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# Delaware Register of Regulations

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Issue Date: May 1, 2019

Volume 22 - Issue 11, Pages 876 - 963

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Regulations:  
Emergency  
Proposed  
Final

Calendar of Events &  
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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 April 15, 2019.

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

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## CITATION TO THE DELAWARE REGISTER

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

19 **DE Reg.** 1100 (06/01/16)

Refers to Volume 19, page 1100 of the *Delaware Register* issued on June 1, 2016.

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## 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.

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other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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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*.

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## CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
June 1	May 15	4:30 p.m.
July 1	June 17	4:30 p.m.
August 1	July 15	4:30 p.m.
September 1	August 15	4:30 p.m.
October 1	September 16	4:30 p.m.

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**Symbol Key**

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**Emergency Regulations**

Under 29 **Del.C.** §10119 an agency may promulgate a regulatory change as an Emergency under the following conditions:

**§ 10119. Emergency regulations.**

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than the notice required by § 10115, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable;

(2) The order adopting, amending or repealing a regulation shall state, in writing, the reasons for the agency's determination that such emergency action is necessary;

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days;

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof; and

(5) The agency shall submit a copy of the emergency order to the Registrar for publication in the next issue of the *Register of Regulations*. (60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 71 Del. Laws, c. 48, § 10.)

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****DIVISION OF AIR QUALITY**

Statutory Authority: 7 Delaware Code, Chapter 60 (7 **Del.C.** Ch. 60)  
7 **DE Admin. Code** 1140

**SECRETARY'S ORDER NO.: 2019-A-0018**  
**(Extension of Emergency Order 2018-A-0072)**

**Pursuant to 29 Del.C. §10119**

**1140 Delaware Low Emission Vehicle Program**

**AUTHORITY**

Pursuant to 29 **Del.C.** §10119, the Department of Natural Resources and Environmental Control adopted on December 27, 2018 amendments through Emergency Order No. 2018-A-0072 to the *Delaware Low Emission Vehicle (LEV) Program*, 7 Delaware Administrative Code §1140. This action was taken by the Secretary without prior notice or public hearing, pursuant to the power conveyed by the General Assembly for DNREC to "[e]stablish and promulgate such rules and regulations governing the administration and operation of the Department as may be deemed necessary by the Secretary and which are not inconsistent with the laws of this State." 29 **Del.C.** §8003(7).

The above emergency regulations are intended as interim measures, necessary to avoid the risk of harm to public health, safety, and welfare, pending the formal adoption of regulations pursuant to the Administrative Procedures Act, within the 120-day period (renewable for an additional sixty days) allotted to emergency regulations. The Department is currently in the process of formally adopting final regulation amendments as it relates to the affected Regulations referenced above. As the 120-day period will expire before such time as it is

possible for the Department to finalize its formal adoption of the above regulatory amendments, it is now necessary to renew the emergency order for an additional 60 days, pursuant to 29 **Del.C.** §10119(3), so as to retain its provisions while the amendments are being finalized pursuant to the Administrative Procedures Act.

### **REASON FOR THE EMERGENCY ORDER**

The Regulation referenced above relating to the *Delaware LEV Program* was affected by the recent amendments made by the State of California to its State Code of Regulations, specifically, Regulation Nos. 1961 and 1962. These amendments aimed to clarify that the “deemed to comply” provision embedded in the *California LEV III Program* holds true with the federal standards adopted in 2012 for Greenhouse Gas (GHG) emissions from light-duty vehicles for the model years 2021-2025. In the absence of interim regulations, Delawareans’ health and environment would be negatively affected by the *Safer Affordable Fuel-Efficient* rule jointly proposed by both the Environmental Protection Agency and the National Highway Traffic Safety Administration. The interim regulations are an effort to maintain Delaware’s current GHG standards for light-duty vehicles included in model years 2021 to 2025.

According to Section 209 of the Clean Air Act, a two-year lead-time is required for Original Equipment Manufacturers (OEMs) to implement any new regulation enforced for a given model year. Even though the “deemed to comply” clarification is a continuation of the currently adopted standards, the Department wants to ensure that OEMs are aware of the amendments with the proper lead-time. Pursuant to the Clean Air Act, the Department needed to adopt these amendments as of California’s effective date, December 12, 2018, in order to be able to enforce the GHG emission standards for vehicle model year 2021, which commenced on January 1, 2019.

The aforementioned Emergency Order is being renewed for an additional 60 days since there is insufficient time to finalize the formal adoption of the aforementioned regulatory amendments through the Administrative Procedures Act on or before the expiration of the initial 120-day period, which will be April 26, 2019. This action is being taken to maintain the current interim measures, which the Department has deemed necessary to avoid the risk of harm to public health, safety, and welfare.

Subsequent to the adoption of the emergency regulations on December 27, 2018, the Department began the formal regulatory promulgation process with the publication of its initial proposed regulatory amendments in the February 1, 2019 *Register of Regulations*. Thereafter, the Department held its public hearing on February 21, 2019. It is anticipated that the formal adoption of the aforementioned regulatory amendments will be finalized prior to the expiration of this 60-day renewal period (on or before June 26, 2019).

### **EFFECTIVE DATE OF ORDER**

The renewal of this Emergency Order shall take effect at 12:01 a.m. on April 26, 2019, and shall remain in effect for no longer than 60 additional days. The Department’s formal regulatory amendments, however, shall immediately supersede the interim regulations upon formal approval, pursuant to the Administrative Procedures Act, and 29 **Del.C.** §10115.

### **PETITION FOR RECOMMENDATIONS**

Consistent with the requirements of 29 **Del.C.** §10119(4), the Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Office of the Secretary, Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, Delaware, 19901.

### **ORDER**

It is hereby ordered, this 12<sup>th</sup> day of April, 2019, that the above referenced amendments to 7 Delaware Administrative Code §1140, a copy of which is hereby attached, are adopted pursuant to 29 **Del.C.** §10119, and are supported by the evidence contained herein.

Shawn M. Garvin  
Secretary

**1140 Delaware Low Emission Vehicle Program**  
*(Break in Continuity of Sections)*

**3/11/2018**

**3.0 Definitions**

*(Break in Continuity of Sections)*

**3/11/2018**

**5.0 New Vehicle Emission Requirements**

*(Break in Continuity of Sections)*

**3/11/2018**

**7.0 Warranty**

*(Break in Continuity of Sections)*

**3/11/2018**

**10.0 Incorporation by Reference**

*(Break in Continuity Within Section)*

**Table 1**  
**California Code of Regulations (CCR)**  
**Title 13**  
**Provisions Incorporated by Reference**

Title 13, CCR	Title	Section Amended Date
Chapter 1 Motor Vehicle Pollution Control Devices Article 1 General Provisions		
Section 1900	Definitions	<i>As effective July 25, 2016</i>
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles	<i>As effective July 25, 2016</i>
Section 1960.1	Exhaust Emission Standards and Test Procedures – 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	<i>As effective December 31, 2012</i>
Section 1961	Exhaust Emission Standards and Test Procedures – 2004 through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	<i>As effective December 31, 2012</i>

Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 through 2016 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	<i>As effective August 7, 2012</i>
Section 1961.2	Exhaust Emission Standards and Test Procedures – 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.	<i>As effective <del>October 8, 2015</del> December 12, 2018</i>
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.	<i>As effective <del>December 31, 2012</del> December 12, 2018</i>
Section 1965	Emission Control and Smog Index Labels – 1979 and Subsequent Model Year Vehicles	<i>As effective October 8, 2015</i>
Section 1968.1	Malfunction and Diagnostic System Requirements – 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	<i>As effective November 27, 1999</i>
Section 1968.2	Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	<i>As effective July 25, 2016</i>
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	<i>As effective July 25, 2016</i>
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	<i>As effective October 8, 2015</i>
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	<i>As effective October 8, 2015</i>
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	<i>As effective November 9, 2007</i>
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles	<i>As effective December 5, 2014</i>
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	<i>As effective December 5, 2014</i>
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	<i>As effective August 7, 2012</i>
Section 2039	Emission Control System Warranty Statement	<i>As effective December 26, 1990</i>
Section 2040	Vehicle Owner Obligations	<i>As effective December 26, 1990</i>
Section 2041	Mediation; Finding of Warrantable Condition	<i>As effective December 26, 1990</i>
Section 2046	Defective Catalyst	<i>As effective February 15, 1979</i>
Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing Article 1 Assembly Line Testing		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model years	<i>As effective August 7, 2012</i>



## EMERGENCY REGULATIONS

Article 2 Enforcement of New and In-use Vehicle Standards		
Section 2101	Compliance Testing and Inspection – New Vehicle Selection, Evaluation and Enforcement Action	<i>As effective November 27, 1999</i>
Section 2109	New Vehicle Recall Provisions	<i>As effective December 30, 1983</i>
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model Year	<i>As effective November 27, 1999</i>
Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls		
Section 2111	Applicability	<i>As effective December 8, 2010</i>
Section 2112	Definitions	<i>As effective December 5, 2014</i>
Appendix A to Article 2.1		
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls	<i>As effective January 26, 1995</i>
Section 2114	Voluntary and Influenced Recall Plans	<i>As effective November 27, 1999</i>
Section 2115	Eligibility for Repair	<i>As effective January 26, 1995</i>
Section 2127	Notification of Owners	<i>As effective January 26, 1995</i>
Section 2128	Repair Label	<i>As effective January 26, 1995</i>
Section 2129	Proof of Correction Certificate	<i>As effective January 26, 1995</i>
Section 2130	Capture Rates and Alternative Measures	<i>As effective November 27, 1999</i>
Section 2131	Preliminary Tests	<i>As effective January 26, 1995</i>
Section 2132	Communication with Repair Personnel	<i>As effective January 26, 1995</i>
Section 2133	Record keeping and Reporting Requirements	<i>As effective January 26, 1995</i>
Section 2135	Extension of Time	<i>As effective January 26, 1995</i>
Article 2.3 In-Use Vehicle Enforcement Test Procedures		
Section 2136	General Provisions	<i>As effective December 8, 2010</i>
Section 2137	Vehicle and Engine Selection	<i>As effective December 28, 2000</i>
Section 2138	Restorative Maintenance	<i>As effective November 27, 1999</i>
Section 2139	Testing	<i>As effective December 5, 2014</i>
Section 2140	Notification of In-Use Results	<i>As effective December 5, 2014</i>
Article 2.4 Procedures for Reporting Failure of Emission-Related Components		
Section 2141	General Provisions	<i>As effective December 8, 2010</i>
Section 2142	Alternative Procedures	<i>As effective February 23, 1990</i>
Section 2143	Failure Levels Triggering Recall	<i>As effective November 27, 1999</i>
Section 2144	Emission Warranty Information Report	<i>As effective November 27, 1999</i>
Section 2145	Field Information Report	<i>As effective August 7, 2012</i>
Section 2146	Emissions Information Report	<i>As effective November 27, 1999</i>
Section 2147	Demonstration of Compliance with Emission Standards	<i>As effective December 5, 2014</i>

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Section 2148	Evaluation of Need for Recall	<i>As effective November 27, 1999</i>
Section 2149	Notification of Subsequent Action	<i>As effective February 23, 1990</i>
Chapter 3 Surveillance Testing		
Section 2150	Assembly-Line Surveillance	<i>As effective December 30, 1983</i>
Section 2151	New Motor Vehicle Dealer Surveillance	<i>As effective December 30, 1983</i>
Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks		
Section 2235	Requirements	<i>As effective August 8, 2012</i>

**3/11/2018**

**11.0 Document Availability**

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

**1140 Delaware Low Emission Vehicle Program**

**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.

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**DEPARTMENT OF EDUCATION****OFFICE OF THE SECRETARY**Statutory Authority: 14 Delaware Code, Section 1270 (14 **Del.C.** §1270)14 **DE Admin. Code** 106A**PUBLIC NOTICE****Education Impact Analysis Pursuant To 14 Del.C. §122(d)****106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised****A. Type of Regulatory Action Required**

Amendment to Existing Regulation

**B. Synopsis of Subject Matter of the Regulation**

Pursuant to 14 **Del.C.** §1270, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. This regulation is being amended to clarify the definitions of "Credentialed Observer" and "Evaluator" and to ensure compliance with the *Delaware Administrative Code Drafting and Style Manual*.

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

**C. Impact Criteria**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to improve student achievement as measured against state achievement standards by helping to ensure that teachers are performing satisfactorily.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended

regulation is intended to continue to help ensure all students receive an equitable education.

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

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

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

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

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

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amendment is consistent with and not an impediment to the implementation of other state educational policies.

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

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

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 894RFA 05-01-19.pdf>

## 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised (Break in Continuity of Sections)

### 2.0 Definitions

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

#### *(Break in Continuity Within Section)*

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

#### *(Break in Continuity Within Section)*

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

**"Experienced Teacher"** means a teacher who holds a valid and current Continuing or Advanced License, issued pursuant to Chapter 12 of Title 14 of the **Delaware Code**; or Standard or Professional Status Certificate issued prior to August 1, 2003.

#### *(Break in Continuity Within Section)*

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

*(Break in Continuity Within Section)*

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

*(Break in Continuity of Sections)*

## 5.0 Appraisal Components and Appraisal Criteria

- 5.1 The following five (5) Appraisal Components, including any Appraisal Criteria specified for each, shall be the basis upon which the performance of a teacher shall be determined. In each academic year, for each of the first four (4) Appraisal Components, a school district or charter school may waive one (1) criterion identified as optional below. In addition, for the Professional Responsibilities Component (subsection 5.1.4), a school district or charter school may substitute a locally determined alternative Appraisal Component, which must be approved by the Department no later than the last day of July of each year. Final notification of any such waiver or substitution shall be provided to all teachers in a school district or charter school and the Department of Education by the last day in August of each year:

### 5.1.1 Planning and Preparation

- 5.1.1.1 Selecting Instructional Goals: Teacher selects instructional goals that are aligned with the ~~DE~~ Delaware content standards and the district or charter school's curricula. Goals are appropriate for the learners and reflect high expectations for all students, consistent with State Assessment levels of performance where applicable. (Optional)

*(Break in Continuity Within Section)*

- 5.1.1.3 Demonstrating Knowledge of Content and Pedagogy: Teacher shows ~~his or her~~ their knowledge of content and how to teach it to a variety of learners. The teacher's plans include natural connections among content areas that deepen student learning. The content that ~~he or she teaches~~ is taught is aligned to the district or charter school's curricula. (Optional)

- 5.1.1.4 Demonstrating Knowledge of Students: Teacher shows ~~his or her~~ their knowledge of student developmental characteristics; approaches to learning, knowledge, and skills; interests; cultural heritage; and, where applicable, State Assessment performance levels.

- 5.1.1.5 Designing Student Assessments: Teacher creates and ~~or~~ selects assessments that are congruent with instructional goals, criteria and standards. The teacher plans for the use of formative and summative assessments of the teacher's students.

*(Break in Continuity Within Section)*

## 6.0 Summative Evaluation Ratings

- 6.1 Each of the five (5) Appraisal Components (~~Component(s)~~) shall be equally weighted and assigned a rating of "Highly Effective," "Effective," "Needs Improvement" or "Ineffective" on the Summative Evaluation. The rating for each of the five (5) Appraisal Components shall reflect the standards as described in the DPAS II Revised Guide for Teachers.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

**106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised**

## OFFICE OF THE SECRETARY

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

### PUBLIC NOTICE

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

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

##### A. Type of Regulatory Action Required

Amendment to Existing Regulation

##### B. Synopsis of Subject Matter of the Regulation

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

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

##### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to improve student achievement as measured against state achievement standards by helping to ensure that specialists are performing satisfactorily.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to help ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments do not address students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all student's legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amendment is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 897RFA 05-01-19.pdf>

## 107A Specialist Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised (Break in Continuity of Sections)

### 2.0 Definitions

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

#### *(Break in Continuity Within Section)*

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

#### *(Break in Continuity Within Section)*

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

**"Experienced Specialist"** means a specialist who holds a valid and current Continuing or Advanced License, issued pursuant to Chapter 12 of Title 14 of the ~~Delaware Code~~ Delaware Code; or Standard or Professional Status Certificate issued prior to August 1, 2003 or holds a valid and current license from his or her respective licensure body.

#### *(Break in Continuity Within Section)*

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

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

#### *(Break in Continuity Within Section)*

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

#### *(Break in Continuity of Sections)*

### 5.0 Appraisal Components and Appraisal Criteria

- 5.1 The following five (5) Appraisal Components, including any Appraisal Criteria specified for each, shall be the basis upon which the performance of a specialist shall be determined. In each academic year, for each of the first four (4) Appraisal Components, a school district or charter school may waive one (1) criterion identified as optional below. In addition, for the Professional Responsibilities Component (subsection 5.1.4), a school district or charter school may substitute a locally determined alternative Appraisal Component, which must be approved by the Department no later than the last day of July of each year. Final notification of any such waiver or substitution shall be provided to all specialists in a school district or charter school and the Department of Education by the last day in August of each year:

#### 5.1.1 Planning and Preparation

#### *(Break in Continuity Within Section)*

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

*(Break in Continuity Within Section)*

## 6.0 Summative Evaluation Ratings

- 6.1 Each of the five (5) Appraisal Components (~~Component(s)~~) shall be equally weighted and assigned a rating of "Highly Effective," "Effective," "Needs Improvement" or "Ineffective" on the Summative Evaluation. The rating for each of the five (5) Appraisal Components shall reflect the standards as described in the DPAS II Revised Guides for Specialists.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

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

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))  
14 DE Admin. Code 1510

### PUBLIC NOTICE

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

**1510 Issuance of Initial License**

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

The Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1510 Issuance of Initial License. The regulation applies to the issuance of an initial license for educators pursuant to 14 Del.C. §1210. The proposed changes in this regulation include revising the definition of the term "Performance Assessment" in Section 2.0; amending subsection 3.3, which concerns the requirements that must be met prior to the issuance of an Initial License; and amending Section 16.0, which concerns Secretary of Education review requests.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 3, 2019 to Mr. Chris Kenton, Executive Director, Delaware Professional Standards Board, The Townsend Building, 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Professional Standards Board's Office, located at the address above.

