

DEPARTMENT OF EDUCATION

PROFESSIONAL STANDARDS BOARD

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

FINAL

REGULATORY IMPLEMENTING ORDER

1504 Certificate of Eligibility

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Professional Standards Board ("Board"), acting in consultation and cooperation with the Department of Education ("Department"), developed 14 **DE Admin. Code** 1504 Certificate of Eligibility. The regulation concerns certification under 14 **Del.C.** §1221(2) for educators of students with disabilities who are participating in a state-approved, appropriate alternative route for teacher licensure and certification program.

Notice of the proposed regulation in the form attached hereto as Exhibit "A" was published in the *Register of Regulations* on April 1, 2018. The Board received written comments from the State Council for Persons with Disabilities ("SCPD") and the Governor's Advisory Council for Exceptional Citizens ("GACEC").

On May 3, 2018, the Board discussed the SCPD's and GACEC's written comments. Regarding the comment from both SCPD and GACEC that the proposed regulation does not require school districts to affirmatively notify parents or guardians that their child's educator does not have a Standard Certificate, the Board noted that if a Delaware educator holds a Certificate of Eligibility and is participating in an ARTC program that meets federal requirements, the educator is considered under the law to possess full state certification. Regarding the comment from both SCPD and GACEC that the proposed regulation does not make reissuance of a Certificate of Eligibility contingent upon the holder demonstrating competence, the Board noted that subsection 5.3.2 requires an educator to make documented progress toward earning a Standard Certificate by continuing to participate in a state-approved, appropriate alternative route for teacher licensure and certification. Regarding the comment from both SCPD and GACEC that it may not be possible for educators who hold a Certificate of Eligibility to participate in the Extended School Year because of the date that Certificates of Eligibility expire, the Board noted that it is an implementation issue. If, as the Department implements the regulation, this becomes an issue that needs addressing through regulation, the Board can work with the Department to make changes. In addition, the Board discussed GACEC's request for clarification on what "other considerations" in subsection 4.1.1 means. The Board noted that "other considerations" means other information relating to the proposed recipient's ability or qualities for consideration. The Board also discussed GACEC's comment that subsection 4.1.3 should be reworded to provide greater clarity. The Board decided to amend subsection 4.1.3 by adding the word "as" and two commas to clarify the subsection. The Board voted to propose 14 **DE Admin. Code** 1504 Certificate of Eligibility with the clarifying amendments to subsection 4.1.3 for adoption by the Department subject to the State Board of Education's approval.

II. FINDINGS OF FACTS

The Department finds that a Delaware educator is considered under the law to possess full state certification if he or she holds a Certificate of Eligibility and is participating in an ARTC program that meets federal requirements; that subsection 5.3.2 requires an educator to make documented progress toward earning a Standard Certificate by continuing to participate in a state-approved, appropriate alternative route for teacher licensure and certification; and that the possibility that educators who hold a Certificate of Eligibility may not be able to participate in the Extended School Year because of the date that Certificates of Eligibility expire is an implementation issue; and that "other considerations" in subsection 4.1.1 means other information relating to the proposed recipient's ability or qualities for consideration. The amendments to subsection 4.1.3 clarify the subsection and are non-substantive changes that do not require republication.

The Department finds that the proposed regulation is necessary to implement 14 **Del.C.** Ch. 12 and is designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to adopt 14 **DE Admin. Code** 1504 Certificate of Eligibility.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to adopt 14 **DE Admin. Code** 1504 Certificate of Eligibility subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1504 Certificate of Eligibility attached hereto as Exhibit "B" is hereby adopted.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1504 Certificate of Eligibility adopted hereby shall be in the form attached hereto as Exhibit "B," and said regulation shall be cited as 14 **DE Admin. Code** 1504 Certificate of Eligibility 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 Department pursuant to 14 **Del.C.** §§1203 and 1205(b) on May 17, 2018. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Register of Regulations*.

IT IS SO ORDERED the 17th day of May, 2018.

Department of Education

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

Approved this 17th day of May, 2018.

State Board of Education

Dennis L. Loftus, Ed.D., President

Nina Lou Bunting, Vice President

Dr. Audrey J. Noble (absent)

Wali W. Rushdan, II

Barbara B. Rutt (absent)

Hon. Liane M. Sorenson (absent)

Terry M. Whittaker, Ed.D.

