and the SCPD endorse the proposed regulation subject to 2 grammatical revisions. First, in Par. 4, we recommend substituting "initiating services" for "with your services". The regulation is written in the third person, not the second person. Second, in Par. 3, since there is a plural pronoun (their) with a singular antecedent (client), DSS could consider substituting "his/her" for "their" or substituting "DSS" for "their DSS worker".

Agency Response: DSS agrees. The revised policy at DSSM 11006.3 reflects the recommended changes. Your endorsement is appreciated, thank you.

Additionally, DSS initiated changes to the proposed amendment by changing the title of the policy from *Authorizing Child Care Services* to *Acceptable Service Authorizations*. There is already in place child care policy with the title, *Authorizing Child Care Services*, at DSSM 11004.9. Also, DSS further clarifies the identification of the client as parent/caretaker, where appropriate. These changes are indicated by [~~bracketed bold strikethrough~~] and [**bracketed bold type**].

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the May 2010 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Child Care Subsidy Program policies regarding *Acceptable Service Authorizations* is adopted and shall be final effective July 10, 2010.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATION #10-32**REVISION:****11006.3 ~~Service Authorization~~ [~~Authorizing Child Care Services~~ **Acceptable Service Authorizations**]**

~~Each eligible child's care must be authorized on the DSS Purchase of Child Day Care Authorization Form (Form 618d) which the provider will receive from the Division upon initial enrollment and each subsequent change~~

and/or redetermination. The provider should request to see the DSS Client Payment Agreement Form (Form 601b) from the parent/caretaker on the first day of attendance if they have not received Form 618d by mail.

The provider should notify the child's caretaker in writing the month before the form expires to be redetermined eligible for services. Payment cannot be made after the expiration date unless a new form has been issued.

Need for service codes are listed on Form 618d.

This policy applies to all Licensed, Licensed Exempt, Relative/Non-Relative Providers.

1. Eligible Children Must Be DSS-Approved for Provider to Receive Payment

2. Child Care Providers Will Receive Authorization Notice

Providers will receive authorization notice for each child at first enrollment and for each change or redetermination. The providers will receive a computer-generated copy of the ~~parent's~~ parent/caretaker authorization letter for each child in their care. In the case of a computer problem or last-minute authorization, the provider may instead receive a handwritten authorization form (Subsidized Child Care Client Agreement- Form 626) from the DSS worker to validate the provider services. Providers will also receive a computer-generated authorization letter from DSS when data entry for the handwritten form has been completed.

Authorizations for service will show:

- The child's name and ID number.
- The service start and end date.
- The number of service days per week.
- The length of the service day (part day, full day, etc.)
- Any co-pay the parent must pay.

3. Providers Verify Authorization Information

The child care provider must verify information on the authorization form. DSS will only pay for those services stated on the form. If a provider feels the service information is not accurate, the ~~client~~ parent/caretaker must contact ~~their~~ DSS ~~worker~~ to have the information adjusted.

4. Provider must have the Authorization Letter or Form 626 at the start of Service

DSS cannot guarantee payments for services provided without a valid authorization in place. All providers must have Purchase of Care (POC) ~~paperwork~~ or form 626] to support the start date of a child ~~with your services~~.

5. Only DSS Authorized Children Will Be Accepted for Continued Services

Payment cannot be made after the expiration date unless a new DSS authorization has been issued. Providers cannot assume that ~~clients~~ parents/caretakers with expired ~~whose~~ authorizations ~~have expired~~ will continue to be eligible for services.

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 311 & 2501 (18 Del.C. §§311, 2501)
18 DE Admin. Code 704

ORDER

704 Homeowners Premium Consumer Comparison

Proposed Regulation 704 relating to Homeowners Premium Consumer Comparison was published in the *Delaware Register of Regulations* on May 1, 2010. The comment period remained open until June 7, 2010. There was no public hearing on proposed Regulation 704. Public notice of the proposed Regulation 704 in the *Register of Regulations* was in conformity with Delaware law.

Summary of the Evidence and Information Submitted

No comment was received on the proposed amendments.

Findings of Fact

Based on Delaware law and the record in this docket, I make the following findings of fact:

The requirements of the proposed amendments to Regulation 704 best serve the interests of the public and of insurers and comply with Delaware law.

Decision and Effective Date

Based on the provisions of 18 **Del.C.** §§314, 1111 and 29 **Del.C.** §§10113-10118 and the record in this docket, I hereby adopt amended Regulation 704 as may more fully and at large appear in the version attached hereto to be effective on July 11, 2010.

Text and Citation

The text of the proposed Regulation 704 last appeared in the *Register of Regulations* Vol. 13, Issue 11, pages 1388-1390.

IT IS SO ORDERED this 14th day of June 2010.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

704 Homeowners Premium Consumer Comparison**1.0 Authority**

- 1.1 This regulation is adopted by the Commissioner pursuant to the authority granted by 18 **Del.C.** §§311 and 2501 and promulgated in accordance with the Delaware Administrative Procedures Act, 29 **Del.C.** Chapter 101.

2.0 Definitions

"Homeowners market share" shall be determined by data from the National Association of Insurance Commissioners for the prior calendar year for line number 04 ("Homeowners Multiple Peril) for the State of Delaware.

"Insurer" shall mean every insurer licensed to offer and sell non-commercial residential homeowners insurance coverage in the State of Delaware.

"Rate estimates" shall mean the estimated annual insurance premiums produced for the Department's rate survey.

"Rate survey" shall mean a request by the Department that insurers calculate estimated annual insurance premiums based on hypothetical consumer profiles. The rate survey shall include estimated premiums for zip codes or other geographic area identified by the Department.

3.0 Scope

- 3.1 Insurers with .01 percent or more of the Delaware homeowners insurance market share shall be required to complete the full rate survey required by this regulation.
- 3.2 Insurers with less than .01 percent of homeowners insurance market share shall not be required to complete a rate survey pursuant to this regulation.
- 3.3 The provisions of this regulation shall only apply to policies of insurance covering those properties described in 18 **Del.C.** §4120.

4.0 Insurer Information

- 4.1 Each insurer will be provided with an account on the Department's website to provide basic company information and to administer the submission of rate survey data.

