# Title 14

# Education

NOTICE: The Delaware Code appearing on this site is prepared by the Delaware Code Revisors and the editorial staff of LexisNexis in cooperation with the Division of Legislative Services of the General Assembly, and is considered an official version of the State of Delaware statutory code. This version includes all acts enacted as of October 1, 2026, up to and including 85 Del. Laws, c. 550.

DISCLAIMER: With respect to the Delaware Code documents available from this site or server, neither the State of Delaware nor any of its employees, makes any warranty, express or implied, including the warranties of merchantability and fitness for a particular purpose, or assumes any legal liability or responsibility for the usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Please seek legal counsel for help on interpretation of individual statutes.

# Part I
# Free Public Schools
## Chapter 1
## Department of Education
### Subchapter I
### Composition, Organization and Administration

## § 101. Establishment of the Department of Education.

The general administration of the educational interests of the State shall be vested in a Department of Education within the Executive Branch, hereinafter in this title referred to as the "Department."

(71 Del. Laws, c. 180, § 3.)

## § 102. Secretary; Deputy, Associate and Assistant Secretaries; Acting Secretary; appointment.

(a) The administrator and head of the Department is the Secretary of the Department of Education ("Secretary"), who must be a graduate of an accredited college and must have not less than 5 years' experience in teaching and administration, with experience in each such category.

(1) The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) The Secretary is to be paid an annual salary as determined by the General Assembly in the annual appropriations act.

(3) The Secretary must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

(b) In the event the position of Secretary is vacant, the Governor, by appointment, shall have the power to fill the position or positions of Deputy, Associate, or Assistant Secretaries of Education as are vacant. Persons so appointed shall serve at the pleasure of the Governor and, upon the position of Secretary being filled, such persons may be removed by the Secretary with the written approval of the Governor.

(c) In the event of death, resignation, temporary incapacity or removal of the Secretary and prior to the appointment of the Secretary's successor, the Governor may appoint the Deputy Secretary or an Associate Secretary of Education to serve as Acting Secretary. The Secretary may, during the Secretary's absence from the State, appoint the Deputy Secretary or an Associate Secretary to serve as Acting Secretary during such absence. In either case, the Acting Secretary shall have all the powers and perform all the duties and functions of the Secretary during the Secretary's absence or incapacity or until the Secretary's successor is duly qualified and appointed.

(27 Del. Laws, c. 106; Code 1915, § 2274; 32 Del. Laws, c. 160, § 6; Code 1935, § 2627; 14 Del. C. 1953, § 107; 67 Del. Laws, c. 281, § 203; 67 Del. Laws, c. 431, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 529, § 1; 71 Del. Laws, c. 8, § 2; 71 Del. Laws, c. 180, § 3; 84 Del. Laws, c. 278, § 1; 84 Del. Laws, c. 455, § 1; 85 Del. Laws, c. 43, § 1.)

## § 103. Powers, duties and functions of the Secretary.

(a) The Secretary may:

(1) Supervise, direct and account for the administration and operation of the Department, its offices, functions and employees;

(2) Appoint and fix the salary, with the written approval of the Governor, of the following officers: Deputy Secretary, Associate and Assistant Secretaries, and an Executive Assistant. These officers may be removed from office by the Secretary with the written approval of the Governor, and they shall have such powers, duties and functions in the administration and operation of the Department as may be assigned by the Secretary;

(3) Appoint such additional personnel as may be necessary for the administration and operations of the Department, within such limits as may be imposed by law;

(4) With the written approval of the Governor, establish, consolidate, abolish, transfer or combine the powers, duties and functions of the branches, work groups, offices or units within the Department as the Secretary may deem necessary, providing that all powers, duties and functions required by law shall be provided for and maintained;

(5) Make and enter into any and all contracts, agreements or stipulations; retain, employ and contract for the services of private and public consultants, and research and technical personnel; and procure by contract consulting, research, technical and other services and facilities whenever the same shall be deemed by the Secretary necessary or desirable in the performance of the functions of the Department or to determine and ensure the quality and effectiveness of education programs and initiatives, and whenever funds shall be available for such purpose. All necessary legal services shall be provided pursuant to Chapter 25 of Title 29 unless otherwise provided by law;

(6) Delegate any of the Secretary's own powers, duties or functions to the Deputy Secretary or an Associate or Assistant Secretary, except the power to remove employees of the Department or to fix employee compensation;

(7) Establish 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;

(8) Maintain such facilities throughout the State as may be necessary for the effective and efficient operation of the Department;

(9) Adopt an official seal or seals for the Department;

(10) In consultation with the State Board of Education, prepare a proposed annual operating and capital improvement budget for the Department and state support of the public school system to be submitted for the consideration of the Governor and the General Assembly. The Department shall be operated within the limitations of the annual appropriation and any other funds appropriated to it by the General Assembly. Special funds may be used in accordance with approved grants, programs and appropriations; and

(11) Appoint committees or advisory entities to assist the Secretary in performing the duties of the Secretary's office. When the committee or entity is formed to assist in developing policies or regulations the adoption of which must be approved by the State Board, the Secretary shall consult with the State Board regarding the composition of such committee or entity.