#### C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses an initial license for educators, not students' health and safety.



4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses an initial license for educators, not students' legal rights.

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

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

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.

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, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

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

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

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 899RFA 05-01-19.pdf>

## 1510 Issuance of Initial License (Break in Continuity of Sections)

### 2.0 Definitions

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

#### (Break in Continuity Within Section)

**"Performance Assessment"** means a an approved multiple measure assessment in the professional area of licensure ~~and certification~~ to ensure that novice educators can demonstrate application of content, pedagogy skills, and reflective practice, adopted pursuant to 14 **Del.C.** Ch. 12 and as provided in Section 18.0 of this regulation. A performance assessment is not a multiple choice assessment and may require written commentary, submission of artifacts, and submission of a video. It is designed to identify an educator's strengths and areas of improvement to practice in order to develop effective educators in the classroom.

#### (Break in Continuity Within Section)

### 3.0 Requirements for Initial License

#### (Break in Continuity Within Section)

3.2 The Department may issue an Initial License to an applicant who is currently licensed as an educator in another jurisdiction with at least one year of successful teaching experience but less than four years of successful ~~teaching experience~~ Teaching Experience.

#### (Break in Continuity Within Section)

3.3 Prior to the Department issuing an Initial License, all other applicants must meet the following requirements:

#### (Break in Continuity Within Section)

- 3.3.3 ~~When applicable and available, achieve a passing score on an approved performance assessment, as specified in Section 18.0 of this regulation, within the first two (2) years of the Initial License;~~
- 3.3.4 Complete a ~~student teaching program~~ Student Teaching Program or meet the requirements of an approved alternative to student teaching; and
- ~~3.3.5~~3.3.4 Meet all other requirements of this regulation.

*(Break in Continuity of Sections)*

## 7.0 Examination and Assessment Requirements

*(Break in Continuity Within Section)*

- 7.2 If an initial licensee intends to apply for a continuing license, the licensee shall obtain a passing score on an approved Performance Assessment, specified in Section 18.0 of this regulation, ~~within the first two (2) years of the Initial License.~~

*(Break in Continuity of Sections)*

## 16.0 Secretary of Education Review

- 16.1 The Secretary of Education may, at the written request of ~~the superintendent of a public school district or charter school,~~ review licensure credentials on an individual basis and grant a license an Initial License to an applicant who otherwise does not meet the requirements for an Initial License, but whose effectiveness is documented by the ~~public school district or charter school.~~

16.1.1 For school districts, requests shall be approved by the superintendent of the school district.

16.1.2 For charter schools, requests concerning the head of school of the charter school shall be approved by the charter school's board of directors and requests concerning all other educators shall be approved by the charter school's head of school.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

**1510 Issuance of Initial License**

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))

14 **DE Admin. Code** 1511

### PUBLIC NOTICE

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

**1511 Issuance and Renewal of Continuing License**

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

The Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1511 Issuance and Renewal of Continuing License. The regulation applies to the issuance and renewal of a continuing license for educators pursuant to 14 **Del.C.** §§1211 and 1212. The proposed changes in this regulation include revising the definition of the terms "Experienced Educator" and "Performance Assessment" and adding a definition of the term "Micro-credential" in Section 2.0; amending Section 12.0, which concerns Secretary of Education review requests;

and amending Section 13.0, which concerns options for relicensure.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 3, 2019 to Mr. Chris Kenton, Executive Director, Delaware Professional Standards Board, The Townsend Building, 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Professional Standards Board's Office, located at the address above.

## C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.
3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a continuing license for educators, not students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a continuing license for educators, not students' legal rights.
5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.
7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 Del.C. Ch. 12 relating to licensure and certification of educators.
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, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.
9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of this amended regulation.
10. What is the cost to the state and to the local school boards of compliance with the adopted regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 901RFA 05-01-19.pdf>

## 1511 Issuance and Renewal of Continuing License (Break in Continuity of Sections)

### 2.0 Definitions

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

#### *(Break in Continuity Within Section)*

"**Activity Documentation Form**" means the official form approved by the Department that includes specific details about the activity to be used for License renewal and the signature of an instructional leader ~~within the Professional Learning Community, or a school, district or charter school instructional leader the applicant is responsible to whom the applicant is responsible.~~

#### *(Break in Continuity Within Section)*

"~~Clock Hour~~ Hours" means actual time spent in Professional Development, not credit hours.

*(Break in Continuity Within Section)*

"**Experienced Educator**" is an educator who holds a Continuing or Advanced License, or an educator who held a Professional Status Certificate issued prior to August 1, 2003. An educator from another jurisdiction who has completed four (4) or more years of successful ~~teaching~~ Teaching Experience under a full, current, and valid license may be considered an Experienced Educator.

*(Break in Continuity Within Section)*

"**Micro-credential**" means evidence-based professional development activities that are competency-based, personalized, on-demand, and sharable. Educators must demonstrate their competence via evidence submitted and reviewed by trained evaluators.

*(Break in Continuity Within Section)*

"**Performance Assessment**" means an approved multiple measure assessment in the professional area of licensure to ensure that novice educators can demonstrate application of content, pedagogy skills, and reflective practice, adopted pursuant to 14 Del.C. Ch. 12 and as provided in Section 18.0 of 14 DE Admin. Code 1510 Issuance of Initial License. A performance assessment is not a multiple choice assessment and may require written commentary, submission of artifacts, and submission of a video. It is designed to identify an educator's strengths and areas of improvement to practice in order to develop effective educators in the classroom.

*(Break in Continuity Within Section)*

### **3.0 Issuance of the Original Continuing License**

- 3.1 In accordance with 14 **Del.C.** §1211, the Department shall issue, upon application, a Continuing License to a qualified educator who has successfully completed the requirements of initial licensure as set forth in 14 **Del.C.** §1210, including obtaining a passing score on a Performance Assessment, and has not received more than one (1) unsatisfactory annual evaluation, as defined by DPAS II or a state-approved alternative educator evaluation system, during the period of initial licensure.

*(Break in Continuity Within Section)*

### **4.0 Educators with Expired Delaware Licenses applying for their Original Continuing License**

- 4.1 Delaware Certificates issued prior to July 2, 2001
- 4.1.1 In accordance with 14 **Del.C.** §1215, the Department shall issue an original Continuing License to a qualified educator who holds a Delaware certificate issued by an education certifying board prior to July 13, 1971 or who previously held a valid Delaware Standard or Professional Status certificate that has expired.
- 4.1.1.1 As a condition of maintaining the original Continuing License, the educator shall successfully complete one (1) year of an Approved Mentoring Program required of educators on an Initial License within their first year of employment.

*(Break in Continuity Within Section)*

- 4.1.1.1.2 Failure to successfully complete the Approved Mentoring Program ~~program~~ shall result in the suspension of the License. If the Continuing License expires during the term of the suspension, the educator must apply for an Initial License and meet the requirements in effect at the time of the application.

*(Break in Continuity Within Section)*

### **5.0 Renewal of a Continuing License**

*(Break in Continuity Within Section)*

- 5.4 Documentation of Clock Hours for Relicensure
- 5.4.1 For renewal of the Continuing License, educators may complete and document Clock Hours for the variety of activities described under relicensure options. When college or university courses are used to fulfill the requirements, the following equivalencies shall be used: one (1) semester

# PROPOSED REGULATIONS

hour equals fifteen (15) Clock Hours, one (1) quarter hour equals ten (10) Clock Hours, one (1) Continuing Education Unit (CEU) equals ten (10) Clock Hours. To be documented for Clock Hours, activities shall meet the criteria set forth in the regulations and shall be appropriately verified and applied for. Professional Development activities that are part of a DPAS II assistance or improvement plan or the equivalent thereof on a state-approved alternative educator evaluation system may be used to satisfy this requirement. Individuals, schools or school districts, or other agencies organizing or conducting Professional Development activities which may be used for fulfilling the requirements for renewal of a license are responsible for providing documentation of participation to all participants. ~~Each educator is responsible for obtaining any necessary approvals, as set forth in Section 13.0, from his or her employer before participating in a Professional Development activity.~~ An employer may not impose additional activity requirements on the award of Clock Hours towards renewal of a Continuing License.

**(Break in Continuity of Sections)**

## 12.0 Secretary of Education Review

12.1 The Secretary of Education may, ~~upon~~ at the written request of ~~the superintendent of a public school district or charter school administrator~~ school, review licensure credentials on an individual basis and grant a Continuing License to an applicant who otherwise does not meet the requirements for a Continuing License, but whose effectiveness is documented by the ~~public school district or charter school administrator~~.

12.1.1 For school districts, requests shall be submitted by the superintendent of the school district.

12.1.2 For charter schools, requests concerning the head of school of the charter school shall be submitted by the charter school's board of directors and requests concerning all other educators shall be submitted by the charter school's head of school.

## 13.0 Continuing License Options for Relicensure

Each educator is responsible for obtaining approval from his or her employer before participating in a Professional Development activity.

OPTION	HOUR VALUE	CRITERIA	VERIFICATION
Action Research or other Educational Project	Verified Clock Hours completing Action Research or other Educational Project. Maximum of 30 Clock Hours.	The verified Clock Hours shall be accrued during the Action Research or other Educational Project. The documented goal for the participant(s) shall be a product and a new set of educator Knowledge and Skills. These shall complement the school, district, or charter school's success plan or State's initiative and shall be focused on student learning. A Product Shall Be Made Available for Verification. If an educator does not complete NBPTS or Similar National Certification, the educator may use the verified Clock Hours as an other Educational Project.	A certificate of participation or the completed Activity Documentation Form as well as the final product which documents the goals and results of the Action Research or other Educational Project shall be presented to the Department.
Certification required to retain a State professional license	Verified Clock Hours involved in recertification activities.	The certification to maintain a State professional license as required in the applicable regulation.	A certificate of attendance and the original certificate of completion for Continuing Education Units (CEUs) shall be presented to the Department.

College Course	Clock Hours may be accrued where 1 semester hour equals 15 hours and 1 quarter semester hour or Continuing Education Unit (CEU) equals 10 hours.	The course shall be completed within a matriculated Masters program, Doctoral program or a graduate level course of study at or through a regionally accredited college or university or other Department-approved provider. The course may also be an undergraduate course as seen by the educator as necessary to acquire new Knowledge and Skills related to the educator's position. The course shall be taken at a regionally accredited college or university for credit. The educator shall attain a grade of "B" or better (or a "P" in Pass / Fail course).	Official transcripts, original grade slips or an original certificate of completion for Continuing Education Units (CEUs) shall be presented to the Department.
Cooperating Teacher or Intern Supervisor	Verified Clock Hours involved in support of student teacher or intern. Maximum of 45 Clock Hours over the course of 5 years.	The supervision shall be of a student intern or of a student teacher participating in a state-approved educator preparation program.	The Activity Documentation Form shall be completed by the student's institution of higher education and presented to the Department.
Curriculum and/or Assessment Development	Verified Clock Hours of service. Minimum of 3 Clock Hours. Maximum of 30 Clock Hours over the course of 5 years.	The documented goal is a curricular component and/or an encompassing assessment. A Product Shall Be Made Available for Verification.	A certificate of participation or the completed Activity Documentation Form as well as the final product shall be presented to the Department.
Mentoring	Verified Clock Hours involved in Mentoring activities. Maximum of 45 Clock Hours over the course of 5 years.	The documented interactions between the mentor and mentee(s) during the initial (or subsequent refresher) training sessions or during the actual Mentoring of a novice educator.	The completed <i>Mentor Log</i> or Activity Documentation Form shall be presented to the Department.
Micro-credential	<u>Verified Clock Hours of completed Micro-credentials. Maximum of 30 Clock Hours over the course of 5 years.</u>	<u>Verified hours for successfully completing, preparing, and submitting evidence based on evaluation criteria.</u>	<u>Credentialing documentation completed and approved by the Micro-credential evaluator.</u>
NBPTS Certification or Similar National Certification	45 Clock Hours for attaining national certification.	Holds a certificate issued by NBPTS or a similar body as provided in 14 <b>Del.C.</b> §1305(l) that is related to the individual's work or assignment. NBPTS Certification or Similar National Certification shall be completed and verified by the expiration date of the educator's Continuing License.	The completed Activity Documentation Form and a copy of the certificate issued by NBPTS or a similar body shall be presented to the Department.

# PROPOSED REGULATIONS

Planned Professional Development Program	Verified Clock Hours of service or experience.	The Planned Professional Development Program shall focus on the school, district or charter school's success plan which may be targeting curriculum, instruction, assessment, school climate, or other identified need or shall be related to the educator's work with students or staff.	A certificate of participation or a completed Activity Documentation Form shall be presented to the Department.
Presentation	Verified Clock Hours of presentation and preparation. The ratio of preparation to presentation is 3:1. Each presentation topic may be submitted one time. Maximum of 15 Clock Hours.	The Presentation shall contribute to the education profession or add to the body of knowledge in the educator's specific field. The Presentation shall be made at a local, state, regional or national conference.	The completed Activity Documentation Form and conference agenda listing the Presentation shall be presented to the Department.
Professional Committee, Conference, Workshop, Institute or Academy	Verified Clock Hours of service or experience.	The educator may include time spent in those portions of the Professional Committee, Conference, Workshop, Institute or Academy that contribute to the educator's Knowledge and Skills, competence, performance or effectiveness in education that are directly connected to the school, district or charter school's success plan or State initiative. This option includes workshops offered by districts or other employing authorities either as part of a professional development day or during after school hours. Examples of expected student or educator outcomes are anticipated.	The completed Activity Documentation Form and the original certificate of attendance or completion or a letter from the Professional Committee, Conference, Workshop, Institute or Academy staff shall be presented to the Department.
Professional Learning Community (PLC)	Verified Clock Hours of participation. Maximum of 15 hours.	The educator shall be a contributing member of a formal or informal Professional Learning Community whose documented goal for participants is a product or new set of Knowledge and Skills which are focused on student learning.	A certificate of participation or the completed Activity Documentation Form shall be presented to the Department.

<p>Skilled and Technical Sciences specific career area program certification or Career and Technical program certification</p>	<p>Verified Clock Hours involved in certification activities.</p>	<p>Skilled and Technical Sciences or Certified Career and Technical Education teachers may use hours they have accrued in acquiring the specific Knowledge and Skills necessary for their program or specific career area program approval.</p>	<p>A valid copy of the certificate attesting to the successful completion of the activity required for the Career and Technical program area or the Skilled and Technical Sciences specific career area program certification shall be presented to the Department.</p>
<p>Teacher Leader Professional Development</p>	<p>Verified Clock Hours of service or experience.</p>	<p>The hours shall be accrued during a Teacher Leader Professional Development activity that contributes to the educator's Knowledge and Skills, competence, performance or effectiveness in teacher leadership that directly impact the productiveness of the school.</p>	<p>The original certificate of attendance or completion and the completed Activity Documentation Form with examples of expected outcomes shall be presented to the Department.</p>

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

**1511 Issuance and Renewal of Continuing License**

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**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))  
**14 DE Admin. Code 1549**

**PUBLIC NOTICE**

**Educational Impact Analysis Pursuant To 14 Del.C. Section 122(d)**

**1549 Dance Teacher**

**A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

**B. SYNOPSIS OF SUBJECT MATTER OF REGULATION**

The Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1549 Dance Teacher. The regulation concerns the requirements for a Standard Certificate for Dance Teacher pursuant to 14 **Del.C.** §1220. The proposed amendments include adding defined terms to Section 2.0; clarifying the requirements for issuing a standard certificate in Section 3.0; specifying the knowledge, skill, and education requirements for obtaining a first and second or subsequent standard certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Sections 6.0 and 7.0, which concern validity and revocation of a standard certificate; and adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 3, 2019 to Mr. Chris Kenton, Executive Director, Delaware Professional Standards Board, The



Townsend Building, 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Professional Standards Board's Office, located at the address above.

## C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.
3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators, not students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators, not students' legal rights.
5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.
7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.
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, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.
9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of this amended regulation.
10. What is the cost to the state and to the local school boards of compliance with the adopted regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 907RFA 05-01-19.pdf>

## 1549 Dance Teacher

### 1.0 Content

- 4.4 This regulation shall apply to the issuance of a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Dance Teacher. This ~~certification~~ Certification is required for grades 9 ~~K~~ to 12, and is valid in grades 5 to 8 in a Middle Level school.
- 4.2 ~~Except as otherwise provided, the requirements set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

### 2.0 Definitions

- 2.1 ~~The definitions set forth in 14 **DE Admin. Code** 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2.2 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

~~“Approved Accrediting Agency” means a National, Regional, or Specialized Accrediting agency or association that appears on the list of recognized accrediting agencies published by the United States Secretary of Education or any other accrediting agency the Delaware Secretary of Education, deems within his or her discretion, to be reliable or be equivalent to those on the published list.~~

~~“Accredited institution” means an institution that has received accreditation from an approved accrediting agency.~~

“Certification” means the issuance of a Standard Certificate, which may occur regardless of a recipient’s assignment or employment status.

“Department” means the Delaware Department of Education.

“Educator” means a person licensed and certified by the State under 14 Del.C. Ch. 12 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 Professional Standards Board and approved by the State Board of Education. The term ‘educator’ does not include substitute teachers.

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

“Fifteen (15) Credits or the Equivalent in Professional Development” means college credits or an equivalent number of hours with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a Regionally Accredited college or university or other Department-approved provider.