5.0 Survey Completion Deadline

- 5.1 The Department of Insurance shall make available the rate survey request format with hypothetical consumer profiles, coverage levels, and other information necessary for calculating rate estimates on the Department's website no later than ~~March~~ April 1st of each year.
- 5.2 In 2007, all required rate survey data from insurers must be submitted to the Department on or before April 15, 2007. In all subsequent years, all required rate survey data from insurers must be submitted to the Department on or before ~~April~~ May 1 of each year.
- 5.3 Rate survey data that is incomplete or not reported according to the Department's instructions will be returned to the insurer for correction and must be resubmitted within 10 business days.

6.0 Survey Format

- 6.1 Insurers shall provide rate estimates based on rates in effect as of March 1 of the year when the rate survey is being completed.
- 6.2 All rate estimates shall be rounded to the nearest dollar.
- 6.3 Insurers shall submit rate data utilizing an electronic spreadsheet provided by the Department or by other means specified by the Department. Insurers shall be required to upload the data to the Department via the internet.

7.0 Responsibility for Information and Data

- 7.1 Insurers shall be responsible for the accuracy of company information and rate data submitted to the Department for publication. As part of the submission process, insurers will be subject to examination to verify the accuracy of the data being submitted.

8.0 Consumer Quote Requests

- 8.1 Insurers shall provide a single electronic mail address to the Department for the purpose of allowing consumers to request a personalized homeowners insurance premium quote as part of the rate comparison process.
- 8.2 The insurer shall be required to provide a direct email response to the consumer, confirming receipt of the quote request.
- 8.3 The insurer shall be required to maintain an electronic log of all email responses to consumer requests for rate quotes for a period of one year after the request. The electronic log shall be capable of being transferred to the Department upon request.

9.0 Penalties

- 9.1 Insurers that do not comply with this regulation are subject to the provisions of 18 **Del.C.** §329.

10.0 Severability

- 10.1 If any provision of this Regulation or the application of any such provision to any person or circumstance shall be held invalid the remainder of such provisions, and the application of such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected.

11.0 Effective Date

- 11.1 This Regulation ~~shall become~~ was originally effective February 15, 2007.
- 11.2 The amended Regulation shall become effective ten days after execution of an Order by the Commissioner and publication.

10 DE Reg. 1304 (02/01/07)

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 314 & 1111 (18 **Del.C.** §§314, 1111)
18 **DE Admin. Code** 901

ORDER

901 Arbitration of Automobile and Homeowners' Insurance Claims

Proposed Regulation 901 relating to Arbitration and published in the *Delaware Register of Regulations* on May 1, 2010, is hereby Withdrawn.

IT IS SO ORDERED this 8th day of June 2010.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

* **Please Note:** The text of the proposed regulation, which is now being withdrawn, is presented below:

901 Arbitration of Automobile and Homeowners' Insurance Claims

1.0 Purpose and Statutory Authority

- 1.1 The purpose of this Regulation is to implement 18 **Del.C.** §331, ~~Ch. 23~~, and 21 **Del.C.** §§2118 and 2118B by establishing the procedures for the arbitration of certain claims for benefits available under automobile or homeowners' policies or agreements, and/or those statutes. This Regulation is promulgated pursuant to 18 **Del.C.** §§311, 2312, and 29 **Del.C.**, Ch. 101. This Regulation should not be construed to create any cause of action not otherwise existing at law.

5 DE Reg. 1746 (3/1/02)

2.0 Insurer's Duty to Arbitrate

- 2.1 Every insurer providing coverage or benefits in this State for automobile or homeowners' insurance policies shall submit to arbitration of covered claims (as defined by 18 **Del.C.** §331, and 21 **Del.C.** §§2118 and 2118B) by their insureds unless it is exempt from arbitration by the Insurance Commissioner.

5 DE Reg. 1746 (3/1/02)

3.0 Exemption from Arbitration

- 3.1 Insurers requesting exemption from the duty to arbitrate under a homeowners' insurance policy shall submit to the Insurance Commissioner the following:
- 3.1.1 A request for exemption from arbitration;
 - 3.1.2 Copies or description of policies or plans for which exemption is requested;
 - 3.1.3 A detailed description of its internal review or appraisal procedures;
 - 3.1.4 Copies of documents to be provided to the insured describing its internal procedures including a statement that the insurer will be bound by a decision favorable to the insured;
 - 3.1.5 A certification by an officer of the insurer with binding authority that the procedures described will be followed in all cases, that the insurer will be bound by a decision favorable to the insured and that all documents submitted are true and accurate; and
 - 3.1.6 Payment of a non-refundable fee of \$75.00.
- 3.2 The Commissioner shall exempt a homeowner insurer from arbitration under this Regulation and continue such exemption as long as the internal appraisal or review procedures submitted under section 3.1 contain the following minimum requirements:
- 3.2.1 The internal appraisal or arbitration procedure is performed by a panel of at least three individuals with both insured and insurer to select an equal number. Those selected by the parties shall select another member who shall preside over the panel. However, neither the insurer's assigned adjuster nor his or her supervisor may participate on the panel nor anyone under that supervisor's control;
 - 3.2.2 The insured or his attorney is permitted to submit evidence and examine the adverse evidence and to appear before the panel prior to the time the matter is to be decided;
 - 3.2.3 The insured is permitted to be represented by counsel;
 - 3.2.4 The insured is informed as to the right to appeal, if any, an adverse decision;
 - 3.2.5 The insured will be provided with at least 10 business days notice of all steps in the procedure. The decision will be made by a majority of the panel and must be provided to the parties, in writing, signed by the majority with a brief explanation of the reasons for the decision; and
 - 3.2.6 The insurer will maintain complete records of the above for a period of three years for inspection at any time during business hours by the Commissioner or the Insurance Department.
- 3.3 The Commissioner may suspend, revoke or refuse to continue any exemption after notice and a hearing establishing violation of the above. The exemption provided above is not effective until the application has been filed, reviewed and approved by the Commissioner. The Commissioner may request reports from insurers from time to time on the above reviews.

5 DE Reg. 1746 (3/1/02)

4.0 Exclusion from Arbitration

- 4.1 The following claims shall not be subject to arbitration under this Regulation:
- 4.1.1 Claims for which there is no jurisdiction under 18 **Del.C.** §§331, 332 and 6416(f) and 21 **Del.C.** §§2118 and 2118B;
 - 4.1.2 Claims for which there is no policy coverage in force;
 - 4.1.3 Claims that are already pending before any court;
 - 4.1.4 Claims that arise under an insurance policy from a jurisdiction other than Delaware; or
 - 4.1.5 Claims which arise under a homeowners' policy or plan which has been exempted by the Commissioner under section 3.0.
- 4.2 The Arbitration Secretary or Panel is authorized to dismiss a matter upon receipt of information sufficient to establish that the claim is excluded under section 4.1.1 and after notice and an opportunity to respond is provided the petitioner.