(b) The Secretary shall develop and implement policy for grades 1-12 that will substantially decrease the number of nonperformance-based promotions, or social promotions, which allow students who have not passed a course or courses required for promotion to the next grade to advance to the next grade, with the goal of eliminating those promotions by the year 2001.

(c) The Secretary shall calculate a voluntary school assessment, which applicants shall have the option of paying in lieu of any school certification required by §§ 2661 or 6961 of Title 9 or § 842 of Title 22. Voluntary school assessments shall be calculated on a per unit basis for each project that seeks to pay such assessments in lieu of certification as follows by:

(1) Calculating the average cost (including offsite roadway improvements for the school required by the state transportation department, land or, if the school district already owned such land, the then-fair market value of such land at the time of construction), per child, for the average new public schools (1 elementary school, 1 middle school, 1 high school) constructed with state assistance as determined by the State of Delaware School Construction Technical Assistance Manual prepared by the Delaware Department of Education (as such manual exists as of June 30, 1999, such manual to be updated for purposes of this calculation on earlier than July 1, 2005, and thereafter updated as the Department normally updates such manual);

(2) Multiplying that number by the local percentage share then required by state law of the local school district in order to receive state capital assistance;

(3) Multiplying the resulting figure by 0.50, representing the average number of school-aged children projected to be housed within each residential unit, provided that in no event shall the voluntary school assessment exceed 5% of the total cost of the residential unit.

(27 Del. Laws, c. 106; Code 1915, § 2274; 32 Del. Laws, c. 160, § 6; Code 1935, § 2628; 14 Del. C. 1953, § 108; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 3; 72 Del. Laws, c. 237, § 4; 84 Del. Laws, c. 210, § 3.)

## § 104. State Board of Education; composition; term; powers and duties; qualifications; vacancies; staggered appointments; office location; compensation; removal.

(a) The State Board of Education, referred throughout this subchapter as "State Board," consists of 9 members who are citizens of this State andappointed as follows:

(1) The Governor shall appoint, with Senate confirmation, 7 voting members.

a. Six of the 7 voting members are appointed for terms of up to 6 years, to ensure that no more than 2 members' terms expire in the same year. Each of the 6 voting members serves until that member's successor qualifies.

b. One of the 7 voting members is appointed as the President of the State Board and serves at the Governor's pleasure.

(2) The Governor shall appoint annually 1 nonvoting member who is a former Delaware State Teacher of the Year and employed as a Delaware public school educator. The Teacher of the Year Advisory Board shall provide annually to the Governor a list of recommendations that includes at least 1 individual from each county in this State. This appointment does not require Senate confirmation.

(3) The Governor shall appoint annually 1 nonvoting member who, at the time of appointment, is or will be in the next school year an eleventh or twelfth grade student at a public school in this State, with priority given to the selection of an individual who has demonstrated commitment to ensuring quality education for Delaware students. This appointment does not require Senate confirmation.

(b) The State Board of Education has powers, duties, and responsibilities as specified in this title, including all of the following:

(1) Provide the Secretary of Education with advice regarding the development of policy in those areas of education policy where rule- and regulation-making authority is entrusted jointly to the Secretary and the State Board. The State Board shall also provide advice on new initiatives which the Secretary may from time to time propose. The Secretary shall consult with the State Board regularly on such issues to ensure that policy development benefits from the breadth of viewpoint and the stability which a citizens' board can offer and to ensure that rules and regulations presented to the State Board for its approval are developed with input from the State Board. The State Board may recommend that the Secretary undertake certain initiatives which the State Board believes would improve public education in Delaware.

(2) Provide the Secretary of Education with advice on the Department's annual operating budget and capital budget requests.

(3) Provide the Secretary of Education with advice in the preparation of the annual report specified in § 124 of this title, including recommendations for additional legislation and changes to existing legislation.

(4) Provide the Secretary of Education with advice concerning the implementation of the student achievement and statewide assessment program specified in § 122(b)(4) of this title.

(5) Decide, without expense to the parties concerned, certain types of controversies and disputes involving the administration of the public school system. The specific types of controversies and disputes appropriate for State Board resolution and the procedures for conducting hearings must be established by rules and regulations under § 121(a)(12) of this title.

(6) Fix and establish the boundaries of school districts which may be doubtful or in dispute, or change district boundaries as provided in §§ 1025, 1026, and 1027 of this title.

(7) Decide on all controversies involving rules and regulations of local boards of education under § 1058 of this title.

(8) Subpoena witnesses and documents, administer and examine persons under oath, and appoint hearing officers as the State Board finds appropriate to conduct investigations and hearings under paragraphs (b)(5), (6), and (7) of this section.

(9) Review decisions of the Secretary of Education, upon application for review, where specific provisions of this title provide for such review. The State Board may reverse the decision of the Secretary only if it decides, after consulting with legal counsel to the Department, that the Secretary's decision is contrary to a specific state or federal law or regulation, not supported by substantial evidence, or arbitrary and capricious. In such cases, the State Board shall set forth in writing the legal basis for its conclusion.

(10) Approve Department rules and regulations that require State Board approval, under specific provisions of this title, before the rules and regulations are implemented.

(11) Approve rules and regulations governing institutions of postsecondary education that offer courses, programs of courses, or degrees within the State or by correspondence to residents of this State under§ 121(a)(16) or § 122(b)(8) of this title.