“Immorality” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of the educator’s unfitness or otherwise.

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

“Major or Its Equivalent” means a minimum of thirty (30) semester hours of coursework in a particular content area.

“Professional Development” means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants’ attitudes, insights, and/or perspectives; and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

“Regionally Accredited” means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification in another state. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state.

# PROPOSED REGULATIONS

## 3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 ~~Del.C.~~ §1220(a), the Department shall issue a Standard Certificate as a for Dance Teacher to an educator Educator who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License~~; License, or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; ~~and, 2003 and meets the requirements set forth in Section 4.0 of this regulation; or~~
  - 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and,~~
  - 3.1.3 ~~Has satisfied the additional requirements in this regulation.~~
  - 3.1.2 Has met the requirements for licensure and holds a Valid and Current License or Certificate from Another State in dance education; or
  - 3.1.3 Has met the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for Certification if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the alleged conduct involves allegations of Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

## 4.0 Additional Requirements Prescribed Knowledge, Skill, and Education Requirements

- 4.1 If an examination of content knowledge such as Praxis II is not applicable and available, in the area the Standard Certificate is requested, an educator must also meet the following:
- 4.2 If the educator is applying for their second Standard Certificate pursuant to 14 ~~DE Admin. Code 1505 Standard Certificate 3.1.5;~~
- 4.2.1 ~~Has satisfactorily completed fifteen (15) credits or their equivalent in professional development related to Dance, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; or~~
  - 4.2.2 ~~Has obtained certification in Dance from an accredited institution.~~
- 4.1 For an applicant who is applying for the applicant's first Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2:
- 4.1.1 The applicant shall have:
- 4.1.1.1 Earned and currently maintain accreditation as Registered Dance Educator through the National Dance Education Organization; or
  - 4.1.1.2 Completed a bachelor's degree from a Regionally Accredited college or university with a Major or Its Equivalent in dance from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
  - 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach dance as provided in 14 Del.C. §§1260 – 1266; or
  - 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in dance education; or
  - 4.1.1.5 Completed a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactory completed fifteen (15) credits or the equivalent in Department-approved Professional Development related to dance education of which at least 6 credits must focus on pedagogy.
    - 4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the Fifteen (15) Credits or the Equivalent in Professional Development subject to the Department's approval.

4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the Fifteen (15) Credits or the Equivalent in Professional Development in consultation with the Department and subject to the Department's approval.

4.1.2 The applicant shall have achieved on the Dance Entry Level Teacher's Assessment (DELTA) a Passing Score of 91 of a possible 130 points.

4.2 For an applicant who is applying for the applicant's second or subsequent Standard Certificate, the applicant shall have satisfied both of the following requirements:

4.2.1 The applicant shall have:

4.2.1.1 Satisfactorily completed Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to dance education of which at least 6 credits must focus on pedagogy; or

4.2.1.2 Obtained a Certificate in Dance Education (CiDE) from the National Dance Education Organization; or

4.2.1.3 Completed the equivalent of subsection 4.2.1.1 or subsection 4.2.1.2 in professional experience; and

4.2.2 The applicant shall have achieved on the Dance Entry Level Teacher's Assessment (DELTA) a Passing Score of 91 of a possible 130 points.

## **5.0 Application Requirements**

5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with an application for an Initial License, and the applicant shall also provide all required documentation for the License.

5.2 For applicants who are applying for their first Standard Certificate, the following documentation is required with the application for a Standard Certificate for Dance Teacher:

5.2.1 Evidence of earning and currently maintaining accreditation as Registered Dance Educator through the National Dance Education Organization, if applicable; and

5.2.2 Official transcript from the applicant's Regionally Accredited college or university.

5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.2.2.2 Sealed paper transcripts may be submitted.

5.2.2.3 The Department will not accept copies of transcripts; and

5.2.3 If applicable, documents verifying successful completion of Professional Development; and

5.2.4 Official score on the Dance Entry Level Teacher's Assessment (DELTA) as provided in subsection 4.1.2; and

5.2.5 If applicable, an experience form must be completed in full and signed by the applicant; and

5.2.6 Additional documentation as required by the Department.

5.3 For applicants who are applying for their second or subsequent Standard Certificate, the following documentation is required in the application for a Standard Certificate for Dance Teacher:

5.3.1 Official transcript from the applicant's college or university.

5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.3.1.2 Sealed paper transcripts may be submitted.

5.3.1.3 The Department will not accept copies of transcripts; and

5.3.2 If applicable, documents verifying successful completion of Professional Development; and

5.3.3 If applicable, evidence of completing the equivalent of Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to dance education or obtaining the Certificate in Dance Education (CiDE) from the National Dance Education Organization; and

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5.3.4 Official score on the Dance Entry Level Teacher's Assessment (DELTA) as provided in subsection 4.2.2; and

5.3.5 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate from Another State in dance education, the following documentation is required in the application for a Standard Certificate for Dance Teacher:

5.4.1 An official copy of the valid and current educator license or certificate from another state or professional license.

## **6.0 Validity of a Standard Certificate**

6.1 A Standard Certificate for Dance Teacher is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Standard Certificate for Dance Teacher is not subject to renewal.

## **7.0 Revocation of a Standard Certificate**

7.1 An Educator's Standard Certificate for Dance Teacher shall be revoked in the event the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's Standard Certificate application in accordance with 14 Del.C. §1222.

7.2 An Educator whose Standard Certificate is noticed for revocation is entitled to a full and fair hearing before the Standards Board.

7.2.1 Hearings shall be conducted in accordance with 14 DE Admin. Code 1515 Hearing Procedures and Rules.

## **8.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Standard Certificate for Dance Teacher on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate for Dance Teacher but whose effectiveness is documented by the local school district or charter school.

### **PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))

**14 DE Admin. Code 1558**

### **PUBLIC NOTICE**

**Educational Impact Analysis Pursuant To 14 Del.C. Section 122(d)**

**1558 Theater Teacher**

#### **A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

#### **B. SYNOPSIS OF SUBJECT MATTER OF REGULATION**

The Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1558 Theater Teacher. The regulation concerns the requirements for a Standard Certificate for Theatre Teacher pursuant to 14 Del.C. §1220. The proposed amendments include amending the title of the regulation; adding defined terms to Section

2.0; clarifying the requirements for issuing a standard certificate in Section 3.0; specifying the knowledge, skill, and education requirements for obtaining a first and second or subsequent standard certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Sections 6.0 and 7.0, which concern validity and revocation of a standard certificate; and adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 3, 2019 to Mr. Chris Kenton, Executive Director, Delaware Professional Standards Board, The Townsend Building, 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Professional Standards Board's Office, located at the address above.

### **C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators, not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators, not students' legal rights.

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

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

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.

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, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

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

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

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 912RFA 05-01-19.pdf>

### **1558 ~~Theater~~ Theatre Teacher**

#### **1.0 Content**

4-4 This regulation shall apply to the issuance of a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for ~~Theater~~ Theatre Teacher. This ~~certification~~ Certification is required for grades 9 K to 12, and is valid in grades 5 to 8 in a Middle Level school.

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- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

## 2.0 Definitions

- 2.1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

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

~~“Approved Accrediting Agency” means a National, Regional, or Specialized Accrediting agency or association that appears on the list of recognized accrediting agencies published by the United States Secretary of Education or any other accrediting agency the Delaware Secretary of Education, deems within his or her discretion, to be reliable or be equivalent to those on the published list.~~

~~“Accredited institution” means an institution that has received accreditation from an approved accrediting agency.~~

“Certification” means the issuance of a Standard Certificate, which may occur regardless of a recipient's assignment or employment status.

“Department” means the Delaware Department of Education.

“Educator” means a person licensed and certified by the State under 14 Del.C. Ch. 12 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 Professional Standards Board and approved by the State Board of Education. The term ‘educator’ does not include substitute teachers.

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

“Fifteen (15) Credits or the Equivalent in Professional Development” means college credits or an equivalent number of hours with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a Regionally Accredited college or university or other Department-approved provider.

“Immorality” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of the educator’s her unfitness or otherwise.

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

“Major or Its Equivalent” means a minimum of thirty (30) semester hours of coursework in a particular content area.

“Passing Score” means a minimum score as established by the Professional Standards Board, in consultation with the Department, and with the approval of the State Board of Education.

“Professional Development” means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants' attitudes, insights, and/or perspectives; and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

“Regionally Accredited” means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification in another state. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state.

### 3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate ~~as a Theater for Theatre~~ Teacher to an educator Educator ~~who has met the following:~~
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License; or a Standard or Professional Status Certificate issued by the Department prior to August 31, ~~2003; and, 2003~~ and meets the requirements set forth in Section 4.0 of this regulation; or
  - 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and,~~
  - 3.1.3 ~~Has satisfied the additional requirements in this regulation.~~
  - 3.1.2 Has met the requirements for licensure and holds a Valid and Current License or Certificate from Another State in theater education; or
  - 3.1.3 Has met the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for Certification if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the alleged conduct involves allegations of Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

### 4.0 Additional Requirements Prescribed Knowledge, Skill, and Education Requirements

- 4.1 ~~If an examination of content knowledge such as Praxis II is not applicable and available, in the area the Standard Certificate is requested, an educator must also meet the following:~~
- 4.2 ~~If the educator is applying for their second Standard Certificate pursuant to 14 DE Admin. Code 1505 Standard Certificate 3.1.5;~~
- 4.2.1 ~~Has satisfactorily completed fifteen (15) credits or their equivalent in professional development related to Theater, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; or~~
  - 4.2.2 ~~Has obtained certification in Theater from an accredited institution.~~
- 4.1 For an applicant who is applying for the applicant's first Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have:
    - 4.1.1.1 Obtained the equivalent of a certificate from the National Board for Professional Teaching Standards in theater; or
    - 4.1.1.2 Completed a bachelor's degree from a Regionally Accredited college or university with a Major or Its Equivalent in theater education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or



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- 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach theater as provided in 14 Del.C. §§1260 – 1266; or
- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in theater education; or
- 4.1.1.5 Completed a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactory completed 15 credits or the equivalent in Department-approved Professional Development related to theater education of which at least 6 credits must focus on pedagogy.
  - 4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the Fifteen (15) Credits or the Equivalent in Professional Development subject to the Department's approval.
  - 4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the Fifteen (15) Credits or the Equivalent in Professional Development in consultation with the Department and subject to the Department's approval.
- 4.1.2 The applicant shall have achieved on the Praxis Subject Assessment – Theatre (ETS Test Code # 5641) a Passing Score of 153.
- 4.2 For an applicant who is applying for the applicant's second or subsequent Standard Certificate, the applicant shall have satisfied both of the following requirements:
  - 4.2.1 The applicant shall have:
    - 4.2.1.1 Satisfactorily completed Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to theater education of which at least 6 credits must focus on pedagogy; or
    - 4.2.1.2 Completed the equivalent of subsection 4.2.1.1 in professional experience; and
  - 4.2.2 The applicant shall have achieved on the Praxis Subject Assessment – Theatre (ETS Test Code # 5641) a Passing Score of 153.

## 5.0 **Application Requirements**

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 For applicants who are applying for their first Standard Certificate, the following documentation is required with the application for a Standard Certificate for Theatre Teacher:
  - 5.2.1 Evidence of obtaining the equivalent of a certificate from the National Board for Professional Teaching Standards in theater, if applicable; and
  - 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
    - 5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
    - 5.2.2.2 Sealed paper transcripts may be submitted.
    - 5.2.2.3 The Department will not accept copies of transcripts; and
  - 5.2.3 If applicable, documents verifying successful completion of Professional Development; and
  - 5.2.4 Official score on the Praxis Subject Assessment as provided in subsection 4.1.2; and
  - 5.2.5 If applicable, an experience form must be completed in full and signed by the applicant; and
  - 5.2.6 Additional documentation as required by the Department.
- 5.3 For applicants who are applying for their second or subsequent Standard Certificate, the following documentation is required in the application for a Standard Certificate for Theatre Teacher:
  - 5.3.1 Official transcript from the applicant's Regionally Accredited college or university.
    - 5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.3.1.2 Sealed paper transcripts may be submitted.

5.3.1.3 The Department will not accept copies of transcripts; and

5.3.2 If applicable, documents verifying successful completion of Professional Development; and

5.3.3 If applicable, a copy of the certification in theater from an Accredited Institution; and

5.3.4 If applicable, evidence of completing the equivalent of Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to theater education; and

5.3.5 Official score on the *Praxis* Subject Assessment as provided in subsection 4.2.2; and

5.3.6 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate from Another State in theater, the following documentation is required in the application for a Standard Certificate for Theatre Teacher:

5.4.1 An official copy of the valid and current educator license or certificate from another state or professional license.

## **6.0 Validity of a Standard Certificate**

6.1 A Standard Certificate for Theatre Teacher is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Standard Certificate for Theatre Teacher is not subject to renewal.

## **7.0 Revocation of a Standard Certificate**

7.1 An Educator's Standard Certificate for Theatre Teacher shall be revoked in the event the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's Standard Certificate application in accordance with 14 **Del.C.** §1222.

7.2 An Educator whose Standard Certificate is noticed for revocation is entitled to a full and fair hearing before the Standards Board.

7.2.1 Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

## **8.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Standard Certificate for Theatre Teacher on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate for Theatre Teacher but whose effectiveness is documented by the local school district or charter school.

**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))

14 **DE Admin. Code** 1560

**PUBLIC NOTICE**

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

**1560 Art Teacher****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

**B. SYNOPSIS OF SUBJECT MATTER OF REGULATION**

The Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1560 Art Teacher. The regulation concerns the requirements for a Standard Certificate for Visual Arts Teacher pursuant to 14 **Del.C.** §1220. The proposed amendments include amending the title of the regulation; adding defined terms to Section 2.0; clarifying the requirements for issuing a standard certificate in Section 3.0; specifying the knowledge, skill, and education requirements for obtaining a first and second or subsequent standard certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Sections 6.0 and 7.0, which concern validity and revocation of a standard certificate; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing Standard Certificates for Art Teacher.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 3, 2019 to Mr. Chris Kenton, Executive Director, Delaware Professional Standards Board, The Townsend Building, 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Professional Standards Board's Office, located at the address above.

**C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.
3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators, not students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators, not students' legal rights.
5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.
7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 **Del.C.** Ch. 12 relating to licensure and certification of educators.
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, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

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

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

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 918RFA 05-01-19.pdf>

## 1560 ~~Art~~ Visual Arts Teacher

~~Non-regulatory note: Passage on an examination of content knowledge may also be required to obtain this certification. Pursuant to 14 Del.C. §1220 and 14 DE Admin. Code 1505, an examination of content knowledge is required when applicable and available. An examination of content knowledge is applicable and available when approved by the Professional Standards Board with the concurrence of the State Board of Education. See the Department of Education website for additional information.~~

### 1.0 Content

- 4-1 This regulation shall apply to the ~~requirements for issuance of~~ a Standard Certificate, pursuant to 14 Del.C. §1220(a), for ~~Art~~ Visual Arts Teacher. This ~~certification~~ Certification is required for grades K to 12.
- 4-2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

### 2.0 Definitions

~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

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

"Certification" means the issuance of a Standard Certificate, which may occur regardless of a recipient's assignment or employment status.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. Ch. 12 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 Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

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

"Fifteen (15) Credits or the Equivalent in Professional Development" means college credits or an equivalent number of hours with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a Regionally Accredited college or university or other Department-approved provider.

"Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

“Major or Its Equivalent” means a minimum of thirty (30) semester hours of coursework in a particular content area.

“Passing Score” means a minimum score as established by the Professional Standards Board, in consultation with the Department, and with the approval of the State Board of Education.

“Professional Development” means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants' attitudes, insights, and/or perspectives; and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

“Regionally Accredited” means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification in another state. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state.

## 3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate ~~as an Art for Visual Arts Teacher~~ to an educator ~~who has met the following:~~
- 3.1.1 ~~Holds a valid Delaware Initial, Continuing, or Advanced License; License, or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; 2003 and meets the requirements set forth in Section 4.0 of this regulation; or~~
  - 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto.~~
  - 3.1.2 Has met the requirements for licensure and holds a Valid and Current License or Certificate from Another State in art education; or
  - 3.1.3 Has met the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for Certification if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the alleged conduct involves allegations of Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

## 4.0 Prescribed Knowledge, Skill, and Education Requirements

- 4.1 For an applicant who is applying for the applicant's first Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have:

- 4.1.1.1 Obtained and currently maintain an Art certificate from the National Board for Professional Teaching Standards; or
- 4.1.1.2 Completed a bachelor's degree from a Regionally Accredited college or university with a Major or Its Equivalent in art education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
- 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach art as provided in 14 **Del.C.** §§1260 – 1266; or
- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in art education; or
- 4.1.1.5 Completed a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactory completion of fifteen (15) credits or the equivalent in Department-approved Professional Development related to art education of which at least six (6) credits must focus on pedagogy.
  - 4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the Fifteen (15) Credits or the Equivalent in Professional Development subject to the Department's approval.
  - 4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the Fifteen (15) Credits or the Equivalent in Professional Development in consultation with the Department and subject to the Department's approval.
- 4.1.2 The applicant shall have achieved on the *Praxis* Subject Assessment – Art: Content Knowledge (ETS Test Code # 5134) a Passing Score of 158.
- 4.2 For an applicant who is applying for the applicant's second or subsequent Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.2.1 and 4.2.2.
  - 4.2.1 The applicant shall have:
    - 4.2.1.1 Satisfactorily completed Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to art education of which at least 6 credits must focus on pedagogy; or
    - 4.2.1.2 Completed the equivalent of subsection 4.2.1.1 in professional experience; and
  - 4.2.2 The applicant shall have achieved on the *Praxis* Subject Assessment – Art: Content Knowledge (ETS Test Code # 5134) a Passing Score of 158.