5 DE Reg. 1746 (3/1/02)

5.0 General

- 5.1 These Arbitration Rules shall be considered applicable to accidents, insured events, or losses occurring within the limits of the State of Delaware regarding first and third party property and PIP claims and to first party claims in other states or territories of the United States or to foreign countries as set forth in the insurance policy.
- 5.2 In arbitration proceedings and practice, the claimant who initiates the proceeding by filing a request for arbitration of a controverted claim or issue with the Insurance Commissioner shall be known as the "claimant," and the company or companies against which claim or claims is asserted shall be known as "respondent(s)."
- 5.3 Requests for arbitration with respect to homeowners' insurance coverage shall be in writing and mailed to the Insurance Commissioner within 90 days from the date an offer of settlement or denial of coverage or liability has been made by an insurer.

5 DE Reg. 1746 (3/1/02)

6.0 Notice and Manner of Service

- 6.1 Notice and manner of service, except service of the original petition, is sufficient and complete if properly addressed, upon mailing the same with prepaid first class U.S. Postage.
- 6.2 Service of an original Petition shall be by Certified U.S. Postage and return receipt requested or hand delivery to the respondent and is complete upon receipt by addressee or an employee in respondent's place of business.
- 6.3 The parties must provide a brief statement verifying the service of all filed papers with the manner, date and address of service.

5 DE Reg. 1746 (3/1/02)

7.0 When Arbitration May Be Commenced

- 7.1 Arbitration may be commenced after the parties have attempted to resolve the matter informally and the Petitioner has provided the opposing party with all reasonably requested information in Petitioner's possession or provided the opposing party with an opportunity to obtain such information.
- 7.2 The Panel may dismiss without prejudice the matter if it finds that the Petitioner has not attempted to resolve the matter informally or has failed to provide the opposing party with reasonably requested information.

5 DE Reg. 1746 (3/1/02)

8.0 Commencement of Arbitration

- 8.1 An arbitration will commence upon the filing of a Petition and three copies, in acceptable form with the Commissioner's Arbitration Secretary with the supporting documents or other evidence attached thereto and payment of the proper fee. The petitioner shall at the same time send a copy of the same Petition and supporting documents to the insurer or insurer's representative and a statement verifying service under section 5.0. The Arbitration Secretary may return any non-conforming Petition.
- 8.2 Within 20 business days of receipt of the Petition, the responding insurer ("Respondent") shall file a Response with three copies, in acceptable form, with the Arbitration Secretary with supporting documents or other evidence attached and payment of the proper fee. The Respondent shall at the same time send a copy of the same Response and supporting documents to the Petitioner or Petitioner's representative and a statement verifying service under section 5.0. The Arbitration Secretary may return any non-conforming Response.
- 8.3 If the Respondent fails to file a Response in a timely fashion, the Arbitration Secretary after verifying proper service and notice to the parties may assign the matter to the next scheduled Arbitration Panel for summary disposition. The Panel may determine the matter in the nature of a default judgment after establishing that the Petition is properly supported and was properly served on Respondent. The Arbitration Secretary or Panel may allow the re-opening of the matter to prevent a manifest injustice. A

request for re-opening must be made no later than 5 business days after notice of the default judgment.

- 8.4 Upon the filing of a proper Response, the Arbitration Secretary shall assign and schedule the matter for a hearing before an Arbitration Panel.
- 8.5 The Insurance Department will provide the approved form of Petition or Response as they may be amended from time to time. The Parties are free to produce and use their own copies of those forms.

5 DE Reg. 1746 (3/1/02)

9.0 Arbitration Panels

- 9.1 The Commissioner shall establish ~~two~~ types of Arbitration Panels. There shall be Panels established for automobile insurance claims and homeowners' insurance claims.
- 9.2 Each Panel shall consist of three members of suitable backgrounds or experience or as may be specified by statute, to be selected by the Commissioner. No member may serve on a Panel in which his employer or client is a party. Each Panel shall have a presiding member who shall be appointed by the Commissioner.
- 9.2.1 In the case of automobile claims, each Panel shall consist of at least one licensed Delaware attorney as a member and the balance of the members shall be Delaware licensed insurance adjusters and/or appraiser as defined in 18 Del.C. §1702(c)
- 9.2.2 In the case of homeowners' claim, the Panel shall consist of individuals of suitable expertise in evaluating such claims and may include Delaware licensed property appraisers or adjusters. One member of the panel shall be a Delaware licensed attorney.
- ~~9.2.3 In the case of health insurance claims involving the certification of treatment or procedure, one member of the panel must be a licensed health care professional in the relevant area of dispute.~~
- 9.2.43 A decision by ~~the~~ a Panel requires concurrence by at least two of the Panel members. The written decision shall be signed by the panel chair and shall reflect the votes of the members.

5 DE Reg. 1746 (3/1/02)

10.0 Arbitration Hearings

- 10.1 The arbitration hearing shall be scheduled and notice of the hearing shall be given the parties at least 10 business days prior to the hearing. Neither party is required to appear and may rely on the filed papers.
- 10.2 The purpose of Arbitration is an attempt to ~~effect~~ affect a prompt and inexpensive resolution of claims after reasonable attempts by the parties to resolve the matter informally. Arbitration hearings shall be conducted in keeping with that goal. The arbitration hearing is not a substitute for a civil trial. In accord, the Delaware Rules of Evidence do not apply and hearings are to be limited, to the maximum extent possible, to each party being given the opportunity to explain their view of the previously submitted evidence in support of the pleading and to answer questions by the Panel. If the Panel allows any brief testimony, the Panel shall allow brief cross examination or other response by the opposing party.
- 10.3 The Arbitration Panel may contact, with the parties' consent, individuals or entities identified in the papers by telephone in or outside the parties' presence for information to resolve the matter.
- 10.4 The Panel is to consider the matter based on the submissions of the parties and information otherwise obtained by the Panel. The Panel shall not consider any matter not contained in the original or supplemental submissions of the parties which has not been provided the opposing party with at least 5 business days notice, except claims of a continuing nature which are set out in the filed papers.
- 10.5 Claims for reasonable attorney fees under 21 ~~Del.C. §2118B~~ 18 Del.C. §331 Homeowners' Insurance, shall only be granted by the arbitrators upon the petitioner proving that the insurer acted in "bad faith." ~~Bad faith is an intentional, reckless or malicious indifference to the duties owed an insured, not negligence, carelessness or inadvertence of any degree prevailing without an arbitrator's dissent in all cases in which the panel determines the insurer's position was not supported by the evidence and constituted and unreasonable delay in paying the claim of the insured.~~

FINAL REGULATIONS

10.6 Claims for reasonable attorney fees under 21 Del. C. §2118B shall be granted by the arbitrators in all cases where they have determined that the insurer acted in "bad faith".