(12) Any provision of Chapter 5 of this title to the contrary notwithstanding, decide appeals of decisions by the board of directors of a charter school to suspend or expel a student for disciplinary reasons. In deciding such cases, the State Board shall employ the standard of review under § 1058 of this title.

(13) Digitally record all of the State Board's regular monthly public board meetings and make the recordings available to the public on the Department of Education's website within 7 business days of each meeting. These recordings are not official board minutes, but are a means to enhance communication to the public and state legislators. The requirements of this section do not apply to meetings where recording equipment is not available, executive sessions, or other State Board meetings, such as workshops, retreats, and committee meetings. The Department of Education must provide a written transcript of a regular monthly public State Board meeting that is digitally recorded under this paragraph, or other reasonable accommodation, within 7 business days upon request of an individual with a hearing impairment.

(14) Under Chapter 33 of this title, serve as the State Board for Vocational-Technical Education (Career and Technical Education) and as the "eligible agency" and sole agency responsible for the supervision of administration of career and technical education for purposes of the federal Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) (20 U.S.C. § 2301 et seq.), and any subsequent reauthorization thereof, and be subject to its requirements and any implementing regulations. As used in this title, "career and technical education" has the same meaning as "vocational-technical education."

(c) (1) The Department, through the Secretary, shall provide reasonable staff support to assist the State Board in performing its duties under this title. The Department shall provide to the State Board all of the following:

a. Reports and data necessary to enable the State Board to perform its duties under this title.

b. One staff member, an Executive Director. A majority of the State Board members shall select the Executive Director. Once appointed, the Executive Director is an employee of the Department, subject to all of the Department's employment policies and procedures, and serves at the pleasure of the State Board. The Executive Director's duties are as follows:

1. Coordinate and implement all requirements for State Board meetings, including posting meeting notices and minutes.

2. Provide necessary reports and data in conjunction with paragraph (c)(1)a. of this section regarding the State Board's responsibilities.

3. Support State Board members in necessary training and preparation to fulfill their roles and responsibilities.

4. Serve as the State Board's point of contact regarding matters specific to the State Board.

5. Produce and post minutes for each State Board meeting, including uploading digital recordings under paragraph (b)(13) of this section.

(2) The Secretary of Education, in addition to the Secretary's other duties of office, serves as Executive Secretary of the State Board.

(d) The members of the State Board appointed under paragraph (a)(1) of this section must be of good character and fitness and, in addition to the requirements of subsection (a) of this section, are subject to the following qualifications:

(1) At least 2 members must have prior experience on a local board of education.

(2) No more than 4 members may belong to the same political party.

(3) An individual who has been a resident of this State for less than 5 years immediately preceding appointment is not eligible to be a member.

(4) An individual who is already subject to the State Board's authority may not be appointed to the State Board as a voting member.

(5) A member is eligible for reappointment unless otherwise disqualified by this title.

(6) The members must meet the following geographic qualifications:

a. The President and 1 other member may be appointed from the State at large.

b. One member is a resident of the City of Wilmington.

c. Two members are residents of New Castle County outside the City of Wilmington.

d. One member is a resident of Kent County.

e. One member is a resident of Sussex County.

(e) (1) If, after appointment, a State Board member is convicted or pleads guilty or nolo contendere to a crime under § 209(a) of this title, the Governor must remove the member.

(2) a. If a State Board member is charged with a crime under § 209(a) of this title, the State Board member is automatically suspended pending the final resolution of the charges.

b. If the charges under § 209(a) of this title that are the basis of the suspension under paragraph (e)(2)a. of this section are resolved in favor of the suspended State Board member before the expiration of the suspended State Board member's unexpired term, the State Board member may immediately return to service as a member of the school board.

(3) If a State Board member is suspended under paragraph (e)(2)a. of this section, the State Board member's seat is treated as vacant for purposes of quorum under subsection (i) of this section until 1 of the following occur:

a. The suspended school board member resigns.

b. The suspended school board member's term expires.

c. The charges that are the basis for the suspension are resolved in favor of the suspended school board member.

d. The suspended school board member ceases to be a member of the school board under paragraph (e)(1) of this section.

(f) [Repealed.]

(g) The Department shall provide or obtain office space in Dover for the State Board.

(h) State Board members shall receive $100 for each day's attendance at State Boardmeetings, not to exceed 24 days' attendance in any 1 calendar year, and be reimbursed for actual travel and other necessary expenses incurred in attending meetings and transacting the business of the State Board.

(i) The number of members who must be present at a State Board meeting in order to have a quorum and conduct official business is the majority of appointed, voting members.

(j) The Governor may remove a State Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. A member is deemed in neglect of duty if the member is absent from 3 consecutive, regular Board meetings or attends less than 50% of State Board meetings in a calendar year. The Governor may consider the member to have resigned, and may accept the member's resignation.

(k) The State Board shall rotate locations of regular meetings among the 3 counties of this State, with each location to host, whenever possible, an agenda item that is relevant to the county in which it is being held, and rotating the locations among the 3 counties in such a way to facilitate parents', teachers', and other community members' attendance.