## **5.0 Application Requirements**

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 For applicants who are applying for their first Standard Certificate, the following documentation is required with the application for a Standard Certificate for Visual Arts Teacher:
  - 5.2.1 Evidence of obtaining and maintaining an Art certificate from the National Board for Professional Teaching Standards, if applicable; and
  - 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
    - 5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
    - 5.2.2.2 Sealed paper transcripts may be submitted.
    - 5.2.2.3 The Department will not accept copies of transcripts; and
  - 5.2.3 If applicable, documents verifying successful completion of Professional Development; and
  - 5.2.4 Official score on the *Praxis* Subject Assessment as provided in subsection 4.1.2; and
  - 5.2.5 If applicable, an experience form must be completed in full and signed by the applicant; and

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# PROPOSED REGULATIONS

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5.2.6 Additional documentation as required by the Department.

5.3 For applicants who are applying for their second or subsequent Standard Certificate, the following documentation is required in the application for a Standard Certificate for Visual Arts Teacher:

5.3.1 Official transcript from the applicant's Regionally Accredited college or university.

5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.3.1.2 Sealed paper transcripts may be submitted.

5.3.1.3 The Department will not accept copies of transcripts; and

5.3.2 If applicable, documents verifying successful completion of Professional Development; and

5.3.3 If applicable, evidence of completing the equivalent of Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to art education or obtaining certification in art from an Accredited Institution; and

5.3.4 Official score on the *Praxis* Subject Assessment as provided in subsection 4.2.2; and

5.3.5 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate from Another State in art education, the following documentation is required in the application for a Standard Certificate for Visual Arts Teacher:

5.4.1 An official copy of the valid and current educator license or certificate from another state or professional license.

## **6.0 Validity of a Standard Certificate**

6.1 A Standard Certificate for Visual Arts Teacher is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Standard Certificate for Visual Arts Teacher is not subject to renewal.

## **7.0 Revocation of a Standard Certificate**

7.1 An Educator's Standard Certificate for Visual Arts Teacher shall be revoked in the event the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's Standard Certificate application in accordance with 14 **Del.C.** §1222.

7.2 An Educator whose Standard Certificate is noticed for revocation is entitled to a full and fair hearing before the Standards Board.

7.2.1 Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

## **8.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Standard Certificate for Visual Arts Teacher on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate for Visual Arts Teacher but whose effectiveness is documented by the local school district or charter school.

## **9.0 Past Certification Recognized**

The Department shall recognize a Standard Certificate Art Teacher issued prior to July 1, 2019. A teacher holding such a Standard Certificate issued by the Department before July 1, 2019 shall be considered certified as a Visual Arts Teacher.

## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))

14 DE Admin. Code 1563

### PUBLIC NOTICE

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

#### 1563 Music Teacher

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

The Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1563 Music Teacher. The regulation concerns the requirements for a Standard Certificate for Music Teacher pursuant to 14 Del.C. §1220. The proposed amendments include adding defined terms to Section 2.0; clarifying the requirements for issuing a standard certificate in Section 3.0; specifying the knowledge, skill, and education requirements for obtaining a first and second or subsequent standard certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Sections 6.0 and 7.0, which concern validity and revocation of a standard certificate; and adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 3, 2019 to Mr. Chris Kenton, Executive Director, Delaware Professional Standards Board, The Townsend Building, 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml) or obtained at the Professional Standards Board's Office, located at the address above.

#### C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators, not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators, not students' legal rights.

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

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

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 Del.C. Ch. 12 relating to licensure and certification of educators.

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, and in particular to state



educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.

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

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

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 923RFA 05-01-19.pdf>

## 1563 Music Teacher

~~Non-regulatory note: Passage on an examination of content knowledge may also be required to obtain this certification. Pursuant to 14 Del.C. §1220 and 14 DE Admin. Code 1505, an examination of content knowledge is required when applicable and available. An examination of content knowledge is applicable and available when approved by the Professional Standards Board with the concurrence of the State Board of Education. See the Department of Education website for additional information.~~

### 1.0 Content

- 4.1 This regulation shall apply to the issuance of a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Music Teacher. This ~~certification~~ Certification is required for grades K to 12.
- 4.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

### 2.0 Definitions

~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

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

"**Certification**" means the issuance of a Standard Certificate, which may occur regardless of a recipient's assignment or employment status.

"**Department**" means the Delaware Department of Education.

"**Educator**" means a person licensed and certified by the State under 14 Del.C. Ch. 12 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 Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

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

"**Fifteen (15) Credits or the Equivalent in Professional Development**" means college credits or an equivalent number of hours with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a Regionally Accredited college or university or other Department-approved provider.

"**Immorality**" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

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

“Major or Its Equivalent” means a minimum of thirty (30) semester hours of coursework in a particular content area.

“Passing Score” means a minimum score as established by the Professional Standards Board, in consultation with the Department, and with the approval of the State Board of Education.

“Professional Development” means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants' attitudes, insights, and/or perspectives; and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

“Regionally Accredited” means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification in another state. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state.

### **3.0 Issuance of a Standard Certificate**

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate ~~as a for~~ Music Teacher to an educator Educator who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License; License,~~ or a ~~Limited Standard,~~ Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; ~~and~~ 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
  - 3.1.2 ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision there.~~
  - 3.1.2 Has met the requirements for licensure and holds a Valid and Current License or Certificate from Another State in music education; or
  - 3.1.3 Has met the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for Certification if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the alleged conduct involves allegations of Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

### **4.0 Prescribed Knowledge, Skill, and Education Requirements**

- 4.1 For an applicant who is applying for the applicant's first Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have:

# PROPOSED REGULATIONS

- 4.1.1.1 Obtained and currently maintain a Music certificate from the National Board for Professional Teaching Standards; or
- 4.1.1.2 Completed a bachelor's degree from a Regionally Accredited college or university with a Major or Its Equivalent in music education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
- 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach music as provided in 14 **Del.C.** §§1260 – 1266; or
- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in music education; or
- 4.1.1.5 Completed a bachelor's degree from a Regionally Accredited college or university in any content area and satisfactory completion of fifteen (15) credits or the equivalent in Department-approved Professional Development related to music education of which at least six (6) credits must focus on pedagogy.
  - 4.1.1.5.1 The applicant, in consultation with the applicant's Employing Authority, shall select the Fifteen (15) Credits or the Equivalent in Professional Development subject to the Department's approval.
  - 4.1.1.5.2 If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the Fifteen (15) Credits or the Equivalent in Professional Development in consultation with the Department and subject to the Department's approval.
- 4.1.2 The applicant shall have achieved on the *Praxis* Subject Assessment – Music: Content Knowledge (ETS Test Code # 5113) a Passing Score of 155.
- 4.2 For an applicant who is applying for the applicant's second or subsequent Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.2.1 and 4.2.2.
  - 4.2.1 The applicant shall have:
    - 4.2.1.1 Satisfactorily completed Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to music education of which at least 6 credits must focus on pedagogy; or
    - 4.2.1.2 Completed the equivalent of subsection 4.2.1.1 in professional experience; and
  - 4.2.2 The applicant shall have achieved on the *Praxis* Subject Assessment – Music: Content Knowledge (ETS Test Code # 5113) a Passing Score of 155.

## 5.0 **Application Requirements**

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for an Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 For applicants who are applying for their first Standard Certificate, the following documentation is required with the application for a Standard Certificate for Music Teacher:
  - 5.2.1 Evidence of obtaining and currently maintaining a Music certificate from the National Board for Professional Teaching Standards, if applicable; and
  - 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
    - 5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or
    - 5.2.2.2 Sealed paper transcripts may be submitted.
    - 5.2.2.3 The Department will not accept copies of transcripts; and
  - 5.2.3 If applicable, documents verifying successful completion of Professional Development; and
  - 5.2.4 Official score on the *Praxis* Subject Assessment as provided in subsection 4.1.2; and
  - 5.2.5 If applicable, an experience form must be completed in full and signed by the applicant; and

5.2.6 Additional documentation as required by the Department.

5.3 For applicants who are applying for their second or subsequent Standard Certificate, the following documentation is required in the application for a Standard Certificate for Music Teacher:

5.3.1 Official transcript from the applicant's Regionally Accredited college or university.

5.3.1.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's Regionally Accredited college or university; or

5.3.1.2 Sealed paper transcripts may be submitted.

5.3.1.3 The Department will not accept copies of transcripts; and

5.3.2 If applicable, documents verifying successful completion of Professional Development; and

5.3.3 If applicable, a copy of the certification in music from an Accredited Institution; and

5.3.4 If applicable, evidence of completing the equivalent of Fifteen (15) Credits or the Equivalent in Professional Development, as provided in subsections 4.1.1.5.1 and 4.1.1.5.2, related to music education; and

5.3.5 Official score on the *Praxis* Subject Assessment as provided in subsection 4.2.2; and

5.3.6 Additional documentation as required by the Department.

5.4 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate from Another State in music education, the following documentation is required in the application for a Standard Certificate for Music Teacher:

5.4.1 An official copy of the valid and current educator license or certificate from another state or professional license.

## **6.0 Validity of a Standard Certificate**

6.1 A Standard Certificate for Music Teacher is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.

6.2 A Standard Certificate for Music Teacher is not subject to renewal.

## **7.0 Revocation of a Standard Certificate**

7.1 An Educator's Standard Certificate for Music Teacher shall be revoked in the event the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's Standard Certificate application in accordance with 14 **Del.C.** §1222.

7.2 An Educator whose Standard Certificate is noticed for revocation is entitled to a full and fair hearing before the Standards Board.

7.2.1 Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

## **8.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Standard Certificate for Music Teacher on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate for Music Teacher but whose effectiveness is documented by the local school district or charter school.

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**PROPOSED REGULATIONS**

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**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****DIVISION OF AIR QUALITY**

Statutory Authority: 7 Delaware Code, Sections 6010(a) and 6010(c)  
(7 Del.C., §§6010(a) and 6010(c))  
7 DE Admin. Code 1150

**REGISTER NOTICE  
SAN # 2018-11****1150 Outer Continental Shelf Air Regulations****1. TITLE OF THE REGULATIONS:**

Proposed amendments to 7 DE Admin. Code 1150, Outer Continental Shelf Air Regulations.

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

The Division of Air Quality (DAQ) is proposing to amend 7 DE Admin. Code 1150 to incorporate updates to the federal Outer Continental Shelf (OCS) regulations at 40 CFR 55, which have been made since the regulation was adopted in 2010.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 Del.C. Ch. 60, Sections 6010(a) and 6010(c).

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None

**6. NOTICE OF PUBLIC COMMENT:**

The hearing record on the proposed amendments to 7 DE Admin. Code 1150, Outer Continental Shelf Air Regulations will open May 1, 2019. Individuals may submit written comments regarding the proposed changes via e-mail to [Lisa.Vest@delaware.gov](mailto:Lisa.Vest@delaware.gov) or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendments to 7 DE Admin. Code 1150, Outer Continental Shelf Air Regulations will be held on May 22, 2019 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Public comments open May 1 and will be received until close of business Thursday, June 6, 2019.

**7. PREPARED BY:**

Mark A. Prettyman – [mark.prettyman@delaware.gov](mailto:mark.prettyman@delaware.gov) – 302-739-9402

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 928RFA 05-01-19.pdf>

**1150 Outer Continental Shelf Air Regulations**

~~06/11/2010~~XX/XX/2019

**1.0 Applicability**

Upon delegation of authority by the Administrator of the EPA to the Department, this regulation shall apply to the owner or operator of any OCS source for which Delaware is the corresponding onshore area (COA) as authorized under Section 328 of the federal Clean Air Act Amendments (42 U.S.C.

7627), Outer Continental Shelf technical changes of 84 Fed. Reg. 13132 (April 4, 2019), and 40 CFR Part 55 (July 1, ~~2009~~2018 ed.).

06/11/2019XX/XX/2019

## 2.0 Requirements

The provisions of Part 40 CFR Part 55 (July 1, ~~2009~~2018 ed.) and the Outer Continental Shelf technical changes of 84 Fed. Reg. 13132 (April 4, 2019) are incorporated herein as 7 **DE Admin. Code** 1150. OCS sources shall comply with all requirements of 1100 Air Quality Management Section of Title 7 of the Delaware Administrative Code to the extent that they are incorporated by EPA into 40 CFR Part 55.14.

This rule incorporates the following provisions of 40 CFR Part 55:

### Outer Continental Shelf Air Regulations

55.1	Statutory authority and scope.
55.2	Definitions.
55.3	Applicability.
55.4	Requirements to submit a notice of intent.
55.6	Permit requirements.
55.7	Exemptions.
55.8	Monitoring, reporting, inspections, and compliance.
55.9	Enforcement.
55.10	Fees.
55.13	Federal requirements that apply to OCS sources.
55.14	Requirements that apply to OCS sources located within 25 miles of states' seaward boundaries, by State.
55.15	Specific designation of corresponding onshore areas.
Appendix A to 40 CFR Part 55	Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

### DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 1902(a), 1501, 1503, 2505 and 2507  
(7 **Del.C.** §§1902(a), 1501, 1503, 2505 & 2507)  
**7 DE Admin. Code 3700**

#### REGISTER NOTICE SAN #2019-03

**3700 Shellfish**  
**3723 Jonah Crab (*Cancer borealis*)**  
**3755 Lobsters**

#### 1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 3700 Shellfish to include:

3723 Jonah Crab [new]; 3755 Lobsters; 3756 Lobsters - Pot Design; 3757 Lobsters - Pot, Season And Limits For Commercial Lobster Pot License; and, 3758 Possession Of V-notched Lobsters Prohibited

#### 2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Atlantic States Marine Fisheries Commission (ASMFC) approved an Interstate Fishery Management Plan (FMP) for Jonah Crab under the authority of the Atlantic Coastal Fisheries Cooperative Management Act

(ACFCMA 1993). The goal of the FMP is to support and promote the development and implementation, on a continual basis, of a unified coastal management program for Jonah Crab, which is designed to promote conservation, reduce the possibility of recruitment failure, and allow full utilization of the resource by the United States industry. Consistent with the mandatory elements of the FMP and its addenda this action proposes to:

- Establish incidental and directed landing permits based upon certain criteria;
- Establish Jonah Crab incidental bycatch limits;
- Establish a Jonah Crab minimum carapace width of 4  $\frac{3}{4}$  inches with no tolerance;
- Establish conditions and limits on the retention of Jonah Crab claws;
- Prohibit the retention of egg-bearing female Jonah Crab; and
- Establish a recreational possession limit of 50 Jonah Crabs per person per day.

This action also proposes to adopt provisions requiring the mandatory removal of lobster pots from February 1 through March 31 in accordance with Addendum XVII to Amendment 3 of the ASMFC's FMP for American Lobster. This action also clarifies that two escape vents are necessary on lobster pots where circular style vents are used and requires that egg-bearing female lobster be V-notched and immediately released.

Finally, consistent with regulation formatting guidelines, this action proposes to reformat the existing regulations pertaining to American Lobster by consolidating 3756 Lobsters - Pot Design; 3757 Lobsters - Pot, Season And Limits For Commercial Lobster Pot License, and 3758 Possession Of V-notched Lobsters Prohibited under existing regulation - 3755 Lobsters. The proposed reformatting is not intended to change meaning.

### 3. POSSIBLE TERMS OF THE AGENCY ACTION:

There is no sunset date for this action.

### 4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §§1902(a), 1501, 1503, 2505 and 2507

### 5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

Not applicable.

### 6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 7 DE Admin. Code 3700 Shellfish to add a new 3723 Jonah Crab and amend 3755 Lobsters; 3756 Lobsters - Pot Design; 3757 Lobsters - Pot, Season And Limits For Commercial Lobster Pot License; and 3758 Possession Of V-notched Lobsters Prohibited opens May 1, 2019. Individuals may submit written comments regarding the proposed changes via e-mail to [Lisa.Vest@Delaware.gov](mailto:Lisa.Vest@Delaware.gov) or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901. A public hearing on the proposed amendment will be held on Thursday, May 23, 2019 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Public comments will be received until close of business Friday, June 7, 2019.

### 7. PREPARED BY:

Stewart Michels  
[Stewart.Michels@Delaware.gov](mailto:Stewart.Michels@Delaware.gov)  
 (302) 739-9914

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 929RFA 05-01-19.pdf>

## 3700 Shellfish 3723 Jonah Crab (*Cancer borealis*)

### 1.0 Jonah Crab Landing Permits

- 1.1 The Department may only issue a Directed Jonah Crab Landing Permit to those vessels and lobster permit holders that held a valid Delaware Commercial Lobster Pot License or federal lobster permit on

June 2, 2015 or that can demonstrate to the Department, through valid reported landing reports or sales receipts, that they landed Jonah Crab or Jonah Crab claws in Delaware before June 2, 2015.

- 1.2 Unless otherwise provided, it is unlawful to possess or land Jonah Crab or parts thereof without a valid commercial foodfish license or a license to harvest shellfish for commercial purposes and a valid Directed Jonah Crab Landing Permit or an Incidental Jonah Crab Landing Permit issued by the Department.
- 1.3 Jonah Crab Landing permits are not transferable and automatically expire on December 31 of each calendar year.

## **2.0 Commercial Possession Limit**

- 2.1 It is unlawful for a person issued a commercial foodfish license or a license to harvest shellfish for commercial purposes to possess more than 1,000 Jonah Crab per trip or more than 2,000 Jonah Crab claws per trip without a valid Directed Jonah Crab Landing Permit issued by the Department.
- 2.2 It is unlawful for a person issued an Incidental Jonah Crab Landing Permit and fishing non-lobster pot gear to possess a greater weight of Jonah Crab or Jonah Crab parts that exceed the weight of the target species for which the gear is set.
- 2.3 Persons issued a Directed Jonah Crab Landing Permit in accordance with subsection 1.1 may possess and land any quantity of Jonah Crabs or parts thereof.