5 DE Reg. 1746 (3/1/02)

11.0 Subrogation Arbitration

11.1 Subrogation arbitration between or among insurers pursuant to 21 **Del.C.** §2118 is not subject to this Regulation and shall continue to be conducted through Arbitration Forums, Inc., or its successor.

5 DE Reg. 1746 (3/1/02)

12.0 Arbitration Fees

12.1 Each party to an arbitration shall tender and pay the following filing fees for arbitration.

12.1.1 \$30.00 for Automobile Insurance Claims; ~~and~~

12.1.2 \$30.00 for Homeowners' Insurance Claims; and

12.2 The filing fees are non-refundable and shall only be returned when a claim is determined to be excluded from arbitration. The prevailing party at arbitration ~~is normally entitled to recover~~ shall recover their paid filing fees as costs. ~~However, the Panel may, for cause, award the filing fee as costs as may be equitable.~~

5 DE Reg. 1746 (3/1/02)

13.0 Appeals

13.1 Appeals from an adverse decision of the Arbitration panel shall be taken to the Superior Court of the State of Delaware by filing a Notice of Appeal with the Arbitration Secretary.

13.2 The Notice of Appeal must be filed within 90 days in the case of claims for homeowners' insurance claims and within 30 days in the case of automobile insurance claims.

13.3 All further filings and proceedings shall be in accordance with the Superior Court Rules of Civil Procedure.

5 DE Reg. 1746 (3/1/02)

14.0 Effective Date

~~This regulation, as amended, shall replace existing Regulations 10 and 10A in their entirety. This amended regulation shall become effective on March June 11, 2002 2010. Any health claims commenced under this regulation prior to the effective date of Regulation 1301 shall be resolved in accordance with the provisions of 73 Del. Laws Ch. 96.~~

5 DE Reg. 1746 (3/1/02)

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 314 & 1111 (18 **Del.C.** §§314, 1111)
18 **DE Admin. Code** 1208

ORDER

1208 New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities

Proposed Regulation 1208 relating to Annuity Mortality Tables was published in the *Delaware Register of Regulations* on May 1, 2010. The comment period remained open until June 7, 2010. There was no public hearing

on proposed Regulation 1208. Public notice of the proposed Regulation 1208 in the *Register of Regulations* was in conformity with Delaware law.

Summary of the Evidence and Information Submitted

No comment was received on the proposed amendments.

Findings of Fact

Based on Delaware law and the record in this docket, I make the following findings of fact:

The requirements of the proposed amendments to Regulation 1208 best serve the interests of the public and of insurers and comply with Delaware law.

Decision and Effective Date

Based on the provisions of 18 **Del.C.** §§314, 1111 and 29 **Del.C.** §§10113-10118 and the record in this docket, I hereby adopt amended Regulation 1208 as may more fully and at large appear in the version attached hereto to be effective on July 11, 2010.

Text and Citation

The text of the proposed Regulation 1208 last appeared in the *Register of Regulations* Vol. 13, Issue 11, pages 1395-1397.

IT IS SO ORDERED this 8th day of June 2010.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

***Please note that no changes were made to the regulation as originally proposed and published in the May 2010 issue of the *Register* at page 1395 (13 DE Reg. 1395). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[1208 New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities](#)

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 314 & 1111 (18 **Del.C.** §§314, 1111)

ORDER

1218 Determining Reserve Liabilities For Credit Life Insurance

Proposed Regulation 1218 relating to Reserve Liabilities for Credit Life Insurance was published in the *Delaware Register of Regulations* on May 1, 2010. The comment period remained open until June 7, 2010. There was no public hearing on proposed Regulation 1218. Public notice of the proposed Regulation 1218 in the *Register of Regulations* was in conformity with Delaware law.

Summary of the Evidence and Information Submitted

No comment was received on the proposed amendments.

Findings of Fact

Based on Delaware law and the record in this docket, I make the following findings of fact:

The requirements of the proposed amendments to Regulation 1218 best serve the interests of the public and of insurers and comply with Delaware law.

Decision and Effective Date

Based on the provisions of 18 **Del.C.** §§314, 1111 and 29 **Del.C.** §§10113-10118 and the record in this docket, I hereby adopt amended Regulation 1218 as may more fully and at large appear in the version attached hereto to be effective on July 11, 2010.

Text and Citation

The text of the proposed Regulation 1218 last appeared in the *Register of Regulations* Vol. 13, Issue 11, pages 1397-1398.

IT IS SO ORDERED this 8th day of June 2010.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

***Please note that no changes were made to the regulation as originally proposed and published in the May 2010 issue of the *Register* at page 1397 (13 DE Reg. 1397). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[1218 Determining Reserve Liabilities For Credit Life Insurance](#)

**DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS**

Statutory Authority: 19 Delaware Code, Section 202(a) (19 **Del.C.** §202(a))
19 **DE Admin. Code** 1101

ORDER**1101 Apprenticeship and Training Regulations**

A public hearing was held on June 8, 2010 to receive public comments relating to proposed changes to Regulation 6.4.2 of the Rules and Regulations Relating to Delaware Apprenticeship and Training Law. The proposal would change the ratio of apprentices to mechanics for the Structural Metal worker trade from its current 1

up to 5 to 1 up to 4. In addition, the ratio of apprentices to mechanics for the Painter, Construction and Maintenance worker trade would change from its current 1 up to 5 to 1 up to 3. The members of the Council present recommended that the Secretary of Labor adopt the proposal as it was published in the *Register of Regulations*, Vol. 13, Issue 11 (May 1, 2010).

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Exhibits Admitted:

Exhibit 1 – News Journal Affidavit of publication of notice of public hearing.

Exhibit 2 – Delaware State News Affidavit of publication of notice of public hearing.