(21 Del. Laws, c. 67, § 1; 26 Del. Laws, c. 94, §§ 1, 2; Code 1915, § 2273; 32 Del. Laws, c. 160, § 2; 37 Del. Laws, c. 193, § 1; Code 1935, § 2623; 14 Del. C. 1953, § 101; 59 Del. Laws, c. 173, §§ 1, 2; 69 Del. Laws, c. 16, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 3; 73 Del. Laws, c. 164, § 4; 73 Del. Laws, c. 188, § 7; 77 Del. Laws, c. 51, § 1; 77 Del. Laws, c. 431, §§ 13-15; 78 Del. Laws, c. 45, § 1; 79 Del. Laws, c. 83, § 1; 81 Del. Laws, c. 376, § 1; 83 Del. Laws, c. 187, § 2; 83 Del. Laws, c. 339, § 31.)

## § 105. State Board of Education procedures.

(a) The State Board shall hold an annual meeting in Dover each July and, at each annual meeting, elect 1 of its members to serve as Vice-President. Other meetings must be held at such times and places as the duties and business of the State Board require, consistent with the requirements of § 104(k) of this title. A motion or resolution may not be adopted without the concurrence of a quorum of the State Board.

(b) Whenever this Code requires that the State Board approve a regulation or other action proposed by the Department, the State Board must decide whether to approve such regulation or action at a meeting held in conformity with Chapter 100 of Title 29. Provided that the Department has complied with Chapter 101 of Title 29 in proposing a regulation or other regulatory action to the extent such action is governed by Chapter 101 of Title 29, the State Board is not subject to Chapter 101 of Title 29 in approving or refusing to approve the proposed regulation or other regulatory action.

(c) (1) The State Board shall permit public comment on each agenda item before voting on the agenda item and in proximity to the time at which the State Board discusses the agenda item.

(2) Notwithstanding paragraph (c)(1) of this section, the State Board is not required to permit public comment on an agenda item that, under Delaware law or Department or State Board rules, has a formal comment period or a process for making a record in an administrative matter that has closed before the State Board's discussion of the agenda item, including charter school applications or formal reviews, amendments to Department and Professional Standards Board regulations, and student appeals.

(71 Del. Laws, c. 180, § 3; 81 Del. Laws, c. 376, § 2.)

## § 106. Advisory Board to the Secretary of Education.

There shall be formed an Advisory Board to the Secretary of Education consisting of a representative from each board of education and from each county vocational-technical district, and such additional representatives of educational stakeholder organizations as appointed

by the Secretary and the State Board. This Board shall not meet less than twice in any calendar year and the State Board shall participate in such meetings. The Advisory Board shall:

(1) Review current state policies and submit recommendations to the Department of Education when appropriate for changes, modifications or deletions;

(2) Study and review planning guides for program improvement of the Delaware Public School System as submitted by the Department of Education and make appropriate recommendations to the Department of Education on legislative and policy implementation; and

(3) Meet at a time and place that shall be at the discretion of the Secretary of Education or the Deputy Secretary. The call for the meeting shall be through the office of the Secretary of Education. The members of the Advisory Board shall receive their actual expenses for 2 dinner meetings per year, but not including travel expenses. The Department of Education shall not expend more than $1,000 for such expenses during any 1 fiscal year.

(14 Del. C. 1953, § 110; 57 Del. Laws, c. 90; 71 Del. Laws, c. 180, § 3.)

## § 107. P-20 Council.

(a) There shall be formed a P-20 Council to coordinate educational efforts of publicly-funded programs from early care through higher education and to foster partnerships among groups concerned with public education. The P-20 Council shall make recommendations designed to ensure a more integrated, seamless education system that enables children to enter school ready to learn, receive challenging instruction throughout their school careers, graduate from high school ready for college and careers, and continue their education through postsecondary study in a way that makes them productive and successful citizens.

(b) The P-20 Council shall be co-chaired by the Secretary of Education and the President of the State Board of Education. The Council members shall include the presidents (or their designees) of the public institutions of higher education in Delaware, along with the presidents of the institutions of higher education offering degree programs in education (or their designees). Additional members shall include the Chair of the Delaware Early Care and Education Council, the Chairs of the House and Senate Education Committees, a representative of the Governor's Office, the Chair of the Business Roundtable Education Committee, the Executive director of the Delaware State Chamber of Commerce, the Secretary of the Department of Labor, the Secretary of the Department of Services for Children, Youth and their Families, the Secretary of the Department of Health and Social Services, the Secretary of the Department of Technology and Information, the Chief of the Delaware Chief School Officers Association, the President of the Delaware State Education Association, the President of the Delaware Parent-Teacher Association and the President of the Charter School Network, or their designees.

(c) The Co-Chairs may also establish such subcommittees as needed and determine the subcommittee memberships.

(75 Del. Laws, c. 62, § 1; 78 Del. Laws, c. 113, §§ 1, 2; 78 Del. Laws, c. 234, § 1.)