## **3.0 Recreational Possession Limit**

It is unlawful to possess more than 50 Jonah Crab per person per day, unless otherwise provided.

## **4.0 Minimum Size**

- 4.1 It is unlawful to possess Jonah Crab measuring less than 4 ¾ inches at the widest part of its carapace.
- 4.2 It is unlawful to possess detached Jonah Crab claws measuring less than 2 ¾ inches along the longest axis of the propodus (the immovable component of the pinching claw) in a volume greater than five gallons.

## **5.0 Dismemberment**

- 5.1 Except as provided in subsections 5.1.1 and 5.1.2, it is unlawful to possess Jonah Crab claws that are not naturally attached to the body (cephalothorax).
- 5.1.1 A person with a valid Directed Jonah Crab Landing Permit or Incidental Jonah Crab Landing Permit issued by the Department may possess detached Jonah Crab claws in accordance with Section 2.0 and subsection 4.2 of this regulation.
- 5.1.2 A person with a valid and corresponding receipt or bill of lading may possess detached Jonah Crab claws, provided said claws were lawfully harvested.

## **6.0 Egg-bearing Jonah Crab**

It is unlawful to possess a Jonah Crab bearing eggs visible thereon or any Jonah Crab from which the eggs have been removed.

### **3755 Lobsters (*Homarus americanus*)**

#### **37561.0 Lobsters— Lobster Pot Design**

(Penalty Section 7 Del.C. §1912)

- ~~4.01.1~~ It shall be is unlawful for any person to set, tend or conduct shellfishing for lobsters with any pot or trap in the waters under the jurisdiction of the State unless said pot or trap has an escape vent, slot or port of not less than two (2) inches by 5 ¾ inches located in the parlor section of each pot or trap, or if a circular escape vent is used in the parlor section of any lobster pot or trap, it shall be is unlawful to use any less than two (2) circular vent vents that is are less than 2 5/8 inches inside diameter.



# PROPOSED REGULATIONS

- ~~2.01.2~~ It ~~shall be~~ is unlawful for any person to set, tend or conduct shellfishing for lobsters with any pot or trap, not constructed entirely of wood, excluding heading or parlor twine and the escape vent, that does not contain a ghost panel covering an opening that measures at least 3 ¾ inches by 3 ¾ inches. A ghost panel means a panel, or other mechanism, designed to allow the escapement of lobsters after a period of time if the pot or trap has been abandoned or lost. The panel must be constructed of, or fastened to the pot or trap with, one of the following untreated materials: wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch in diameter. The door of the pot or trap may serve as the ghost panel, if fastened with a material specified in this subsection. The ghost panel must be located in the outer parlor(s) of the pot or trap and not the bottom of the pot or trap.
- ~~3.01.3~~ It ~~shall be~~ is unlawful for any recreational or commercial lobster pot fisherman to set, tend or conduct shellfishing for lobsters with a lobster pot or trap with a volume larger than 22,950 cubic inches.

## ~~37572.0 Lobsters—Pot, Lobster Pot Season And Limits For Commercial Lobster Pot License~~

Penalty Section 7 Del.C. §1912)

- ~~2.1~~ Except as provided in subsections 2.1.1 and 2.1.2, it is unlawful to set or tend lobster pots or to take and reduce to possession or attempt to take and reduce to possession lobsters during the period February 1 through March 31.
- ~~2.1.1~~ A person with a valid Commercial Lobster Pot License may remove lobster gear from the water during the period February 1 through February 14; however, no lobsters may be reduced to possession.
- ~~2.1.2~~ A person with a valid Commercial Lobster Pot License may set lobster gear during the period March 25 through March 31; however, the gear cannot be tended and no lobsters may be reduced to possession.
- ~~4.02.2~~ It ~~shall be lawful~~ is unlawful for any person who has a valid Commercial Lobster Pot License to harvest lobsters in the waters under the jurisdiction of the State ~~at any time as permitted by law~~ on any date ~~except~~ Sunday.
- ~~2.02.3~~ It ~~shall be~~ is unlawful for any person who has a valid Commercial Lobster Pot License to set, tend or use in any manner in excess of fifty (50) lobster pots for the taking of lobsters in the waters under the jurisdiction of the State.
- ~~3.02.4~~ It ~~shall be~~ is unlawful for any person, licensed to catch or land lobsters for commercial purposes in this State, who uses gear or methods other than pots or traps outside the jurisdiction of this State, to land more than 100 lobsters per day for each day at sea during the same trip, up to a maximum of 500 lobsters per trip for trips 5 days or ~~longer~~ longer.

## ~~37583.0 Possession Of V-notched Lobsters Prohibited~~

(Penalty Section 7 Del.C. §1912)

- ~~4.03.1~~ It ~~shall be~~ is unlawful for any person to possess a V-notched female lobster. V-notched female lobster means any female lobster bearing a V-notch, a straight-sided triangular cut with or without setal hairs at least 1/8 inch in depth and tapering to a sharp point, in the flipper (uropod) next to the right of center flipper (telson) as viewed from the rear of the female lobster with the underside (ventral side) facing down. ~~V notched female lobster also means any female lobster which is mutilated in a manner which could hide, obscure or obliterate such a mark. The right flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.~~
- ~~3.2~~ Any person that catches an egg-bearing female lobster shall notch it as outlined in subsections 3.2.1 through 3.2.5.
- ~~3.2.1~~ The notch shall be made on the flipper (uropod) immediately to the right of the central flipper (telson) as viewed from the rear of the lobster with the underside (ventral side) facing down.
- ~~3.2.2~~ The notch shall be made by means of a sharp bladed instrument.
- ~~3.2.3~~ The notch shall be made at least ¼ inch in width along the outer margin of the flipper.
- ~~3.2.4~~ The notch shall taper to a sharp point at least ½ inch deep.

3.2.5 The lobster shall be immediately returned to the water upon completion of the notch.

3.3 It is unlawful to possess a female lobster that is mutilated in a manner that could hide, obscure or obliterate a V-notch.

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## DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

### DIVISION OF FAMILY SERVICES OFFICE OF CHILD CARE LICENSING

Statutory Authority: 29 Delaware Code, Section 9003(7) and 31 Delaware Code, Sections 341-345 (29 **Del.C.** §9003(7); 31 **Del.C.** §§341-345)  
9 DE Admin. Code 201

#### PUBLIC NOTICE

#### 201 Child Placing Agencies

#### SUMMARY

The Office of Child Care Licensing (OCCL) proposes to amend the DELACARE: Regulations for Child Placing Agencies in accordance with 31 **Del.C.** §343. This proposal was changed to include an updated anti-discrimination policy, the licensing enforcement process, applications, and the Federal Family Foster Home Licensing Standards as required by Title IV-E which includes the following:

- A foster parent must be able to communicate with the child and the agency, health care providers, and other service providers;
- At least one applicant must have functional literacy;
- All household members must disclose substance abuse issues;
- All household members must provide information on their physical and mental health history, including any history of drug or alcohol abuse or treatment;
- All children who are household members must be up to date on immunizations consistent with the recommendations of the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the American Academy of Family Physicians, unless the immunization is contrary to the child's health as documented by a licensed health care professional;
- The kitchen is required to have an operable sink and oven;
- A working phone or access to a working phone must be in close walking proximity;
- The home must have adequate lighting;
- Hot tubs and spas must have safety covers that are locked when not in use;
- Swimming pools must have their methods of access through barriers equipped with a safety device, such as a bolt lock;
- Swimming pools must be equipped with a life-saving device, such as a ring buoy;
- If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system;
- A foster parent must prevent the child's access to alcoholic beverages;
- Foster Home Capacity: The total number of children in foster care in a family foster home must not exceed six unless a. to allow a parenting youth in foster care to remain with the child of the parenting youth. b. To allow siblings to remain together. c. To allow a child with an established meaningful relationship with the family to remain with the family. d. To allow a family with special training or skills to provide care to a child who has a severe disability;
- A home must have at least one smoke detector on each level of occupancy of the home and at least one near all sleeping areas;

- A home must have at least one carbon monoxide detector on each level of occupancy of the home and at least one near all sleeping areas;
- A home must have a written emergency evacuation plan to be reviewed with the child and posted in a prominent place in the home;
- A home must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home;
- Transportation: Applicants must ensure that the family has reliable, legal, and safe transportation with safety restraints, as appropriate for the child. Reliable transportation would include a properly maintained vehicle or access to reliable public transportation. If one is owned, only adults in the home having a driving record in good standing transport the child;
- Foster parent applicants must receive training on agency structure, purpose, and medication administration;
- Foster parent assurances: Applicants must agree to comply with their roles and responsibilities once a child is placed in their care. Applicants may not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and/or nonprescription drugs by consuming them in excess amounts or using them contrary to as indicated. Applicants and their guests will not smoke in the family foster home, in any vehicle used to transport the child, or in the presence of the child in foster care;
- Foster parent applicants must show proof of income to show the applicants can make timely payments for shelter, food, utility costs, clothing, and other household expenses before adding a foster child or foster children to the home;
- Clarification regarding what constitutes an acceptable foster home by stating it must be a house, mobile home, housing unit, or apartment occupied by an individual or family;
- Clarification to ensure the foster home is clean;
- Requirement that the foster home has proper trash and recycling disposal;
- Clarification regarding that annual training must support a foster parent's role and to ensure the foster parent is up to date on policies, requirements, and services;
- To require age-appropriate sleeping equipment for a child who is 12-36 months in age; and
- To require CPR training pertinent to the ages of children in placement.

### COMMENTS

Interested parties wishing to offer comments on these proposed regulations or submit written suggestions, data, briefs, or other materials concerning the proposed regulations must submit them to Kelly McDowell, Office of Child Care Licensing, 3411 Silverside Road, Concord Plaza, Hagley Building Wilmington, Delaware 19810, or by email to [Kelly.McDowell@delaware.gov](mailto:Kelly.McDowell@delaware.gov).

Comments must be submitted by the close of business on May 31, 2019.

**\*Please Note:**

(1) **The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 933RFA 05-01-19.pdf>

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

**201 Child Placing Agencies**

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**1900 BOARD OF NURSING**

Statutory Authority: 24 Delaware Code, Section 1904(c) (24 Del.C. §1904(c))  
24 DE Admin. Code 1900

**PUBLIC NOTICE**

**1900 Board of Nursing**

The Delaware Board of Nursing, pursuant to 24 Del.C. §1904(c), proposes to revise its regulations to update the education regulations pertaining to use of simulation in nursing schools. The proposed changes set forth what percentage of clinical experience may be through simulation and the requirements related to the use of simulation. In addition, the Board proposes to change Regulation 8.14.9.2 regarding the requirements an advanced practice registered nurse must meet to renew prescriptive authority.

The Board will hold a public hearing on the proposed regulation changes on June 12, 2019 at 9:00 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until June 27, 2019 pursuant to 29 Del.C. §10118(a).

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/may2019/proposed/22 DE Reg 935RFA 05-01-19.pdf>

**1900 Board of Nursing**  
**(Break in Continuity of Sections)**

**2.0 Nursing Education Programs**

2.1 Definitions

**(Break in Continuity Within Section)**

“Debriefing” means an activity that follows a simulation experience, is led by a facilitator, encourages participant’s reflective thinking, and provides feedback regarding the participant’s performance.

**(Break in Continuity Within Section)**

“Simulation” means a technique to replace or amplify real experiences with guided experiences that evoke or replicate substantial aspects of the real world in a fully interactive manner.

**(Break in Continuity Within Section)**

2.4 Nursing Education Standards

**(Break in Continuity Within Section)**

2.4.1 Required Criteria for Nursing Education Programs – The organization and administration of the nursing education shall be consistent with the law governing the practice of nursing. The nursing education program shall be an integral part of a governing institution with appropriate accreditation. The following minimum criteria serve to support the implementation of the Nursing Education Standards:

**(Break in Continuity Within Section)**

2.4.1.7 Curriculum

The following shall apply to nursing education programs:

**(Break in Continuity Within Section)**

2.4.1.7.4 A minimum of 200 hours of clinical experience is required for LPN students and a minimum of 400 hours of clinical experience is required for RN students. ~~Simulation—high fidelity and/or standardized patient—clinical experiences may be used for a~~

## PROPOSED REGULATIONS

~~portion of the clinical experience requirements. LPN clinical does not equate to RN clinical and may not be substituted or included for RN clinical in an educational program nor as RN clinical practice to meet the practice hour requirement for relicensure. Simulation - high fidelity and/or standardized patient - clinical scenarios may be substituted for traditional clinical experiences but must not exceed 50% of the program's clinical hours.~~

2.4.1.7.4.1 The program shall have an organizing framework that provides adequate fiscal, human, and material resources to support the simulation activities.

2.4.1.7.4.2 Simulation activities shall be managed by an individual who is academically and experientially qualified. The individual shall demonstrate continued expertise and competence in the use of simulation while managing the program.

2.4.1.7.4.3 There shall be a budget that will sustain the simulation activities and training of the faculty.

2.4.1.7.4.4 The program shall have appropriate facilities for conducting simulation. This shall include educational and technological resources and equipment to meet the intended objectives of the simulation.

2.4.1.7.4.5 Both didactic and clinical faculty involved in simulations shall have training in the use of simulation, and shall engage in on-going professional development in the use of simulation.

2.4.1.7.4.6 The program shall demonstrate that the simulation activities are linked to programmatic outcomes.

2.4.1.7.4.7 The program shall have written policies and procedures on short-term and long-term plans for integrating simulation into the curriculum; method of debriefing each simulated activity; and a plan for orienting faculty to simulation.

2.4.1.7.4.8 The program shall develop criteria to evaluate the simulation activities. Students shall evaluate the simulation experience on an ongoing basis.

2.4.1.7.4.9 The program shall include information about its use of simulation in its annual report to the Board of Nursing.

*(Break in Continuity of Sections)*

### 8.0 Rules and Regulations Governing the Practice of Nursing as an Advanced Practice Registered Nurse in the State of Delaware

*(Break in Continuity Within Section)*

#### 8.14 Prescriptive Authority

*(Break in Continuity Within Section)*

##### 8.14.9 Renewal of Prescriptive Authority

8.14.9.1 Maintain current APRN licensure.

8.14.9.2 ~~Maintain competency through a minimum of ten hours of Board approved pharmacology/ pharmacotherapeutics related continuing education within the area of specialization and licensure per biennium. The pharmacology/ pharmacotherapeutics content may be a separate course or integrated within other offerings. Prescriptive authority will renew with APRN licensure renewal.~~

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

**1900 Board of Nursing**

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## 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 bold 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.

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## DEPARTMENT OF EDUCATION

### OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 8906D (14 **Del.C.** §8906D)

### REGULATORY IMPLEMENTING ORDER

### 237 Educational Support Professional of the Year

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §8906D, the Secretary of Education intends to create 14 **DE Admin. Code** 237 Educational Support Professional of the Year. This new regulation is being created to comply with House Bill 134 as amended by House Amendment 1 of the 149<sup>th</sup> General Assembly which requires the Department of Education to establish guidance concerning how Education Support Professional of the Year Award funds may be used by the award recipient.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on March 1, 2019, in the form hereto attached as *Exhibit "A"*. No comments were received for this regulation.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to create 14 **DE Admin. Code** 237 Educational Support Professional of the Year in order to comply with House Bill 134 as amended by House Amendment 1 of the 149<sup>th</sup> General Assembly which requires the Department of Education to establish guidance concerning how Education Support Professional of the Year Award funds may be used by the award recipient.

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to create 14 **DE Admin. Code** 237

Educational Support Professional of the Year. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 237 Educational Support Professional of the Year attached hereto as *Exhibit "B"* is hereby created. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 237 Educational Support Professional of the Year hereby created 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** 237 Educational Support Professional of the Year created hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 237 Educational Support Professional of the Year in the *Administrative Code of Regulations* for the Department of Education.

#### V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on April 15, 2019. 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 15<sup>th</sup> day of April 2019.

#### Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 15<sup>th</sup> day of April 2019

#### **237 Educational Support Professional of the Year**

##### **1.0 Purpose**

The purpose of this regulation is to establish policies and procedures by which Educational Support Professional of the Year award funds may be used by the designated recipient pursuant to 14 **Del.C.** §8906D.

##### **2.0 Definitions**

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

"**Department**" means the Delaware Department of Education.

"**Educational Support Professional of the Year Award Fund**" means a \$2,500 set aside fund within the budget of the Department of Education for the award recipient to make withdrawals from as necessary to fund educational materials to serve educational purposes and objectives as described in 14 **Del.C.** §8906D.

"**Educational Support Professional of the Year Award Recipient**" or "**Recipient**" means a school employee whose position is instructional in nature or who provides other direct or indirect services to students and their parents such as paraprofessionals, instructional aides, custodial staff, secretaries, nutritional staff and school bus drivers, who is recognized for their outstanding service as described in 14 **Del.C.** §8903D. This designation is given at both the local school district and at the statewide level.

##### **3.0 Funding**

3.1 The Educational Support Professional of the Year Award Fund, in the amount of \$2,500, shall be set aside within the budget of the Department to be used for the statewide Educational Support Professional of the Year Award Recipient's exclusive assignment and disbursement.

3.2 The Educational Support Professional of the Year Award Recipient shall not directly receive the funds, but may make withdrawals solely for educational purposes and to benefit students. No amount of such

award shall be used for the personal benefit of the award recipient; however, in the use of such funds for educational purposes, the Recipient may be an indirect or incidental beneficiary as educational support professional of the benefited pupils.