No one addressed the Council and no written comments were received by the Council.

RECOMMENDED FINDINGS OF FACT WITH RESPECT TO THE EVIDENCE AND INFORMATION

The Council is persuaded that these changes are consistent with the current administration of the program.

RECOMMENDATION

The proposed changes are respectfully submitted to the Secretary of Labor for consideration with a recommendation for adoption this 8th day of June, 2010.

COUNCIL ON APPRENTICESHIP AND TRAINING

Robert Buccini, Chairman

David G. Kitto

Dale Derrickson

John Hagelstein

Danny Crowe

DECISION AND EFFECTIVE DATE

Having reviewed and considered the record and recommendations of members of the Council on Apprenticeship and Training, the proposed changes are hereby adopted to Regulations Regulation 6.4.2, and made effective 10 days following publication of the final regulation in the *Register of Regulations*.

TEXT AND CITATION

The text appears in the Register of Regulations, Vol. 13, Issue 11 (May 1, 2010).

DEPARTMENT OF LABOR

John J. McMahon, Jr., Secretary of Labor

*Please note that no changes were made to the regulation as originally proposed and published in the May 2010 issue of the *Register* at page 1398 (13 DE Reg. 1398). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

[1101 Apprenticeship and Training Regulations](#)

FINAL REGULATIONS

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)(a) (7 **Del.C.** §903(e)(2)(a))
7 **DE Admin. Code** 3900

Secretary's Order No.: 2010-F-0017

Date of Issuance: June 10, 2010

Effective Date of the Amendment: July 11, 2010

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") the following findings, reasons and conclusions are entered as an Order of the Secretary in the above-referenced rulemaking proceeding.

Background and Procedural History

This Order considers proposed regulations to amend 7 **DE Admin. Code** 3900, *Delaware Regulations Governing Wildlife*. The Department's Division of Fish and Wildlife commenced the regulatory development process with Start Action Notices 2010-02 through 2010-08, and 2010-11. The Department published its initial proposed regulation Amendments in the March 1, 2010 *Delaware Register of Regulations*, and held a public hearing on March 25, 2010. The public hearing record remained open at that time for public comment through March 31, 2010. Subsequent to the Department's initial publication of its proposed regulation Amendments on March 1, 2010, but prior to the public hearing held on March 25, 2010, the Department received numerous public comments from both individuals and sports clubs concerning the proposed Amendments to establish a formal red fox season (Sections 2.0 and 4.0). These comments centered on public safety issues with regard to the proposed regulation language in these Sections, specifically, with the Subsection pertaining to chasing red fox with hounds. After thorough review by the Department, it was determined that revisions to the initially proposed regulations regarding this matter were necessary in order to ensure public safety during such activities. As a result, the Department *revised* its initially proposed regulation Amendments to 7 **DE Admin. Code** 3900 in a manner to clarify how red foxes may be killed. This change was consistent with the public comment received by the Department. The *revised* proposed Amendments were then thoroughly vetted to the public at the public hearing on March 25, 2010. No further substantive comment was received by the Department subsequent to the holding of said public hearing, and thus no additional revisions have been made to the proposed *revised* regulation Amendments.

The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated May 25, 2010 (Report). The Report recommends certain findings and the adoption of the proposed *revised* Amendments as attached to the Report as Appendix A.

Findings and Discussion

I find that the *revised* proposed Amendments are well-supported by the record developed by the Department, and I adopt the Report to the extent it is consistent with this Order. The Department's experts developed the record and drafted the proposed *revised* Amendments. Throughout the regulatory development process regarding this promulgation, the Department received public comment, as noted in the Report, and the same were fully addressed by Department staff in a thorough and balanced manner, accurately reflecting the information as contained in the public hearing record which was developed in this matter.

I find that the Department's experts in the Division of Fish and Wildlife fully developed the record to support adoption of these *revised* Amendments. With the adoption of this Order, Delaware will (1) define the term, "Quality Buck"; (2) create a crossbow deer hunting season; (3) require non-toxic shot be used when hunting rail, snipe and moorhen; (4) restrict mute swan hunting to the regular waterfowl season; (5) establish a red fox hunting season; (6) provide clarification as to when trapping equipment must be removed from the field; (7) provide clarification with

regard to various deer hunting issues related to bag limits, tagging and registration; (8) exempt non-residents from having to purchase a guide license when guiding for snow geese in Delaware; and (9) require license exempt hunters to obtain a free annual hunting and trapping identification number so that they can be identified for surveying purposes.

In conclusion, the following findings and conclusions are entered:

1.) The Department has jurisdiction under its statutory authority to issue an Order adopting these *revised* proposed Amendments as final;

2.) The Department provided adequate public notice of the proposed Amendments, and provided the public with an adequate opportunity to comment on both the initial proposed Amendments, as well as the proposed *revised* Amendments, including at the public hearing held on March 25, 2010;

3.) The Department held a public hearing on March 25, 2010 in order to consider public comment before making any final decision;

4.) The Department's Hearing Officer's Report, including its recommended record and the recommended *revised* Amendments as set forth in Appendix A, are adopted to provide additional reasons and findings for this Order;

5.) The recommended *revised* Amendments should be adopted as final regulation Amendments because Delaware will be able to (1) provide additional hunter opportunities for the public with the inclusion of crossbows into its existing archery season; (2) establish a red fox hunting season, in accordance with recent statutory changes made by the Delaware legislature; (3) provide clarifications to existing regulations to promote a greater understanding of the same to hunters; (4) further promote the harvest of snow geese in Delaware; (5) identify license-exempt hunters for future surveying purposes, thus allowing Department personnel to collect more accurate hunter harvest statistics overall; and lastly, because (6) the amendments are well supported by documents in the record;

6.) The Department shall submit this Order approving the final regulation to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.

Collin P. O'Mara, Secretary

3901 Definitions

(Break in Continuity of Sections)

"Quality Buck" shall mean an antlered deer with an outside antler spread of at least **[14 15]** inches. This measurement is taken across the outside of the main beams at their widest point; this measurement's path must be perpendicular to the center line of the skull and parallel to the top of the skull plate.