# Subchapter II

# Powers and Duties

## § 121. General powers of the Department of Education.

(a) The Department shall exercise general control and supervision over the public schools of the State, including:

(1) Developing and executing the educational policies and laws of the State and promoting public sentiment in support of public education;

(2) Consulting, advising and cooperating with the boards of education and superintendents of reorganized school districts, and other officers, principals, teachers and interested citizens in matters relating to education and to the conduct of schools;

(3) Appointing, through the Secretary, by execution of a written contract for a term of not less than 1 year nor more than 5 years, of additional officers necessary for administering and developing the policies, rules and regulations of the Department. As used in this section, the term "additional officers" shall be defined as the team leaders and directors authorized by § 1321(a) of this title and any certificated professional employees assigned to the office of the Secretary whose positions are not covered in § 103(a)(2) of this title. The Secretary may elect not to renew the contract of any additional officer upon its expiration. However, in such a case the Secretary shall notify the officer in writing by certified mail, return receipt requested, at least 4 months prior to the expiration date of the existing contract that the Secretary does not intend to renew the contract, thereby providing official notice that the services of the officer are to be terminated. Failure to notify an additional officer covered by this subsection in writing by the required date shall result in an automatic extension of the existing contract for a period of 1 year from its expiration date;

(4) Hiring, through the Secretary, by execution of a written contract for a term of not less than 1 year and not more than 5 years, of certificated professional employees, other than those persons described in paragraph (a)(3) of this section and § 103(a)(2) of this title, necessary for carrying out the policies, rules and regulations of the Department. For the purposes of this subsection, the term "certificated professional employees" includes education associates, education specialists, field agents, technicians and other employees holding positions of similar rank. The Secretary may elect not to renew the contract of a certificated professional employee upon its expiration. However, in such a case, the Secretary shall notify the employee in writing by certified mail, return receipt requested, at least 4 months prior to the expiration date of the existing contract that the Secretary does not intend to renew the contract, thereby providing official notice that the services of the employee are to be terminated. Failure to notify a person covered under this subsection in writing

by the required date shall result in an automatic extension of the existing contract for a period of 1 year from its expiration date. The written notification shall indicate that just cause exists for the Secretary's proposed action. For the purposes of this subsection, "just cause" shall be defined as including, but not limited to, reduction in force, inefficiency, or unsatisfactory performance of duties. Any employee notified of the Secretary's intention not to renew for reasons other than a reduction in force may request a formal hearing before a hearing officer appointed by the Secretary of the Department of Human Resources within 15 calendar days from the date that notice of the Secretary's intention not to renew is sent by certified mail. In the event that an employee requests a hearing in a timely manner, the Department of Human Resources shall convene a hearing no earlier than 10 days nor later than 90 days after receipt of the request for a hearing, unless both parties agree to a different schedule. The employee shall have the opportunity to present information in the employee's own defense and may have legal counsel at the hearing;

(5) Dismissing or disciplining, through the Secretary, during the contract period, for misconduct in office, incompetency, or wilful neglect of duty, any officer or certificated professional employee appointed under this title or under any special school law, except an employee whose position is covered in § 103(a)(2) of this title, giving the employee a copy of the charges against the employee. In making a determination to dismiss or to impose a lesser disciplinary action, the Secretary shall assess and take into account any mitigating or extenuating circumstances as well as the employee's work history. Any employee dismissed pursuant to this subsection may request a formal hearing before a hearing officer appointed by the Secretary of the Department of Human Resources within 15 calendar days from the date that notice is sent by certified mail or the date of receipt of the written notification of dismissal from the Secretary if hand-delivered, whichever is applicable. In the event that an employee timely requests a hearing, the Department of Human Resources shall convene a hearing no earlier than 10 days nor later than 90 days after receipt of the request for a hearing, unless both parties agree to a different schedule. The employee shall have the opportunity to present information in the employee's own defense and may have legal counsel at the hearing;

(6) Hiring, through the Secretary, any clerical assistants and other noncertificated employees necessary to provide support in carrying out the policies, rules and regulations of the Department or the State Board, or both. An employee hired pursuant to this subsection shall not enter into a written contract with the Department. Such employee shall be subject to dismissal or other disciplinary action imposed by the Secretary only for just cause. For the purposes of this subsection, "just cause" includes, but is not limited to, reduction in force, inefficiency, unsatisfactory performance of duties, misconduct, immorality, incompetency, and wilful neglect of duty;

In making a determination to dismiss or to impose a lesser disciplinary action pursuant to this subsection, the Secretary shall assess and take into account any mitigating or extenuating circumstances as well as the employee's work history. Any employee dismissed pursuant to this subsection may request a formal hearing before a hearing officer appointed by the Secretary of the Department of Human Resources within 15 calendar days from the date that notice is sent by certified mail or the date of receipt of the written notification of dismissal from the Secretary if hand-delivered, whichever is applicable. In the event that an employee timely requests a hearing, the Department of Human Resources shall convene a hearing no earlier than 10 days nor later than 90 days after receipt of the request for a hearing, unless both parties agree to a different schedule. The employee shall have the opportunity to present information in the employee's own defense and may have legal counsel at the hearing;

(7) Granting to any person employed by the Department pursuant to this section who is called to the service or voluntarily enters the Armed Forces of the United States or the National Guard of the State, when in continuous active service, a leave of absence which shall cover the period of voluntary service, not to exceed 3 years, or the term of service to which the person has been called until that term of service is terminated; and upon the completion of the leave of absence, reinstating such person in the position which the person held at the time that the leave of absence was granted, if such person has received a certificate of satisfactory completion of service;