- 3.3 In order to withdraw funds, the Recipient shall present to the superintendent of the local school district a plan for utilization of the award in order to avoid wasteful duplication of materials or violation of school district policy.
- 3.4 Possible use of funds includes, but is not limited to:
- 3.4.1 Purchase of non-consumable materials and supplies (library books, audio/visual equipment, computer equipment, etc.):
  - 3.4.2 Purchase of otherwise consumable materials that are used by students (paper, notebooks, binders, pencils, etc.):
  - 3.4.3 Employment of performers or consultants (musical group, author, poet or other subject matter expert):
  - 3.4.4 Student-centered professional development for building level Educational Support Professionals; or
  - 3.4.5 Reimbursements to the recipient, not to exceed \$500, for personal expenses.
- 3.5 Materials, equipment or other items purchased with such funds shall be the property of the local school district in which the recipient is employed at the time of expenditure.
- 3.6 Invoices, purchase orders or personal reimbursement forms related to withdrawals from the Educational Support Professional of the Year Award Fund shall be retained by the local school district and shall be available for inspection as public records and subject to regular audit by the State Auditor of Accounts.
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## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 8513 (14 Del.C. §8513)  
14 DE Admin. Code 282

### REGULATORY IMPLEMENTING ORDER

#### 282 Private Business and Trade Schools

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §8513, the Secretary of Education intends to amend 14 DE Admin. Code 282 Private Business and Trade Schools. This regulation is being amended to clarify content, especially definitions, and to comply with the Delaware Administrative Code Style Manual.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on March 1, 2019, in the form hereto attached as *Exhibit "A"*. Comments were received from the Governor's Advisory Council for Exceptional Citizens requesting that: (1) the Department take the necessary steps to ensure all students with disabilities have full access to private business and trade schools. The Department will continue to work in a manner that will help ensure students with disabilities are given full access to with Private business and trade schools; and (2) the Department provide clarification on accessing application forms and the timeframe for applying for Certificates of Approval. The Department agrees that the regulation should clarify where the application form can be found, which is on its website, and will incorporate the website into the proposed regulation pursuant to 29 Del.C. §10113(b)(4), which allows for "nonsubstantive changes in existing regulations to alter style or form or to correct technical errors." As for the timeframe for applying for Certificate of Approval, the approval process occurs year round as outlined in subsection 3.6.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 282 Private Business and Trade



Schools in order to clarify content, especially definitions, and to comply with the Delaware Administrative Code Style Manual.

### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 282 Private Business and Trade Schools. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 282 Private Business and Trade Schools attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 282 Private Business and Trade Schools 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** 282 Private Business and Trade Schools amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 282 Private Business and Trade Schools in the *Administrative Code of Regulations* for the Department of Education.

### V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on April 15, 2019. 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 15<sup>th</sup> day of April 2019.

#### Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 15<sup>th</sup> day of April 2019

#### 282 Private Business and Trade Schools

#### 1.0 Definitions. ~~For purposes of this regulation~~

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

**"Agent"** ~~has the same meaning as in 14 **Del.C.** §8501(4)~~ means a person employed by a Private Business or Trade School, located within or outside Delaware, to act as an agent, solicitor, broker, or independent contractor to directly procure students or enrollees for such school by solicitation.

**"Agent Card"** ~~shall mean~~ means the pocket card provided for in 14 **Del.C.** §8510 which contains the name and address of the Agent of the employing Private Business or Trade School which signifies that this person is an authorized agent of the school.

**"Certificate of Approval"** means the document issued by the Department that permits a private school to conduct courses in business or trades.

**"Department"** means the Delaware Department of Education.

**"Private Business and or Trade School"** ~~has the same meaning as in 14 **Del.C.** §8501(4)~~ means an educational institution privately owned and operated for profit or nonprofit by an owner, partnership, or corporation, offering business or trade and industrial courses for which tuition may or may not be charged, and which may include those courses usually associated with business training schools, trade schools, specialized skill training schools, or institutes.

## 2.0 General Provisions

- 2.1 The distinguishing characteristic of a ~~private business or trade school~~ Private Business or Trade School shall be the potential for wage earning by its graduates.
- 2.2 ~~Private business and trade schools~~ Business or Trade Schools shall include:
  - 2.2.1 Correspondence school courses offered as post high school courses in trade or business subjects; and
  - 2.2.2 Programs that may also be available as high school introductory courses in trade or business subjects, without regard for the age or the prior educational attainment of the student.
- 2.3 A ~~private business and trade school~~ Private Business or Trade School which actively seeks enrollees from the State of Delaware, or which sends an ~~agent or agents~~ Agent into the State of Delaware to solicit enrollees, shall ensure that each of its ~~agents~~ Agent maintains a current ~~agent~~ Agent permit issued by the Department.
- 2.4 ~~The term agent~~ An Agent shall include individuals who solicit enrollees in Delaware even though the institution the ~~agent~~ Agent represents does not conduct classes within ~~the State of Delaware~~.
- 2.5 All advertising by a ~~private business and trade school~~ Private Business or Trade School shall be in accordance with the statutes, rules and regulations for advertising administered and supervised by the Department of Justice Consumer Protection Division.
- 2.6 **14 DE Admin. Code 225** Prohibition of Discrimination shall apply to all ~~private business and trade schools and agents~~ Private Business or Trade Schools and Agents approved by the Department.

## 3.0 Certificates of Approval

- 3.1 Applications for an initial ~~certificate of approval~~ Certificate of Approval to conduct a ~~private business and trade school~~ Private Business or Trade School, and for annual renewal of such ~~certificates~~ Certificates of Approval, shall be made on forms approved by the Department and include such information and fees as required by the Department. Applications are not considered complete until all required information and fees are received by the Department. **[The application can be found on the Department's website at [www.doe.k12.de.us](http://www.doe.k12.de.us).]**
- 3.2 A ~~private business and trade school~~ Private Business or Trade School offering more than one program of instruction must have each program approved by the Department.
- 3.3 The Department may conduct an on site evaluation of any applicant for a ~~certificate of approval~~ Certificate of Approval or for renewal of a ~~certificate of approval~~ Certificate of Approval. The Secretary of Education may waive an on site evaluation if the applicant is accredited by a regional or national accrediting association recognized by the Department, or is certified to conduct a similar program or school by the state education agency of another state with comparable standards for such schools.
- 3.4 If a ~~private business and trade school~~ Private Business or Trade School makes any material change in its operation, such as, but not limited to, corporate structure or financial structure, the school shall notify the Department of the change within thirty days. The school shall also identify the change in its next renewal application.
- 3.5 The fees charged as filing and renewal fees are not refundable.
- 3.6 For purposes for this section, the following definitions shall apply: first calendar quarter, January 1st through March 31st; second calendar quarter, April 1st through June 30; third calendar quarter, July 1st through September 30th; and fourth calendar quarter, October 1st through December 31st.
  - 3.6.1 Any current and valid Certificate of Approval with an expiration date of December 31, 2005, shall automatically be extended to the end of the calendar quarter in which the ~~private business and trade school~~ Private Business or Trade School was originally granted its Certificate of Approval, conditioned on the school providing the Department with evidence of continuation of surety bond at least through the extension period.
  - 3.6.2 Beginning with the fourth quarter of 2005, a ~~private business and trade school~~ Private Business or Trade School will be required to renew its certification by the end of the calendar quarter in which the Department originally granted its the Certificate of Approval.

- 3.6.3 ~~Private business and trade schools~~ Business or Trade Schools with multiple campuses may request the Department to renew all campuses on a single renewal date based on initial approval of any one of the campuses.

#### 4.0 Agent Permits

- 4.1 Applications for an initial ~~agent~~ Agent permit, and for renewal of such permits, shall be made on forms approved by the Department and include such information and fees as required by the Department. Applications are not considered complete until all required information and fees are received by the Department.
- 4.2 An ~~agent~~ Agent representing more than one ~~private business and trade school~~ Private Business or Trade School must apply for separate permits for each ~~such~~ school.
- 4.3 Agents shall apply to renew their ~~permit(s)~~ permit each year at the same time that the ~~school or schools~~ school the ~~agent~~ Agent represents ~~make~~ makes application to renew their respective ~~certificates of approval~~ Certificates of Approval. In the case of a school not conducting classes in Delaware, but sending ~~agents~~ Agents into Delaware, the application for an ~~agent~~ Agent permit must be accompanied by a notarized verification of employment from the school represented and must be received by the Department on or before the expiration of the current permit. No permit shall be issued for a period of more than twelve calendar months.
- 4.4 No ~~agent~~ Agent shall solicit Delaware enrollees on behalf of the ~~private business and trade school~~ Private Business or Trade School represented until the Department issues the appropriate ~~agent card~~ Agent Card.
- 4.5 The lapse, suspension, revocation, or non renewal of a ~~private business and trade school certificate of approval~~ Private Business or Trade School Certificate of Approval for any cause shall terminate all ~~agent~~ Agent permits for that institution.
- 4.6 A school shall report the discharge or resignation of any ~~agent~~ Agent to the Department within thirty days.
- 4.7 The fee for the ~~agent~~ Agent permit will be waived for the owner or chief executive officer of a ~~private business and trade school~~ Private Business or Trade School who also serves as its ~~agent~~ Agent. Each such individual must still apply for and obtain the ~~agent~~ Agent permit. Any additional ~~agents~~ Agents must obtain permits as otherwise described.
- 4.8 The fees charged as filing and renewal fees are not refundable.

#### 5.0 Complaints

- 5.1 Each ~~private business and trade school~~ Private Business or Trade School shall adopt a policy and procedures to address complaints by its students. The school catalogue shall contain its complaint policy and procedures or a reference to where the policy and procedures can be obtained.
- 5.2 In addition to the complaint procedures adopted by a ~~private business and trade school~~ Private Business or Trade School for its students, the Department will investigate complaints by any person alleging facts that, if true, would constitute grounds for refusing or revoking a ~~certificate of approval~~ Certificate of Approval or an ~~agent~~ Agent permit. In either event, the Department will notify the complainant of its conclusions and provide the complainant with a copy of the school or ~~agent's~~ Agent's initial response, if any.
- 5.2.1 Such complaints must be in writing and verified by the signature of the person making the complaint. Oral, anonymous or unsigned complaints will not be investigated.
- 5.2.2 A copy of the written complaint will be provided to the affected ~~private business and trade school~~ Private Business or Trade School or ~~agent~~ Agent for their written response. The Department may require that the complainant provide written permission for the Department to forward the complaint to the school or ~~agent~~ Agent.
- 5.2.2.1 If, after reviewing the school or ~~agent's~~ Agent's response, the Department concludes that there is insufficient evidence to believe that the school or ~~agent~~ Agent has violated applicable law or a standard, rule or regulation of the Department, the Department may

close the complaint without further investigation. In such case, the Department will notify the complainant and the school or ~~agent~~ Agent of this conclusion and provide the complainant with a copy of the school or ~~agent's~~ Agent's response.

5.2.2.2 If, after reviewing the school or ~~agent~~ Agent response, the Department concludes that there is sufficient evidence to believe that the school or ~~agent~~ Agent has violated applicable law or a standard, rule or regulation of the Department, the Department may continue its investigation or begin revocation or other action against the school or agent as the Department determines appropriate. The Department may also continue its investigation or begin revocation or other action if the school or ~~agent~~ Agent fails to respond to a complaint within the time established by the Department.

5.3 The Department may also investigate circumstances that would constitute grounds for refusing or revoking a ~~certificate of approval~~ Certificate of Approval or an ~~agent~~ Agent permit on its own initiative.

## 6.0 Denials and Revocations of Certificates and Permits

6.4 In view of an apparent conflict between the statutory statement in 14 **Del.C.** §8516 (for any combination of the following) and 14 **Del.C.** §8517 (for any cause enumerated in §8516), the Department interprets and shall administer §8516 to mean that a ~~certificate of approval~~ Certificate of Approval or an ~~agent~~ Agent permit may be denied or revoked for any one or combination of the causes identified in that ~~Section~~ section.

## 7.0 Bonds

7.1 Applications for an initial ~~certificate of approval~~ Certificate of Approval or renewal of certificates shall include evidence that the required surety bond is valid from the date of the complete application through the new ~~certificate of approval~~ Certificate of Approval expiration date.

7.2 The amount of the surety bond required of a school shall be determined as provided in 14 **Del.C.** §8505(b). In no event shall a bond be for less than \$25,000 per calendar year.

7.3 The Department interprets and shall administer the phrase ~~fail~~ "fail to provide the services called for in a contract or agreement with a student, student," as used in 14 **Del.C.** §8523 to mean failure to substantially provide the essential ~~services.~~ services.

7.4 Forfeiture

7.4.1 In the event a surety bond is forfeited, the Department shall notify the students identified on the last available school roster of their right to submit a claim for reimbursement. Such students shall have thirty days from the date they are notified by the Department to submit a claim for reimbursement. Claims received more than thirty days after the ~~Departments~~ Department's notification shall not be considered.

7.4.2 Other students wishing to submit a claim for reimbursement must contact the Department within thirty days of the schools closing to submit their claim for reimbursement. Claims received more than thirty days after the schools closing shall not be considered.

7.4.3 Claims for reimbursement shall be submitted and documented as directed by the Department. The Department shall consider only appropriately documented claims in distributing the proceeds of any surety bond.

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b)(18) (14 Del.C. §122(b)(18))  
14 DE Admin. Code 910

## REGULATORY IMPLEMENTING ORDER

## 910 Delaware Requirements for Issuance of the Secondary Credential

## I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §122(b)(18), the Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 910 Delaware Requirements for Issuance of the Secondary Credential. This regulation is being amended to add definitions for clarification purposes and to comply with the Delaware Administrative Code Style Manual.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on March 1, 2019, in the form hereto attached as *Exhibit "A"*. Comments endorsing the amended regulation as published were received from the Governor's Advisory Council for Exceptional Citizens.

## II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 910 Delaware Requirements for Issuance of the Secondary Credential in order to add definitions for clarification purposes and to comply with the Delaware Administrative Code Style Manual.

## III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 910 Delaware Requirements for Issuance of the Secondary Credential. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 910 Delaware Requirements for Issuance of the Secondary Credential attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 910 Delaware Requirements for Issuance of the Secondary Credential 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 910 Delaware Requirements for Issuance of the Secondary Credential amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 DE Admin. Code 910 Delaware Requirements for Issuance of the Secondary Credential in the *Administrative Code of Regulations* for the Department of Education.

## V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del.C. §122 on April 18, 2019. 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 18<sup>th</sup> day of April 2019.

## Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 18<sup>th</sup> day of April 2019

## State Board of Education

Whitney Townsend Sweeney, President  
Audrey J. Noble, Ph.D., Vice President  
Candace Fifer (absent)

Vincent Lofink  
Nina Lou Bunting  
Wali W. Rushdan, II

## 910 Delaware Requirements for Issuance of the Secondary Credential

### 1.0 Purpose

A Pursuant to 14 ~~Del.C. §122(b)(18)~~, a Delaware secondary credential is given to persons who satisfactorily pass a ~~recognized~~ secondary credential assessment approved and recognized by the Delaware Department of Education.

### 2.0 Definitions

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

“Assessment” means a set of tests that evaluates high school skill levels in the content areas of English Language Arts, Math, Science and Social Studies.

“Department” means the Delaware Department of Education

“Secondary Credential” means a document that verifies the successful completion of the assessment that evaluates high school level skills in the areas of English Language Arts, Math, Science and Social Studies.

### 4.03.0 Eligibility ~~to take a secondary credential assessment~~ for a Secondary Credential Assessment

4.13.1 For persons 18 years of age or older, an applicant shall:

4.1.23.1.1 Be a resident of Delaware or, if a resident of another state, be currently employed in Delaware and have been so employed for a minimum of six months prior to taking the test; and

4.1.23.1.2 Certify ~~under his or her~~ by signature on the secondary credential assessment application form that ~~he or she is~~ they are not enrolled in a public or non public school program.

4.23.2 For a person 16 or 17 years of age an applicant shall:

4.2.13.2.1 Seek a waiver of the 18 years of age requirement by completing a written application to the Delaware Department of Education that includes showing good cause for taking the test early and designating where the test will be taken; and

4.2.23.2.2 Be a resident of the State of Delaware; and

4.2.33.2.3 Verify that they are at least 16 years of age at the time of the application for the waiver of the age requirement using a birth certificate, driver’s license, a State of Delaware Identification Card or other comparable and reliable documentation of age; and

4.2.43.2.4 Provide verification of withdrawal from the applicant’s public or non public school program; and

4.2.53.2.5 Provide a transcript from the applicant’s public or non public school program.

### 2.04.0 Scores Required for a Delaware ~~secondary~~ Secondary Credential

An individual shall attain the minimum passing standard as approved by the ~~Delaware~~ Department of Education.

### 3.05.0 Assessment Approval Process

3.15.1 The assessment provider must complete a ~~DOE~~ Department-approved application. The application must ~~include~~ include, at ~~minimum~~ a minimum, the following:

3.1.15.1.1 ~~provider’s~~ Provider’s qualification and experience;

3.1.25.1.2 ~~assessment~~ Assessment content and form;

- ~~3.1.35.1.3~~ validation Validation and norming processes;
- ~~3.1.45.1.4~~ assessment Assessment delivery;
- ~~3.1.55.1.5~~ technology Technology processes;
- ~~3.1.65.1.6~~ security Security provisions;
- ~~3.1.75.1.7~~ accommodations Accommodations processes;
- ~~3.1.85.1.8~~ assessment Assessment scoring and reporting processes;
- ~~3.1.95.1.9~~ assessment Assessment data access requirements;
- ~~3.1.105.1.10~~ practice Practice test and supplementary instructional materials;
- ~~3.1.115.1.11~~ staff Staff training;
- ~~3.1.125.1.12~~ alignment Alignment with college and career readiness standards and Delaware accountability system; and
- ~~3.1.135.1.13~~ cost Cost and timeframe for implementation.