(Break in Continuity of Sections)

3902 Method of Take

(Penalty Section 7 Del.C. §103(d))

(Break in Continuity of Sections)

2.8 Red Fox.

2.8.1 Red foxes may be killed in accordance with § 788 of Title 7 with the following: ~~bow and arrow longbow and crossbow~~; shotgun ~~with shot up to size 2 lead or T steel~~; rimfire rifle or centerfire rifle up to .25 caliber, ~~using hollow point bullets with a maximum bullet weight of 75 grains~~; or a muzzle-loading rifle.

2.8.2 Notwithstanding subsection 2.8.1 of this section, during any deer firearms season, it shall be unlawful to hunt red fox with any firearm that is not also legal for deer hunting.

[2.8.3 Notwithstanding subsection 2.8.1 of this section, it shall be unlawful to kill a red fox that is being pursued by dogs.]

3 DE Reg. 289 (8/1/99)

6 DE Reg. 536 (10/1/02)

11 DE Reg. 334 (09/01/07)

(Break in Continuity of Sections)

3921 Guide License

(Break in Continuity of Sections)

21.6 General Hunting License

21.6.1 A resident or non resident hunting license is not required for persons holding a valid Delaware Guide License.

21.6.2 A nonresident shall be exempt from the guide licensing requirement of this section only while guiding hunters for snow geese (light geese), provided:

21.6.2.1 The nonresident is properly licensed to guide in another state or Canadian province which extends the same exemption to Delaware residents;

21.6.2.2 The nonresident guide purchases a Delaware migratory waterfowl stamp and obtains a Delaware H.I.P. permit.

[21.6.2.3 The nonresident resides in another state or Canadian province which extends the same exemption to Delaware residents.]

12 DE Reg. 496 (10/01/08)

*Please note that no additional changes were made to the regulation as originally proposed and published in the March 2010 issue of the *Register* at page 1185 (13 DE Reg. 1185). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

[3900 Wildlife](#)

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

100 Board of Accountancy

Statutory Authority: 24 Delaware Code, Section 105(a)(1) (24 **Del.C.** §105(a)(1))
24 **DE Admin. Code** 100

ORDER

After due notice in the *Delaware Register of Regulations* and two Delaware newspapers, a public hearing was held on June 16, 2010 at a scheduled meeting of the Delaware Board of Accountancy ("the Board") to receive comments regarding proposed amendments to the Board's Rules and Regulations. The Board has proposed numerous revisions to the Rules and Regulations. A number of revisions implement amendments to the Board's licensing law, Chapter 1 of Title 24 of the Delaware Code, including the addition of the practice privilege set forth at 24 **Del.C.** §108. In addition, the amendments set forth the licensure requirements that will go into effect on August 1, 2012. Further, specific course requirements for licensure are revised. There are various amendments pertaining

to continuing professional education. Specifically, the proposed amendments will expressly give the Board authority to sanction licensees who do not comply with continuing professional education requirements. The Board also proposes various grammatical and typographical revisions.

The Board initially proposed revisions to its Rules and Regulations in the *Delaware Register of Regulations*, Volume 13, Issue 9 at 13 **DE Reg.** 1198 on March 1, 2010. A public hearing was held on April 21, 2010. Based on written and verbal comments presented, the Board decided to make substantive changes to the proposed amendments.

Pursuant to the Administrative Procedures Act, 29 **Del.C.** §10115, notice of a second public hearing and a copy of the repropoed revisions were published in the *Delaware Register of Regulations*, Volume 13, Issue 11 at 13 **DE Reg.** 1433, on May 1, 2010.

Summary of the Evidence and Information Submitted

At the public hearing on June 16, 2010, the following documents were admitted as exhibits and made part of the record:

Board Exhibit 1: *News Journal* Affidavit of Publication.

Board Exhibit 2: *Delaware State News* Affidavit of Publication.

There was no verbal comment at the public hearing.

Findings of Fact and Conclusions

The Board finds that the proposed amendments to the Rules and Regulations serve to implement changes to Chapter 1 of Title 24. The amendments also strengthen and clarify continuing professional education requirements. Grammatical and typographical revisions make the Rules and Regulations clearer and more concise. In short, the proposed revisions will improve the Rules and Regulations and benefit the public.

The Board noted a typographical error in Rule 11.1.2, where "off-numbered" should be "odd-numbered." Pursuant to 29 **Del.C.** §10118(c), the Board has the authority to make non-substantive changes to the proposed Rules and Regulations without repropoing the changes. Therefore, the typographical error has been corrected in Exhibit A attached to this Order.

The Law

The Board's rulemaking authority is provided by 24 **Del.C.** 105(a)(1).

Decision and Effective Date

The Board hereby adopts the proposed amendments to the Rules and Regulations as effective 10 days following publication of this Order in the *Delaware Register of Regulations*.

Text and Citation

The text of the revised Rules and Regulations is attached hereto as Exhibit A.

SO ORDERED this 16th day of June 2010.

DELAWARE BOARD OF ACCOUNTANCY

David Doane, President

Sharon Cirillo

Robert Paretta

Gary Pippin

James A. Cohee
Robert Mosch, Secretary
Carmetah Murray

Judith Scarborough
Michael D. Wollaston

100 Board of Accountancy

(Break in Continuity of Sections)

11.0 Continuing Education

11.1 Hours Required:

- 11.1.1 Effective through the licensure renewal period ending June 30, 2011, Each permit holder must have completed at least 80 hours of acceptable continuing professional education each biennial reporting period. Each biennial reporting period ends on June 30 of each odd-numbered year of each year ending with an odd number. The eighty hours of acceptable continuing professional education submitted must have been completed in the immediately preceding two-year period and must include a minimum of sixteen (16) credit hours in accounting and/or auditing and a minimum of sixteen (16) credit hours in taxation and four (4) credit hours in a Delaware specific ethics course approved by the Board as set forth in Rule 11.87.
- 11.1.2 Effective as of the licensure renewal period beginning July 1, 2011, each permit holder must have completed at least 80 hours of acceptable continuing professional education each biennial reporting period. Each biennial reporting period ends on June 30 of each ~~off~~ odd]-numbered year. The eighty hours of acceptable continuing professional education submitted must have been completed in the immediately preceding two-year period and must include eight (8) credit hours in accounting and/or auditing and eight (8) credit hours in taxation and four (4) credit hours in a Delaware specific ethics course approved by the Board as set forth in Rule 11.7. In addition to these 20 specified hours, each permit holder must complete at least an additional twenty (20) credit hours in either accounting, auditing or taxation.