(8) Appointing persons to replace employees on leaves of absence for active military service, as described in paragraph (a)(7) of this section, but such appointments shall be only for the period covered by said leaves of absence;

(9) Requiring boards of education of reorganized school districts to submit reports covering student achievement, discipline, expenditures, business methods, accounts, registration, attendance, and any other matter it finds necessary and advisable consistent with the State's policy, as reflected in §§ 122(d), (e) and 124A(f) of this title, to avoid duplicative or unnecessarily burdensome reporting obligations; and receiving and examining such reports and, through its staff, examining and giving advice on expenditures, business methods, and accounts of boards of education of reorganized school districts;

(10) Conducting investigations relating to the educational needs of the State and the means of improving the educational conditions including, without limitation: conducting an audit or evaluation of education programs; developing, validating, or administering predictive tests; administering student aid programs; improving instruction; conducting research and evaluation regarding federal, state or local education and training programs; or providing for the enforcement of or compliance with federal legal requirements relating to those programs; and, for such investigations, collaborating with other organizations, including, without limitation, the P-20 Council, to conduct studies for or on behalf of the Department, employing additional expert assistants and appointing special agents when deemed advisable;

(11) Causing the provisions of this title to be carried into effect, so as to provide a general and efficient system of public schools throughout the State;

(12) Deciding, without expense to the parties concerned, certain types of controversies and disputes involving the administration of the public school system. The specific types of such controversies and disputes appropriate for Department resolution and the procedures

for the resolution of such controversies and disputes shall be established by rules and regulation proposed by the Secretary subject to approval by the State Board. Hearing examiners or panels, including panels of the State Board of Education, may be appointed to hear such controversies and disputes;

(13) Obtaining witnesses and documents through subpoena, administering oaths, examining under oath, and causing such examinations to be reduced to writing, when necessary to enforce any provision of this title. The Secretary and the State Board of Education, and any hearing examiner or panel duly appointed by either, may exercise the provisions of this subsection;

(14) Entering into contracts with states bordering on the State, or with agencies, political subdivisions or school districts of such states, for the establishment and operation of joint educational facilities wherever it is found by the Department that such joint facilities would be of greater educational value to the citizens of the State than separate facilities. Tuition payments required by such contracts shall be paid from funds specifically appropriated in the annual budget for this purpose, from educational contingency funds, or from both. Tuition payments received under such contracts shall be deposited in the General Fund of the State, notwithstanding any other provisions of this title;

(15) Supervising generally the design of educational facilities by:

a. Establishing and applying evaluative criteria to all stages in the design of proposed educational facilities;

b. Analyzing and researching design factors as they relate to educational effectiveness;

c. Recommending to local school districts matters dealing with educational design;

(16) Establishing the criteria for and approving the operation of postsecondary institutions in the State that are not established by law and authorizing postsecondary institutions that are not established by law to confer degrees;

(17) Collecting, integrating, and reporting longitudinal student and educator data for such purposes as implementing federal- or state-required education performance accountability measures; conducting research and evaluation regarding federal, state and local education, and training programs; and conducting audits and ensuring compliance of those programs with applicable federal and state requirements; and

(18) Approving Delaware colleges for Veteran's Administration programs.

(b) The Department shall establish a voluntary licensure and certification system for nonpublic school teachers, specialists, and administrators employed in this State, and is empowered to make rules and regulations to implement the same.

(1) Said system shall consist of a 3-tiered licensure system consisting of an initial license, continuing license and an advanced license. The prerequisites required for issuance of an initial, continuing or advanced license to a nonpublic school teacher, specialist or administrator shall be consistent, to the extent possible, with those required for the issuance of an initial, continuing or advanced license to a public school educator as set forth in subchapter II of Chapter 12 of this title. The qualifications for a standard certificate, an emergency certificate, or a certificate of eligibility shall be consistent, to the extent possible, with those required for the issuance of same to a public school educator, as set forth in subchapter III of Chapter 12 of this title.

(2) If a nonpublic school licensee intends to apply for a continuing license, the licensee shall, prior to the expiration of the licensee's initial license, complete such professional development and mentoring activities as may be required by the Department.

(3) A licensed and certified non-public school teacher, specialist or administrator must receive at least 1 performance appraisal evaluation annually. The evaluation must be in a form approved by the Department and consistent with the Delaware Professional Teaching Standards and the Delaware Administrator Standards. The performance appraisal evaluation must include an overall rating and a student improvement component rating, and must identify what constitutes satisfactory and unsatisfactory performance on the overall evaluation and each component of the evaluation. The performance appraisal evaluation must have no more than 5 components and must have a strong focus on student improvement, with 1 component dedicated exclusively to student improvement and weighted at least as high as any other component. The measure of student improvement must be approved by the Department.

(4) The Department, through the Associate Secretary, Educator Support, may deny an applicant's application for a license for failure to meet the qualifications for a license. The Department may further deny a license to an applicant who otherwise meets the requirements of this subsection for any of the causes enumerated in § 1218(a) or (b) of this title. The Department shall not take action to deny a license under this subsection without providing the applicant with written notice of the reasons for denial and with an opportunity for a full and fair hearing before the Secretary of Education or the Secretary's designee. The burden of proof in a license denial action is on the applicant to show by a preponderance of the evidence that the applicant should not be denied a license because that applicant meets the qualifications for licensure pursuant to the applicable laws and regulations.