#### **~~4.06.0~~ Currently Recognized Assessments and Publication**

- ~~4.16.1~~ The GED® Test has been previously approved and is a ~~Department of Education~~ Department- recognized secondary credential assessment.
- ~~4.26.2~~ DOE The Department will publish annually a list of approved assessments.

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## **DEPARTMENT OF INSURANCE**

### **OFFICE OF THE COMMISSIONER**

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

#### **ORDER**

#### **704 Homeowners Premium Consumer Comparison**

#### **I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

In the March 1, 2019 edition of the *Register of Regulations* at 22 **DE Reg.** 751, the Commissioner of the Delaware Department of Insurance (Commissioner) published a notice of intent to repeal existing Regulation 704, and solicited written comments from the public for thirty (30) days as mandated by the Administrative Procedures Act at 29 **Del.C.** §10118(a).

As discussed in the introductory paragraphs of the proposal to repeal, Regulation 704 provides the framework for the Department's on-line homeowner's insurance policy rate comparison tool. This tool has become obsolete since its original inception in 2010. Unlike the Regulation 704 rate calculator, contemporary on-line rate calculators provided by insurers are precisely tailored to fit an exact consumer profile. Accordingly, the Department's on-line homeowner's insurance rate comparison tool is no longer useful.

In addition to publishing the proposal in the *Register of Regulations*, the Department also published the proposal on its website. The Department did not hold a public hearing on the proposed repeal.

The Department received no public comments on the proposal.

#### **II. FINDINGS OF FACTS**

1. Regulation 704, Homeowners Premium Consumer Comparison, should be repealed.
2. The Department met the public notice requirements of the Administrative Procedures Act.
3. The Department received no public comments on the proposed repeal.

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## III. DECISION TO REPEAL REGULATION 704

For the foregoing reasons, the Commissioner concludes that it is appropriate to repeal 18 **DE Admin. Code** 704, as discussed in the above Findings of Fact for the reasons set forth above and in the proposal to repeal.

## V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Commissioner pursuant to 18 **Del.C.** §§311 and 2501 on the date indicated below. 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 11<sup>th</sup> day of April, 2019.

Trinidad Navarro  
Commissioner  
Delaware Department of Insurance

### 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 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 May 1st 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 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.

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Chapter 60, Sections 6006 and 6010 (7 Del.C. Ch. 60, §§6006 & 6010)

7 DE Admin. Code 1140

Secretary's Order No.: 2019-A-0017

**RE: Approving Final Regulations to Amend 7 DE Admin. Code 1140:  
*Delaware Low Emission Vehicle ("LEV") Program***

**Date of Issuance: April 15, 2019**

**Effective Date of the Amendment: May 11, 2019**

### **1140 Delaware Low Emission Vehicle Program**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 Del.C. §§6006 and 6010, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

#### **Background, Procedural History and Findings of Fact**

This Order relates to proposed regulation amendments ("Amendments") to 7 DE Admin. Code 1140: *Delaware Low Emission Vehicle ("LEV") Program*. This action is being taken by the Department to incorporate by reference the effective date of California's regulatory amendments to 13 CCR 1961.2 and 1961.3 (e.g., California's LEV III and Greenhouse Gas ("GHG") standards), thus clarifying the aforementioned "deemed to comply" provision and maintaining Delaware's GHG emissions from light-duty vehicles for model years 2021 to 2025 model year.

On August 24, 2018, the U.S. Environmental Protection Agency ("EPA"), and the National Highway Traffic Safety Administration have proposed to roll back the GHG emission standards and freeze the fuel economy standards for light-duty vehicles to the currently adopted 2020 standards for model years 2021 to 2025, through its Safer Affordable Fuel Efficient ("SAFE") vehicles rule. If adopted, the SAFE rule would result in an estimated increase of 1,432 million metric tons of GHG emissions in the atmosphere by 2035.

In the light of this proposed rule, the California Air Resources Board amended its California Code of Regulations, Sections 1961.2 and 1961.3, to clarify that the "deemed to comply" provision embedded in California's Advance Clean Car program is only applicable with the currently adopted Federal Standards, as last amended on October 25, 2016. The California amendments were effective as of December 12, 2018.

The "deemed to comply" provision was first adopted by California, predicating that the EPA standards are providing GHG emissions reduction equivalent to the California standards. In order to maintain the emissions stringency of the currently adopted standards, Delaware needs to clarify that the "deemed to comply" provision only holds true with the aforementioned Federal Standards. The Department believes that the currently adopted emissions standards will offer Delawareans an increased quality of life through increased economic opportunities, reduced local air pollution, and an opportunity to mitigate the effects of climate change on our coastal state.

As demonstrated in California's final statement of reasons for its respective rulemaking, the currently adopted GHG emissions standards remain appropriate, cost-effective, and technologically feasible for model years 2021 to 2025. In order to maintain emissions standards identical to California's standards, as required by Section 177 of the Clean Air Act (42 U.S.C. §7507), the Department needs to adopt California's latest amendments into Delaware's LEV provision.

On December 27, 2018, the Department enacted emergency regulation amendments to 7 DE Admin. Code 1140 (Emergency Order No. 2018-A-0072) in order to maintain the emissions stringency of the currently adopted standards, beginning with model year 2021. The Department now proposes to preserve this emissions stringency

for the 2021 to 2025 model year standards with these formal Amendments, which incorporate by reference the effective date of California's amendments to 13 CCR 1961.2 and 1961.3, thus clarifying the aforementioned "deemed to comply" provision.

As noted above, the Department has the statutory basis and legal authority to act with regard to the formal promulgation of these proposed Amendments, pursuant to 7 **Del.C.** Ch. 60. The Department published its initial proposed regulation Amendments in the February 1, 2019 *Delaware Register of Regulations*. Thereafter, the public hearing regarding this matter was held on February 21, 2019. Members of the public attended the aforementioned public hearing, with comment being received by the Department at that time. Pursuant to 29 **Del.C.** §10118(a), the hearing record remained open for receipt of additional written comment for 15 days following the public hearing. The hearing record formally closed for comment in this matter at close of business on March 8, 2019, with additional comment having been received by the Department during the post-hearing phase of this formal promulgation.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

After the close of the comment period, the Department's Division of Air Quality ("DAQ") performed a thorough review of the hearing record, including all of the comments received on the proposed Amendments. At the request of the presiding Hearing Officer, a Technical Response Memorandum ("TRM") was prepared by the Department's DAQ staff to serve as a comprehensive summary of the comment received in this matter. This TRM not only provides a thorough discussion of the comment received in this matter, but also provides the DAQ's responses and recommendations concerning the same.

Hearing Officer Lisa A. Vest prepared her Report dated April 10, 2019 ("Report"), which expressly incorporated both the Department's proposed Amendments and the aforementioned TRM into the hearing record generated in this matter. The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix "A."

### Reasons and Conclusions

Based on the record developed by the Department's DAQ experts and established by the Hearing Officer's Report, I find that the proposed regulatory amendments to 7 **DE Admin. Code** 1140: *Delaware Low Emission Vehicle ("LEV") Program*, are well-supported. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed Amendments be promulgated as final. I further find that the Department's DAQ experts in the fully developed the record to support adoption of these Amendments.

In conclusion, the following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to the proposed Amendments to 7 **DE Admin. Code** 1140: *Delaware Low Emission Vehicle ("LEV") Program*, pursuant to 7 **Del.C.** Ch. 60;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 **Del.C.** Ch. 60, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the initial proposed Amendments and all proceedings in a manner required by the law and regulations, provided the public with an adequate opportunity to comment on the proposed Amendments, including at the time of the public hearing held on February 21, 2019, and during the 15 days subsequent to the hearing (through March 8, 2019), before making any final decision;
4. Promulgation of the proposed Amendments to 7 **DE Admin. Code** 1140: *Delaware Low Emission Vehicle ("LEV") Program*, will enable the Department to incorporate by reference the effective date of California's amendments to 13 CCR 1961.2 and 1961.3, thus clarifying the aforementioned "deemed to comply" provision and maintaining Delaware's GHG emissions from light-duty vehicles for model years 2021 to 2025 model year;
5. The Department has reviewed the proposed Amendments in the light of the Regulatory Flexibility Act, consistent with 29 **Del.C.** Ch. 104, and has selected Exemption "B5," as this regulation is required by federal law (Section 177 of the Clean Air Act, 42 U.S. Code §7507) and has already complied with the federal Regulatory Flexibility Act, 5 U.S.C. §601 et seq.;
6. The Department's Hearing Officer's Report, including its established record and the recommended proposed Amendments, are hereby adopted to provide additional reasons and findings for this Order;
7. The Department's proposed regulatory Amendments, as initially published in the February 1, 2019

Delaware *Register of Regulations*, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the Delaware *Register of Regulations*; and

8. The Department shall submit the proposed Amendments as final regulatory amendments to 7 **DE Admin. Code** 1140: *Delaware Low Emission Vehicle ("LEV") Program*, 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.

Shawn M. Garvin  
Secretary

**\*Please note that no changes were made to the regulation as originally proposed and published in the February 2019 issue of the *Register* at page 660 (22 DE Reg. 660). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**1140 Delaware Low Emission Vehicle Program**

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## DEPARTMENT OF SAFETY AND HOMELAND SECURITY DELAWARE COUNCIL ON POLICE TRAINING

Statutory Authority: 11 Delaware Code, Sections 8402 & 8404(a)(14) (11 **Del.C.** §§8402, 8404(a)(14))

### ORDER

#### **802 COPT K-9 Training Standards and Requirements**

#### NATURE OF THE PROCEEDINGS

At 22 **DE Reg.** 453 (December 1, 2018), The Council on Police Training (COPT), pursuant to 11 **Del.C.** §8404(a)(14) and in accordance with 29 **Del.C.** §10115, published notice of intent to adopt regulations that seek to establish basic training and qualification standards for police K-9 teams. At the same time, the COPT submitted a Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation, as required by 29 **Del.C.** Ch. 104. The COPT solicited written comments from the public for thirty (30) days as mandated by 29 **Del.C.** §10118(a).

#### SUMMARY OF EVIDENCE

In accordance with law, public notice regarding the proposed revised regulation was published in the Delaware *Register of Regulations*. The public comment period was open from December 1, 2018 through December 31, 2018. During this period, the COPT did not receive any written responses.

#### FINDINGS OF FACT

The public was given the required notice of the Council's intention to adopt the proposed revised regulation and was given opportunity to submit comments. The required Regulatory Flexibility Analysis and Impact Statement for this proposed revised regulation was submitted. No written responses were received during the comment period. Thus, the COPT finds that the proposed revised regulations should be adopted as submitted with the technical corrections identified by the COPT.

#### EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the COPT pursuant to 11 **Del.C.** §8404(a)(14). The

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

### ORDER

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Council on Police Training does hereby ORDER this 16<sup>th</sup> day of April, 2019 that the regulations be, and that they hereby are, adopted to be enacted as set forth below.

**IT IS SO ORDERED, this 16<sup>th</sup> day of April 2019.**

#### **COUNCIL ON POLICE TRAINING**

Robert M. Coupe, Secretary, Department of Safety and Homeland Security, Chair

Chris Jones, Sergeant, Proxy for Chief of Police Newark Police Department

Robert J. Irwin,  
Proxy for Attorney General Kathy Jennings

Robert Hudson, Major, Delaware State Police,  
Proxy for Superintendent of State Police

Susan Bunting, Secretary,  
Department of Education

Marvin Mailey, Chief of Police,  
Dover Police Department

Cecilia Ashe, Proxy for Chief of Police  
Wilmington Police Department

Robin R. Christiansen, Mayor,  
City of Dover, Kent County

Diane Smith, Captain, Proxy for Colonel Vaughn Bond, Jr., Chief of New Castle County Police Department

Jeffrey Horvath, Proxy for Delaware Police Chiefs' Council

William West, Mayor, Sussex County

Lew Killmer, President, Delaware League of Local Government

### **802 COPT K-9 Training Standards and Requirements**

#### **1.0 Intent and Purpose**

To establish basic training and qualification standards for police K-9 teams and K-9 specialty teams that include performance objectives for the police officer handler and the police officer-police dog teams.

#### **2.0 Definitions**

As used in this regulation:

"Agility Training" means training during which the police dog must surmount or overcome obstacles, such as walls and tunnels, which are likely to be confronted in the performance of duty.

"In-Service Training" means training conducted by a K-9 trainer or Supervising K-9 trainer to maintain skills that must be performed during re-evaluation.

"K-9 Patrol Team" means a team consisting of a police officer handler and police dog used in law enforcement for routine patrol work, such as building searches, area searches article searches, tracking, and criminal apprehension.

"K-9 Specialty Team" means a team consisting of a police officer handler and [police] specialty dog used in law enforcement specifically for scent work, detection or tracking work. Specialty teams are used for narcotics detection, [arson] accelerant detection, [wildlife,] explosive detection, tracking, article searches, or cadaver detection.

"K-9 Team" means a team comprised of the police officer handler and the police dog.

"K-9 Trainer" means a trainer is qualified to conduct basic and in-service training for police officer handler-police dog teams and must meet the qualification requirements set forth herein.

"Law Enforcement Agency" means any police force or organization functioning within this state or any other state which has by statute or ordinance the responsibility of detecting crime and enforcing the criminal or penal laws of this state or any other state.

"Law Enforcement Officer" means any COPT certified employee of a law enforcement agency (not including a civilian employee), any member of a fire department or force who is assigned to [an arson a fire] investigation unit.

"Police Dog" means a dog that has been trained by a Supervising K-9 trainer or K-9 trainer and is handled by a police officer handler in the performance of his/her duties used for law enforcement purposes or any law enforcement related activities.

"Police Officer Handler" means a COPT certified law enforcement officer who officially utilizes a police dog in the course of assigned duties and responsibilities.

"Police Specialty Dog (single purpose dog)" means a police dog used specifically for specialty work or specialized scent work such as detection and tracking in law enforcement, that is, narcotics detection, [arson] accelerant detection, [wildlife,] explosive detection, tracking, article searches, or cadaver detection.

"Supervising K-9 Trainer" means K-9 trainers that conduct basic and in-service K-9 training and qualifying exercises. They are responsible for supervising K-9 handlers who assist with any K-9 training, and for certifying qualified prospective handlers as K-9 trainers. Supervising K-9 trainers must meet the qualification requirements set forth herein.

## **3.0 K-9 Training Standards and Qualification Requirements**

- 3.1 All law enforcement agencies with a K-9 program for COPT certified officers will establish clearly written policies and procedures that are consistent with the K-9 standards as approved by the COPT.
- 3.2 All Police Officer K-9 handlers will be trained under the same standards and curriculum for Basic training and qualification, in-service training and re-evaluation as approved by the COPT.
- 3.3 Instructors for K-9 trainers must meet the following:
  - 3.3.1 Satisfactory completion of COPT K-9 training or K-9 training equivalent to the basic training and qualification as approved by the COPT;
  - 3.3.2 Five (5) years of experience as a police dog handler;
  - 3.3.3 Must be a full-time law enforcement officer assigned to trainer's duties by his/her employing law enforcement agency;
  - 3.3.4 Satisfactory completion of a Certified Instructor Course approved by COPT or an equivalent course; and
  - 3.3.5 Experience assisting a Supervising K-9 Trainer in the delivery of one or more basic K-9 training courses satisfying the requirements as adopted by the COPT or courses having substantially equivalent requirements, during which a minimum of five (5) K-9 teams were successfully trained and qualified. The prospective trainer must have been present for and assisted with the majority of training time.
- 3.4 Supervising K-9 Trainers must meet the following:
  - 3.4.1 Satisfactory completion of COPT K-9 patrol training or K-9 patrol training equivalent to the training as approved by the COPT;
  - 3.4.2 Must be a full-time law enforcement officer assigned to trainer duties by his/her employing law enforcement agency;
  - 3.4.3 Satisfactory completion of a Certified Instructor Course approved by COPT or an equivalent course;
  - 3.4.4 Seven (7) years of experience as a police dog handler or trainer;
  - 3.4.5 Must have experience in conducting a minimum of two (2) basic K-9 training courses satisfying the requirements as adopted by the COPT (with the exception of those areas of instruction appropriately conducted by qualified specialists) or a course having substantially equivalent requirements, thereby successfully training and qualifying a minimum of ten (10) K-9 teams;

# FINAL REGULATIONS

- 3.4.6 A Supervising Patrol K-9 Trainer is responsible for all documentation and certification of prospective trainers. He/she must document the time the prospective trainer committed to the class training, the number of dogs trained, the areas of training, and what involvement the prospective trainer had with the class. Weekly evaluations recommending goals and objectives, as well as documentation of accomplishments are required; and
- 3.4.7 All records pertaining to the certification of K-9 patrol trainers must be maintained by the Supervising K-9 Patrol Trainer for a period of no less than two (2) years, and by the newly certified K-9 patrol trainer for the duration of his/her career.
- [3.5 K-9 specialty teams with non-apprehension, non-narcotics and non-explosive K-9's may be exempt from the requirements of subsections 3.3 and 3.4 provided that those K-9 specialty teams train similar to a national standard. Such programs under the State of Delaware Natural Resources Police Fish and Wildlife and the Fire Marshal's Office shall be presented to and approved by the COPT annually and documented in the Annual COPT Survey.]**
- ~~[3.5.3.6]~~ Training, Qualification and Re-evaluation Records
- ~~[3.5.13.6.1]~~ Complete records should reflect all K-9 training, qualification and re-evaluation activities, as well as the performance and proficiency of the police officer handler, police K-9 patrol team, or K-9 specialty team during such activities.
- ~~[3.5.23.6.2]~~ Copies of all training course schedules, curricula and lesson plans must be maintained along with the records of individual trainees.
- ~~[3.6.3.7]~~ Training Site or Facility Requirements. The training site or facility should provide the environment necessary to conduct all aspects of the training as approved by the COPT, including appropriate simulation exercises. The area used must be adequate to accommodate an agility [training] course as well as various types of searches.