*Please note that no additional changes were made to the regulation as originally proposed and published in the May 2010 issue of the *Register* at page 1433 (13 DE Reg. 1433). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

[100 Board of Accountancy](#)

DEPARTMENT OF TRANSPORTATION

DIVISION OF PLANNING

Statutory Authority: 17 Delaware Code, Sections 1021 (17 Del.C. §1021
2 DE Admin. Code 2402

ORDER

2307 Delaware Safe Routes to School Regulations

Background

Under Title 17 of the Delaware Code, Section 1021 and 1022, and Public Law 109-59, the Delaware Department of Transportation (DelDOT), through its Division of Planning, sought to revise the Safe Routes to School Program Guidelines, which do not provide specific information on private school participation leading to confusion, by specifying the conditions of and extent to which private schools are eligible to participate.

Public Comment Period

The Department took written comments on the proposed changes to the Safe Routes to School Program Guidelines from May 1, 2010 through May 31, 2010.

Summary of the Evidence and Information Submitted

A single comment was sent to the Department, and is set forth below:

Question: Will training &/or materials for contract bus drivers be included so that we are also up-to-date on what is going on where?

The Department's response is as follows:

The goal of the program is to reach and benefit students who walk or bicycle to or from school or those who could travel by those means. As such, completion of SRTS construction projects should not affect bus routes or change the number of students who use busing, since the program focuses on the area within which students walk, within 1-mile of the school, and outside of unique hazard situations.

Findings of Fact

Based on the record in this docket, I make the following findings of fact:

1. The proposed amendments to the Safe Routes to School Program Guidelines are useful and proper, and should be adopted as originally proposed to the comment period process required under the Administrative Procedures Act.
2. The adoption of these proposed changes to the Safe Routes to School Program Guidelines is in the best interests of the State of Delaware.

Decision and Effective Date

Based on the provisions of Delaware law and the record in this docket, I hereby adopt the amended Safe Routes to School Program Guidelines, as set forth in the version attached hereto, to be effective on July 21, 2010.

IT IS SO ORDERED this 15th day of June, 2010.

Carolann Wicks, Secretary, Delaware Department of Transportation

***Please note that no changes were made to the regulation as originally proposed and published in the May 2010 issue of the *Register* at page 1434 (13 DE Reg. 1434). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[2307 Delaware Safe Routes to School Regulations](#)

OFFICE OF MANAGEMENT AND BUDGET

Statutory Authority: 29 Delaware Code, Section 6303A(16) (29 **Del.C.** §6303(A))

ORDER

Freedom of Information Act Regulation

AND NOW, this 1st day of June, 2010, Ann Shepard Visalli, as Director of the Delaware Office of Management and Budget, in accordance with 29 **Del.C.** §6303A(16), for the reasons stated below enters this ORDER adopting

and promulgating regulation setting forth the Policy and Procedures for Responding to Requests from the Public for Information as set forth in 29 **Del.C.** Ch. 100, The Freedom of Information Act. (the "Regulation").

Nature of Proceedings; Synopsis of the Subject and Substance of the Proposed Regulation

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Director of the Delaware Office of Management and Budget is adopting the final Regulation governing the Policy and Procedures for Responding to Requests from the Public for Information as set forth in 29 **Del.C.** Ch. 100, The Freedom of Information Act.

The purpose of the Regulation is to prescribe procedures relating to the inspection and copying of public records retained by the Delaware Office of Management and Budget pursuant to 29 **Del.C.** Ch. 100, the Freedom of Information Act. The Regulation establishes a reasonable fee structure for copying public records and streamlines procedures used to disseminate this information.

Findings of Fact and Conclusions

1. The Delaware Office of Management and Budget has developed procedures for Responding to Requests from the Public for Information as set forth in 29 **Del.C.** Ch.100, The Freedom of Information Act.
2. The Regulation reflects these procedures.
3. The Director of the Delaware Office of Management and Budget has statutory authority to promulgate regulations pursuant to 29 **Del.C.** §6303A(16).

Decision and Order Concerning the Regulation

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Delaware Office of Management and Budget does hereby ORDER that the Regulation be, and that it hereby is, adopted and promulgated as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Ann Shepard Visalli, Director,
Delaware Office of Management and Budget

***Please note that no changes were made to the regulation as originally proposed and published in the May 2010 issue of the *Register* at page 1438 (13 DE Reg. 1438). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

[Freedom of Information Act Regulation](#)

DELAWARE RIVER BASIN COMMISSION**PUBLIC NOTICE**

The Delaware River Basin Commission will hold a public hearing and business meeting on Wednesday, July 14, 2010 beginning At 10:30 A.m. The Meeting will be held at the West Trenton Volunteer Fire Company, West Upper Ferry Road, West Trenton, NJ. For More Information, Visit The DRBC web site At www.drbc.net or contact Pamela M. Bush, Esq., Commission Secretary and Assistant General Counsel, At 609 883-9500 Extension 203.

DEPARTMENT OF AGRICULTURE**HARNESS RACING COMMISSION****NOTICE OF RESCHEDULED PUBLIC HEARING**

The Delaware Harness Racing Commission, pursuant to 3 **Del.C.** §10005, proposes to change its Rule 7.6.6.7.7. The Commission will hold a public hearing on the proposed rule changes on August 10, 2010 (rescheduled from August 17, 2010). Written comments should be sent to Hugh J. Gallagher, Administrator of Harness Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901. Written comments will be accepted for thirty (30) days from the date of publication in the *Register of Regulations* on June 1, 2010.

The proposed changes are for the purpose of updating the Rules to more reflect current policies, practices and procedures. Copies are published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml

A copy is also available for inspection at the Harness Racing Commission office.

DEPARTMENT OF EDUCATION**PUBLIC NOTICE**

The State Board of Education will hold its monthly meeting on Thursday, July 15, 2010 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF SOCIAL SERVICES****PUBLIC NOTICE****Child Care Subsidy Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend Child Care Subsidy Program policies in the Division of Social Services Manual (DSSM) regarding *Income and Making Income Determinations, Interviews and Authorizing Service and Overpayments*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by July 31, 2010.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DIVISION OF STATE SERVICE CENTERS
NOTICE OF PUBLIC HEARING**Amendment to the Weatherization Assistance Program State Plan**

The Department of Health and Social Services is amending the current Department of Energy (DOE) and the American Recovery and Re-Investment Act (ARRA) Weatherization Assistance Program (WAP) State Plan. The amendment to the plan will decentralize operations allowing for local sub-grantee control and State oversight.