(5) a. Except as otherwise provided in paragraphs (b)(5)b. and c. of this section, the Department, through the Associate Secretary, Educator Support, may suspend, revoke or limit a license issued under the provisions of this subsection for any of the causes set forth in § 1218(a) of this title.

b. The Department, through the Associate Secretary, Educator Support, shall revoke a license issued under the provisions of this subsection for any of the causes set forth in § 1218(b) of this title.

c. The Department, through the Associate Secretary, Educator Support, may automatically suspend any license without a prior hearing if the license holder is arrested or indicted by a grand jury for a violent felony as defined in § 4201(c) of Title 11. A suspension under this paragraph is effective on the date of the arrest or grand jury indictment. The provisions of § 1218(c) of this title shall apply

to any automatic suspension under this subsection with the exception that the license holder may request an expedited hearing before the Secretary of Education within 20 calendar days from the date the notice of the Department's decision to temporarily suspend the license holder's license was mailed. In the event that the license holder requests an expedited hearing in a timely manner, the Secretary of Education or the Secretary's designee shall convene a hearing within 90 days of the receipt of such a request. An order of suspension under this subsection shall remain in effect until the final order of the Associate Secretary, Educator Support or the Secretary of Education becomes effective.

d. The Department, through the Associate Secretary, Educator Support, may take an action under paragraph (b)(5)a., b., or c. of this section on the basis of substantially comparable conduct occurring in a jurisdiction outside this State or occurring before a person applies for or receives any license.

e. Any license holder who has pled guilty or nolo contendere to, or has been convicted of, a crime in a court of law which would constitute grounds for revocation, suspension or limitation of license under § 1218(a) or (b) of this title or has been arrested or indicted by a grand jury for a violent felony as defined in § 4201(c) of Title 11, shall notify the Department of such action in writing within 20 days of such conviction, arrest or indictment, whether or not a sentence has been imposed. Failure to do so shall be grounds on which the Department may limit, suspend, or revoke the holder's license.

f. Any license holder who has surrendered an educator license or any professional license or certificate or who has had such a license or certificate revoked, suspended, or limited in any jurisdiction or by any agency shall notify the Department of such action in writing within 30 days of such action. Failure to do so shall be grounds on which the Department may limit, suspend or revoke the holder's license.

g. The Department may investigate any information received about a person that reasonably appears to be the basis for action under paragraphs (b)(5)a. through c. of this section. The Department shall not investigate anonymous complaints. The Department shall give written notice within a reasonable period of time to a license holder of any investigation initiated hereunder to the license holder's last known address. All information obtained during an investigation is confidential and shall not be considered public records under Delaware's Freedom of Information Act (Chapter 100 of Title 29). The Associate Secretary, Educator Support, shall review the results of each investigation and shall determine whether the results warrant initiating action under paragraph (b)(5)a., b. or c. of this section.

h. Whenever the basis of for action under paragraph (b)(5)a. or b. of this section is a guilty plea, nolo contendere with respect to, or a conviction of a crime, a copy of the record of the plea, nolo contendere or conviction certified by the clerk of the court entering the plea, nolo contendere or conviction shall be conclusive evidence thereof.

i. The Department, through the Associate Secretary, Educator Support, may enter a consent agreement with a person against whom action is being taken under paragraph (b)(5)a., b. or c. of this section.

j. The Associate Secretary, Educator Support, shall not take action against a person under paragraph (b)(5)a. or b. of this section without providing the person with written notice of the charges and with an opportunity for a full and fair hearing before the Secretary of Education. Notice shall be sent to the person's last known address. The license holder shall have 30 calendar days from the date the notice of the charges was mailed to make a written request for a hearing. Unless otherwise provided for in this subsection, the burden of proof in a license disciplinary action shall be on the agency taking official action to establish by preponderance of the evidence that the license holder has engaged in misconduct as defined by paragraphs (b)(5)a. and b. of this section or otherwise has failed to comply with the applicable laws and regulations relating to the retention of the license. If no written request for a hearing is received by the Secretary of Education, the license holder's license shall be deemed to be revoked, suspended, or limited and the holder shall be so notified.

k. A license may be suspended for a period of time not to exceed 5 years. The license may be reinstated by the Department, upon written request, with verification that all requirements for license renewal have been satisfied. If the license expired during the period of suspension, the holder of the former license may reapply for the same tier license that was suspended but shall meet the license requirements that are in effect at the time of the application for the license.

*l.* If any of the causes listed in § 1218(a) or (b) of this title are determined, the Associate Secretary, Educator Support or the Secretary of Education after a hearing, may put limitations on a license that may include any of the following:

1. Restrictions on the ages of students with whom the license holder may work.

2. Additional supervision requirements.

3. Education, counseling, or psychiatric examination requirements.

m. If a decision of license limitation, suspension or revocation is based on § 1218(a)(4), (a)(5), or (b)(1) of this title, and if the plea or conviction is overturned and there is no subsequent proceeding leading to a plea or conviction, the individual whose license is limited, suspended or revoked may file a written request for reinstatement, including documentation of the final status of the judicial proceeding, and the license shall be reinstated.

n. An individual whose license has been revoked under paragraph (b)(5)a. of this section may petition the Department for reinstatement of the license not sooner than 5 years from the date of revocation. The individual shall submit to the Department a written petition showing credible evidence, by affidavit or otherwise, of the factors set forth in paragraph (b)(5)n.1. of this section.