## DEPARTMENT OF TRANSPORTATION

### DIVISION OF PLANNING AND POLICY

Statutory Authority: 17 Delaware Code, Sections 132(e), 507, 508 and 29 Delaware Code, Section 8404(8) (17 **Del.C.** §§132(e), 507 & 508; 29 **Del.C.** §8404(8))  
2 **DE Admin. Code** 2309

### ORDER ADOPTING REVISIONS TO REGULATIONS

#### 2309 Development Coordination Manual

Pursuant to the authority provided by 17 **Del.C.** §132(e), 507, and 508, as well as 21 **Del.C.** §8404(8), the Delaware Department of Transportation ("the Department"), adopted the Development Coordination Manual. The Department issues this Order adopting revisions to regulations regarding development coordination.

The Department published the proposed revisions in the June 1, 2018, Delaware *Register of Regulations*, pages 962-967.

Written comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the below "Summary of Evidence."

#### Summary of the Evidence and Information Submitted

The current regulations were enacted in April of 2016, with an update in May of 2018. The proposed revisions to the Development Coordination Manual address procedural changes, add or modify technical requirements and clarify and amend design criteria. These collective changes are both technical and administrative in nature and serve in part to clarify the intent of the Department as enacted through these regulations.

Public comment and DelDOT responses are as follows:

**D.J. Hughes, P.E., Associate, Davis Bowen & Friedel, Inc**

**Comment:** I noticed that per Figure 3.2.5-a it appears the word "MINOR" should be added to the Figure 3.2.5-

c between “TWO-LANE” AND “ARTERIALS”. It looks like Chapter 3 could also use an additional Typical Section figure (or at least a note on Figure 3.2.5-c for Principal Arterial ROW) illustrating 50’ ROW from centerline and 100’ ROW total.

**Response:** Thank you for your comment. We agree that the word “Minor” should be added to Figure 3.2.5-c. At this time, we will not be adding an additional Typical Section figure to the regulations.

### Findings of Fact and Conclusions of Law

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

1. The public was given notice and the opportunity to provide comments in writing concerning the proposed revisions.
2. The proposed revisions are useful and proper and the Department believes that the adoption of these revisions is appropriate.

### Decision and Order Concerning the Regulations

NOW THEREFORE, under the above-described statutory authority, and for the reasons set forth above, the Secretary of the Delaware Department of Transportation does hereby ORDER that these revisions to the Development Coordination Manual be adopted and promulgated as set forth below, to be effective May 11, 2019.

It is so ordered this 10<sup>th</sup> day of April 2019.

Jennifer Cohan, Secretary  
Delaware Department of Transportation

### SUMMARY OF FINAL CHANGES TO THE DEVELOPMENT COORDINATION MANUAL

Sec/Fig	Para.	DelDOT Comment/Proposed Change	Justification
3.1	-	<del>“In most cases, if the requirements of this chapter are met, the result will be the issuance of a letter of “No Objection to Recordation” from DelDOT to the local land use agency.”</del>	Removed text for clarification
3.1	-	The letter of “No Objection to Recordation” is not a DelDOT endorsement of the project. Rather, it is a recitation of the transportation improvements which the applicant may be required to make as a pre- condition to recordation steps and deed restrictions as required by the respective county/ municipality in which the project is located. If transportation improvements are necessary, they are based on an analysis of the proposed project, its location, and its estimated impact on traffic movements and densities.	Moved text from 3.4.1 to 3.1 for clarification



3.1	-	<p>The required improvements conform to DeIDOT's published rules, regulations and standards. Ultimate responsibility for the approval of any project rests with the local government in which the land use decisions are authorized. There may be other reasons (environmental, historic, neighborhood composition, etc.) which compel that jurisdiction to modify or reject this proposed plan even though DeIDOT has established that these enumerated transportation improvements are acceptable.</p>	Moved text from 3.4.1 to 3.1 for clarification
3.2.4.1		<p>“Right-of-way monuments shall be set and/or placed by a Professional Land Surveyor (PLS) licensed in Delaware.”  “Right-of-way monuments shall be set and/or placed by a Professional Land Surveyor (PLS) licensed in Delaware <b>and located on a monumentation plan to be provided with the as built.</b>”</p>	Clarification
Figure 3.2.5-a		Added a Functional Class for Principal Arterial and a corresponding Minimum Dedicated Right of Way	Clarification
Figure 3.2.5-c		The word “MINOR” has been added to Figure 3.2.5-c between “TWO-LANE” AND “ARTERIALS”.	Clarification
3.2.5.2		<p>“Per 17 <b>Del.C.</b> §530, DeIDOT cannot require a dedication of land along a State-maintained roadway for a minor subdivision plan <del>that meet the requirements set forth in 17 Del.C. § 530, for farms that are (1) subdivided into smaller farms, and (2) subdivided merely for the purpose of transferring land to family members for their use as a primary residence or residences,</del> unless DeIDOT can adequately demonstrate that additional right-of-way is necessary due to safety concerns caused by the proposed subdivision.”</p>	Removed language that was not consistent with 17 <b>Del.C.</b> §530

3.2.7.2 C		<p>“A <b>minimum</b> 10-foot permanent easement shall be provided along each side of all streets to allow DeIDOT personnel to undertake routine and emergency maintenance work and shall also be available for utility and construction purposes, and permanent placement of signs and traffic control devices.”</p>	Added ‘minimum’ for clarification
3.3.1		<p>“An initial stage fee calculation form which is available online (for more information go to <a href="http://devcoord.deldot.gov">http://devcoord.deldot.gov</a> &gt; Forms) and fee payment is to be submitted <del>with the electronic submission in accordance with the submission process outlined in the preface of this manual through DeIDOT’s online submission portal.</del>”</p>	Clarification
3.3.2		<p>“The plan for a minor residential <del>strip</del> development on a State-maintained roadway shall include the items as specified in Section 3.4.2.1 <del>A., B., C. and D.</del>, as well as the following note:</p> <p><del>A. The following note shall be added to the minor subdivision record plan:</del></p> <p><i>If the residual lands of the applicant are ever developed into a major subdivision, then the access to the minor subdivision parcels may be required to be from an internal subdivision street.</i></p> <p><del>B. The access to subdivided lots along the streets shown on the Functional Classification Network shall be clearly portrayed on subdivision plan. See Chapter 7 for detailed access requirements.”</del></p>	Clarified which portions of Section 3.4.2.1 are applicable to Minor Subdivisions
3.4		<p>“<del>A residential subdivision of 6 or more lots will require construction of internal streets.</del>”</p>	Added language for clarification
3.4	-	Deleted all language referring to the LONC process.	Removed text to reduce possibly of errors. All applicable LONC language is in P.6
3.4.1	-	Added language to create the Record Plan – RED submittal.	Create an optional process for commercial developments where the local land use agency does not require site plan recordation

## FINAL REGULATIONS

3.4.2	-	Added language for the submittal requirements for the Record Plan - RED	Create an optional process for commercial developments where the local land use agency does not require site plan recordation
3.4.2.1	-	Added language for Record Plan – RED and site plan content	Create an optional process for commercial developments where the local land use agency does not require site plan recordation
3.5.1	-	Deleted this Section	Removed text for clarification
3.5.4.2 A, 3.5.4.2 B, and 3.5.4.2 C		<del>“Regardless of the location of the project or whether a project is required to actually construct a SUP/SW, a Permanent Easement (PE) is required per Section 3.2.5.1.2 of this manual. The proposed Permanent Easement (PE) shall be shown (on the Record Plan or Site Plan) and recorded via separate deed or recorded plat.”</del>	Removed redundant text
3.5.4.2 D		<del>“Shared-use paths and sidewalks shall be constructed in accordance with Chapter 5 of this manual and shall meet Americans with Disabilities Act the Pedestrian Accessibility Standards requirements.”</del>	Clarified that the Pedestrian Accessibility Standards are the standard for the Department
3.5.4.2 F		<del>“Shared use paths and sidewalks shall be free of utility poles, bushes, plants, and all other obstructions.”</del>	Deleted due to overlap in PAS
3.5.4.3		<del>“Walkways are recommended between parts of a site where the public is invited or allowed to walk. Walkways should be included as part of office/warehouse and retail/warehouse combinations. Walkways are not recommended between buildings or portions of a site such as truck loading decks and warehouses that are not intended or likely to be used by pedestrians or are considered to be unsafe for use by pedestrians.”</del>	Removed text for clarification
3.5.4.3 C and 3.5.4.3 E		Deleted Part C and Part E	Removed text for clarification

3.7.1		<p style="color: red;">“Maintenance Agreement will be established for the landscaping in the median.”</p>	<p>Added text to clarify and existing standard</p>
3.8		<p>“Private stormwater management facilities, <span style="color: red;">excluding filter strips and bioswales</span>, shall be located a minimum of 20 feet from the State right-of-way, as measured to the top of slope of the facility.”</p>	<p>Removed the exclusion for certain stormwater facilities</p>

**\*Please Note: Due to the size of the final regulation it is not being published here. The following links to the final regulation are provided below:**

- Preface (<http://regulations.delaware.gov/register/may2019/final/Preface.pdf>)
- Chapter 3: (<http://regulations.delaware.gov/register/may2019/final/Chap3.pdf>)

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# CALENDAR OF EVENTS/HEARING NOTICES

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## DELAWARE RIVER BASIN COMMISSION PUBLIC NOTICE

The Delaware River Basin Commission will hold a public hearing on **Wednesday, May 15, 2019** beginning at **1:30 p.m.** at the Commission's office building, 25 Cosey Road, West Trenton, New Jersey 08628. A business meeting will be held the following month on **Wednesday, June 12, 2019** beginning at **10:30 a.m.** at the West Trenton Volunteer Fire Company, 40 West Upper Ferry Road, Ewing, New Jersey. The hearing and meeting are open to the public. For more information, visit the DRBC web site at [www.drbc.gov](http://www.drbc.gov) or contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, at 609-883-9500 extension 203 and [pamela.bush@drbc.gov](mailto:pamela.bush@drbc.gov).

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## DEPARTMENT OF EDUCATION PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, May 16, 2019 at Mispillion Elementary School, 311 Lovers Lane, Milford, DE.

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL DIVISION OF AIR QUALITY PUBLIC NOTICE

### 1150 Outer Continental Shelf Air Regulations

The Division of Air Quality (DAQ) is proposing to amend 7 **DE Admin. Code** 1150 to incorporate updates to the federal Outer Continental Shelf (OCS) regulations at 40 CFR 55, which have been made since the regulation was adopted in 2010.

The hearing record on the proposed amendments to 7 **DE Admin. Code** 1150, Outer Continental Shelf Air Regulations will open May 1, 2019. Individuals may submit written comments regarding the proposed changes via e-mail to [Lisa.Vest@delaware.gov](mailto:Lisa.Vest@delaware.gov) or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendments to 7 **DE Admin. Code** 1150, Outer Continental Shelf Air Regulations will be held on May 22, 2019 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Public comments open May 1 and will be received until close of business Thursday, June 6, 2019.

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## DIVISION OF FISH AND WILDLIFE PUBLIC NOTICE 3723 Jonah Crab 3755 Lobsters

The Atlantic States Marine Fisheries Commission (ASMFC) approved an Interstate Fishery Management Plan (FMP) for Jonah Crab under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA 1993). The goal of the FMP is to support and promote the development and implementation, on a continual basis, of a unified coastal management program for Jonah Crab, which is designed to promote conservation, reduce the possibility of recruitment failure, and allow full utilization of the resource by the United States industry. Consistent with the mandatory elements of the FMP and its addenda this action proposes to:

- Establish incidental and directed landing permits based upon certain criteria;
- Establish Jonah Crab incidental bycatch limits;
- Establish a Jonah Crab minimum carapace width of 4 ¾ inches with no tolerance;
- Establish conditions and limits on the retention of Jonah Crab claws;

- Prohibit the retention of egg-bearing female Jonah Crab; and
- Establish a recreational possession limit of 50 Jonah Crabs per person per day.

This action also proposes to adopt provisions requiring the mandatory removal of lobster pots from February 1 through March 31 in accordance with Addendum XVII to Amendment 3 of the ASMFC's FMP for American Lobster. This action also clarifies that two escape vents are necessary on lobster pots where circular style vents are used and requires that egg-bearing female lobster be V-notched and immediately released.

Finally, consistent with regulation formatting guidelines, this action proposes to reformat the existing regulations pertaining to American Lobster by consolidating 3756 Lobsters - Pot Design; 3757 Lobsters - Pot, Season And Limits For Commercial Lobster Pot License, and 3758 Possession Of V-notched Lobsters Prohibited under existing regulation - 3755 Lobsters. The proposed reformatting is not intended to change meaning.

The hearing record on the proposed changes to 7 **DE Admin. Code** 3700 Shellfish to add a new 3723 Jonah Crab and amend 3755 Lobsters; 3756 Lobsters - Pot Design; 3757 Lobsters - Pot, Season And Limits For Commercial Lobster Pot License; and 3758 Possession Of V-notched Lobsters Prohibited opens May 1, 2019. Individuals may submit written comments regarding the proposed changes via e-mail to [Lisa.Vest@Delaware.gov](mailto:Lisa.Vest@Delaware.gov) or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901. A public hearing on the proposed amendment will be held on Thursday, May 23, 2019 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Public comments will be received until close of business Friday, June 7, 2019.

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## **DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES**

### **DIVISION OF FAMILY SERVICES OFFICE OF CHILD CARE LICENSING**

#### **PUBLIC NOTICE 201 Child Placing Agencies**

The Office of Child Care Licensing (OCCL) proposes to amend the DELACARE: Regulations for Child Placing Agencies in accordance with 31 **Del.C.** §343. This proposal was changed to include an updated anti-discrimination policy, the licensing enforcement process, applications, and the Federal Family Foster Home Licensing Standards as required by Title IV-E which includes the following:

- A foster parent must be able to communicate with the child and the agency, health care providers, and other service providers;
- At least one applicant must have functional literacy;
- All household members must disclose substance abuse issues;
- All household members must provide information on their physical and mental health history, including any history of drug or alcohol abuse or treatment;
- All children who are household members must be up to date on immunizations consistent with the recommendations of the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the American Academy of Family Physicians, unless the immunization is contrary to the child's health as documented by a licensed health care professional;
- The kitchen is required to have an operable sink and oven;
- A working phone or access to a working phone must be in close walking proximity;
- The home must have adequate lighting;
- Hot tubs and spas must have safety covers that are locked when not in use;
- Swimming pools must have their methods of access through barriers equipped with a safety device, such as a bolt lock;
- Swimming pools must be equipped with a life-saving device, such as a ring buoy;
- If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system;
- A foster parent must prevent the child's access to alcoholic beverages;

- Foster Home Capacity: The total number of children in foster care in a family foster home must not exceed six unless a. to allow a parenting youth in foster care to remain with the child of the parenting youth. b. To allow siblings to remain together. c. To allow a child with an established meaningful relationship with the family to remain with the family. d. To allow a family with special training or skills to provide care to a child who has a severe disability;
- A home must have at least one smoke detector on each level of occupancy of the home and at least one near all sleeping areas;
- A home must have at least one carbon monoxide detector on each level of occupancy of the home and at least one near all sleeping areas;
- A home must have a written emergency evacuation plan to be reviewed with the child and posted in a prominent place in the home;
- A home must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home;
- Transportation: Applicants must ensure that the family has reliable, legal, and safe transportation with safety restraints, as appropriate for the child. Reliable transportation would include a properly maintained vehicle or access to reliable public transportation. If one is owned, only adults in the home having a driving record in good standing transport the child;
- Foster parent applicants must receive training on agency structure, purpose, and medication administration;
- Foster parent assurances: Applicants must agree to comply with their roles and responsibilities once a child is placed in their care. Applicants may not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and/or nonprescription drugs by consuming them in excess amounts or using them contrary to as indicated. Applicants and their guests will not smoke in the family foster home, in any vehicle used to transport the child, or in the presence of the child in foster care;
- Foster parent applicants must show proof of income to show the applicants can make timely payments for shelter, food, utility costs, clothing, and other household expenses before adding a foster child or foster children to the home;
- Clarification regarding what constitutes an acceptable foster home by stating it must be a house, mobile home, housing unit, or apartment occupied by an individual or family;
- Clarification to ensure the foster home is clean;
- Requirement that the foster home has proper trash and recycling disposal;
- Clarification regarding that annual training must support a foster parent's role and to ensure the foster parent is up to date on policies, requirements, and services;
- To require age-appropriate sleeping equipment for a child who is 12-36 months in age; and
- To require CPR training pertinent to the ages of children in placement.

Interested parties wishing to offer comments on these proposed regulations or submit written suggestions, data, briefs, or other materials concerning the proposed regulations must submit them to Kelly McDowell, Office of Child Care Licensing, 3411 Silverside Road, Concord Plaza, Hagley Building Wilmington, Delaware 19810, or by email to [Kelly.McDowell@delaware.gov](mailto:Kelly.McDowell@delaware.gov).

Comments must be submitted by the close of business on May 31, 2019.

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**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**1900 BOARD OF NURSING**  
**PUBLIC NOTICE**

The Delaware Board of Nursing, pursuant to 24 **Del.C.** §1904(c), proposes to revise its regulations to update the education regulations pertaining to use of simulation in nursing schools. The proposed changes set forth what percentage of clinical experience may be through simulation and the requirements related to the use of simulation. In addition, the Board proposes to change Regulation 8.14.9.2 regarding the requirements an advanced practice

registered nurse must meet to renew prescriptive authority.

The Board will hold a public hearing on the proposed regulation changes on June 12, 2019 at 9:00 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until June 27, 2019 pursuant to 29 **Del.C.** §10118(a).

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