Changes to the existing State plan include modification in the budget that will allow for local access to program operations, and separate category charges for, Audits, Insurance, and Health and Safety. Furthermore, a new training and monitoring plan has been developed. Training requirements for all stakeholders are defined in the amended plan.

The Division of State Service Centers (DSSC), under the Delaware Health and Social Services will hold a public hearing to discuss the proposed changes in the amendment of the ARRA and DOE Base Weatherization Program State Plan. Federal and State regulations require DSSC to provide opportunity for comment of proposed changes to the State Plan.

The public hearing will be held on Wednesday, July 14, 2010 at 10:00 a.m. to 12:00 P.M. at the Delaware House of Representatives, 411 Legislative Avenue – 2nd Floor House Hearing Room, Dover, DE 19901

Copies of the proposed Amended Plan are available for review at: the Division of State Service Centers Administrative Office, 1901 N. DuPont Highway, New Castle, DE 19720, First State Community Action Agency, Stanford L Building, 308 N. Railroad Avenue, Georgetown, DE 19947; and Neighborhood House, Inc., 1218 B. Street, Wilmington, DE 19801.

Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by July 12, 2010 to: Ms. Cozetta Ausler at cozetta.ausler@state.de.us or by fax at (302)255-4472.

Contact Mary Dupont, Director, Division of State Service Centers, 1901 N. DuPont Highway, New Castle, DE 19720, at 302-255-9695.

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH
PUBLIC NOTICE
Child Care Subsidy Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the Delaware Code, Chapter 22, Delaware Health and Social Services (DHSS)/Division of Substance Abuse and Mental Health (DSAMH) is proposing to amend the Standards for Substance Abuse and Treatment Programs to clarify state standards for the provision of substance abuse and mental health in Delaware treatment programs.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Frann Anderson, Quality Control, Division of Substance Abuse and Mental Health, Main Administration Building, 1901 North DuPont Highway, New Castle, Delaware 19720-0906 or by fax to (302) 255-4428 by July 31, 2010.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**DIVISION OF WATER RESOURCES****Surface Water Discharges Section****Concentrated Animal Feeding Operation (CAFO)****PUBLIC NOTICE**

These proposed regulations have been developed pursuant to 3 **Del.C.** §§2201-2290 and 7 **Del.C.** §6000 et.al. and under DNREC's delegated authority. These statutory and regulatory authorities establish the requirement that a National Pollutant Discharge Elimination System (NPDES) permitting program for Concentrated Animal Feeding Operations (CAFOs) be implemented. These proposed regulations replace the current regulations and will function as the baseline CAFO standards for compliance of NPDES CAFO permits applicable to certain farms. The Delaware Department of Agriculture (DDA) will administer these regulations in conjunction with DNREC. In general, NPDES CAFO permits, as provided in these regulations, are effective for five years. These regulations were developed by the Delaware Nutrient Management Commission, the Delaware Department of Agriculture and the Delaware Department of Natural Resources and Environmental Control. They are adopted with the guidance, advice and consent of the Delaware Nutrient Management Commission.

The proposed regulations are posted on the Delaware Department of Agriculture website (www.dda.delaware.gov) and the DNREC website at www.dnrec.delaware.gov. Hard copies of the proposed regulations may be obtained from the Delaware Department of Agriculture. Comments may be submitted in writing and/or e-mail to the Mark Davis, Nutrient Management Program Administrator (mark.davis@state.de.us), at the Delaware Department of Agriculture, on or before 4:30 PM on July 31, 2010, and/or in person at a public hearing to be held on July 21, 2010 at 7pm at the Department of Agriculture, 2320 South DuPont Highway, Dover, DE 19901. Statements and testimony may be presented either orally or in writing at the public hearing. It is requested that those interested in presenting statements at the public hearing register in advance and that written statements and comments be addressed to:

Mark Davis
Department of Agriculture
2320 South DuPont Highway
Dover, DE 19901
Mark.davis@state.de.us

7. Prepared By:

Jennifer Walls 302.739.9062 16 June 2010
Email address jennifer.walls@state.de.us

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION**COMBATIVE SPORTS AND COMBATIVE SPORTS ENTERTAINMENT****PUBLIC NOTICE**

The Division of Professional Regulation (the "Division") in accordance with 24 **Del.C.** §103(b)(1) has proposed amendments to the regulations governing combative sports and combative sports entertainment events in Delaware. The amendments include deleting the term "Boxing" in the title of the regulations and replacing it with "Combative Sports."

Changes are being made to Part C of the regulations related to Professional Mixed Martial Arts. The regulations being amended include 4.0 Bandage Wraps; 13.0 Fouls and Violations; 14.0 Legal Strikes; 18.0 Physical Exams and Other Testing; 19.0 Requirements of the Division; 20.0 Responsibilities of the Promoter; 22.0

Requirements of Seconds/Cornermen.

Changes are also being made to Part D of the regulations governing Amateur Mixed Martial Arts. The regulations being amended include 1.0 Weight Classes; 4.0 Bandage Wraps; 7.0 Gloves; 13.0 Fouls and Violations; 14.0 Legal Strikes; 18.0 Physical Exams and Other Testing; 19.0 Requirements of the Sanctioning Body; 20.0 Responsibilities of the Promoter; 21 Responsibilities of Fighter; and, 22.0 Requirements of Seconds/Cornermen.

A public hearing will be held on August 2, 2010 at 1:00 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Division of Professional Regulation, Office of the Director, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Director at the above address. The final date to receive written comments will be at the public hearing.

The Director will consider promulgating the proposed regulations following the public hearing.

DEPARTMENT OF TRANSPORTATION

DIVISION OF PLANNING

PUBLIC NOTICE

2311 Long-Term Lease Policies and Practices

Background

The Delaware Department of Transportation (DelDOT), through its Division of Planning, is seeking to adopt regulations to manage its real estate leasing practices and policies.

On occasion, circumstances involving parcels of land under DelDOT's control may present an appropriate opportunity for leasing, as a means of managing the Department's property assets until they are either needed for implementation of the State's transportation program, or are determined to be no longer necessary for such purposes, and made available for disposition under the provisions of 17 **Del.C.** §137.

The Department will take written comments on the proposed Leasing Policies and Practices Regulations from July 1, 2010 through July 31, 2010. The proposed Regulations appear below.

Any requests for copies of the proposed Regulations, or any questions or comments regarding this document should be directed to:

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