1504 Certificate of Eligibility

1.0 Content

1.1 This regulation shall apply to the issuance of a Certificate of Eligibility pursuant to 14 **Del.C.** §1221(2) for educators who are pursuing the following certifications:

1.1.1 14 **DE Admin. Code** 1570 Early Childhood Exceptional Children Special Education Teacher; or

1.1.2 14 **DE Admin. Code** 1571 Special Education Teacher of Students with Disabilities; or

1.1.3 14 **DE Admin. Code** 1573 Teacher of Students with Autism or with Severe Intellectual Disabilities; or

1.1.4 14 **DE Admin. Code** 1574 Teacher of Students Who Are Deaf or Hard of Hearing; or

1.1.5 14 **DE Admin. Code** 1575 Teacher of Students with Visual Impairments.

2.0 Definitions

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

"Certificate of Eligibility" means a credential which may be issued to teachers of students with disabilities if the employing district or charter school establishes that the proposed recipient meets the requirements of 14 **Del.C.** §1221(2).

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

"Credentialed" means holding an active license and an active certificate in a specific content area at appropriate grade levels.

"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.

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

"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.

3.0 Issuance of Certificate of Eligibility

3.1 Upon receipt of a completed application from the Employing Authority, the Department may issue a Certificate of Eligibility to an Educator who holds a valid Delaware Initial, Continuing, or Advanced License, but who is not eligible for Certification in the area of need for students with disabilities identified in Section 1.0 of this regulation.

3.1.1 A Certificate of Eligibility is valid for one school year subject to subsection 3.1.3 of this regulation.

3.1.2 The Certificate of Eligibility is issued for one school year and expires on June 30th.

3.1.3 The Department may grant a second-year Certificate of Eligibility and a third-year Certificate of Eligibility if the Educator has met the requirements outlined in Section 5.0 of this regulation.

4.0 Application Procedures

4.1 The Employing Authority shall:

4.1.1 Establish that the proposed recipient of a Certificate of Eligibility is competent by submitting evidence of the Educator's License and other considerations; and

4.1.2 Apply for the Certificate of Eligibility within sixty (60) calendar days of the Educator's hire or new job assignment; and

4.1.3 Establish that the proposed recipient is participating in a state-approved alternative route for teacher licensure and certification program which is appropriate to the Certification [, as] identified in Section 1.0 of this regulation[,] that the proposed recipient is pursuing; and

4.1.4 Support and assist the Educator in achieving the skills and knowledge necessary to meet applicable Certification requirements; and

4.1.5 Verify that the Educator understands the Standard Certificate requirements, the deadline in which to complete requirements, and the expectation to earn a Standard Certificate.

4.2 Failure by the Employing Authority to fulfill the conditions set forth shall result in denial of the Certificate of Eligibility.

5.0 Second Year and Third Year Reissue of Certificate of Eligibility

5.1 If the Educator does not meet all Standard Certificate requirements during the first school year, the Employing Authority may apply for a second-year Certificate of Eligibility in the same area.

5.2 If the Department grants an Educator a second-year Certificate of Eligibility and the Educator does not meet all Standard Certificate requirements during the second school year, the Employing Authority may apply for a third-year Certificate of Eligibility in the same area.

5.3 The Department may issue a second-year Certificate of Eligibility or a third-year Certificate of Eligibility if the following requirements are met:

5.3.1 The Employing Authority submits a request for the Certificate of Eligibility within sixty (60) calendar days of the start of the next consecutive school year.

5.3.2 The Employing Authority has established that the Educator has made documented progress toward earning the Standard Certificate by continuing to participate in a state-approved alternative route for teacher licensure and certification program which is appropriate to the Certification identified in Section 1.0 of this regulation that the Educator is pursuing.

6.0 Expiration of Certificate of Eligibility

6.1 Certificates of Eligibility shall expire on June 30th.

6.2 Certificates of Eligibility that have been issued for three consecutive school years may not be extended. The Educator shall meet the requirements for issuance of a Standard Certificate in the area of Certification identified in Section 1.0 of this regulation that the Educator is pursuing.

6.3 Educators holding an active License without a current or valid certificate are not considered Credentialed to teach.

6.4 A Certificate of Eligibility may not be renewed or extended for a leave of absence.

7.0 Transfer of Certificate of Eligibility to a New Employing Authority

The Department may approve the transfer of a Certificate of Eligibility from one Employing Authority to another if the new Employing Authority conducts an independent review of the Educator's progress towards a Standard Certificate and assumes the commitments and responsibilities of an Employing Authority within this regulation.

8.0 Revocation of Certificate of Eligibility

8.1 A Certificate of Eligibility shall be revoked in the event an Educator's Initial, Continuing, or Advanced License is revoked in accordance with 14 DE Admin. Code 1514 Revocation, Limitation, or Suspension of Licenses.

8.1.1 An Educator is entitled to a full and fair hearing before the Standards Board.

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

21 DE Reg. 972 (06/01/18) (Final)