1. The Department shall consider all of the following criteria in evaluating a petition for reinstatement and shall only grant such a petition if it is in the best interest of the public schools of the State:

A. The nature and circumstances of the individual's original misconduct;

B. The individual's subsequent conduct and rehabilitation;

C. The individual's present character; and

D. The individual's present qualifications and competence to engage in the practice of instruction, administration or other related professional support services.

2. A former license holder is entitled to a full and fair hearing before the Secretary of Education or designee to challenge a denial of reinstatement pursuant to this subsection.

3. A license revoked under paragraph (b)(5)b. of this section or suspended under paragraph (b)(5)c. of this section may not be reinstated under this section. A license revoked under § 1218(b)(1) of this title may only be reinstated pursuant to this paragraph (b)(5)n. and a license suspended under paragraph (b)(5)c. of this section may only be reinstated pursuant to of § 1218(c)(5) of this title or after a hearing before the Secretary of Education or the Secretary's designee.

o. All communications between a license holder and the Department provided for in this subsection shall be by certified mail, return receipt requested.

(6) The Department shall issue a continuing license to a nonpublic school teacher, specialist or administrator holding a Delaware certificate issued by an education certifying board prior to July 13, 1971, or upon the expiration of a professional status certificate or standard certificate issued by the Department.

(7) Licenses and certificates issued to nonpublic school teachers, specialists and administrators shall have the same force and effect as licenses and certificates issued pursuant to subchapters II and III of Chapter 12 of this title.

(8) a. Notwithstanding any provision of this title to the contrary, a license issued by the Department pursuant to this subsection does not expire for a "qualifying person" as defined in paragraph (b)(8)d. of this section as follows:

1. If the qualifying person holds an initial license, for 180 days after the date the qualifying person returns from active deployment.

2. If the qualifying person holds a continuing or advanced license, for 270 days after the date the qualifying person returns from active deployment.

b. A qualifying person who held a valid continuing or advanced license at the time of deployment and who wishes to renew the continuing or advanced license shall submit to the Department an application for renewal within 180 days after the qualifying person has returned from active deployment.

c. The protection from license expiration provided under this subsection does not void or limit the obligations of the qualifying person to meet all requirements of licensure as established by this subsection and the regulations promulgated thereunder.

d. As used in this subsection, "qualifying person" means an individual who is a member of the active duty military, a member of the National Guard, a member of the military reserve, retired military, or a military veteran.

(9) Notwithstanding any provision of this title to the contrary, a "qualifying person," as defined in paragraph (b)(8)d. of this section, or the spouse of a qualifying person, may apply for reinstatement of a license issued by the Department pursuant to subsection (b) of this section within 2 years of the lapse or expiration of any such license. The qualifying person or the spouse of a qualifying person shall submit an application to reinstate the license together with a copy of official verification that the applicant is a qualifying person or the spouse of a qualifying person and the qualifying person is assigned to a duty station in this State. This subsection shall not apply to a license that was suspended or revoked.

(c) The Department shall establish a licensure and certification system for public education employees in this State that applies to Department of Education employees, adult education employees, and prison education employees whose work responsibilities are directly related to curriculum and instruction, but does not apply to public school educators who shall be licensed and certified in accordance with subchapters II and III of Chapter 12 of this title. The Department shall be empowered to promulgate rules and regulations to implement such system.

(1) For purposes of this section only, "public education employee" means a public education employee whose work responsibilities are directly related to curriculum and instruction, and includes Department employees, adult education employees, and prison education employees, but does not include public school educators who shall be licensed and certified in accordance with subchapters II and III of Chapter 12 of this title.

(2) Said system shall consist of 3-tiered licensure system consisting of an initial license, continuing license and an advanced license. The prerequisites required for issuance of an initial, continuing or advanced license to a public education employee shall be consistent, to the extent possible, with those required for the issuance of an initial, continuing or advanced license to a public school educator as set forth in subchapter II of Chapter 12 of this title. The qualifications for a standard certificate, an emergency certificate, or a certificate of eligibility shall be consistent, to the extent possible, with those required for the issuance of same to a public school educator, as set forth in subchapter III of Chapter 12 of this title.

(3) If a licensee under this section intends to apply for a continuing license, the licensee shall, prior to the expiration of the licensee's initial license, complete such professional development as may be required by the Department.

(4) A licensed and certified public education employee shall be evaluated pursuant to a performance appraisal evaluation developed by the Department.

(5) The Department, through the Associate Secretary, Educator Support, may deny an applicant's application for a license for failure to meet the qualifications for a license. The Department may further deny a license to an applicant who otherwise meets the requirements of this subsection for any of the causes enumerated in § 1218(a) or (b) of this title. The Department shall not take action to deny a license under this subsection without providing the applicant with written notice of the reasons for denial and with an opportunity for a full and fair hearing before the Secretary of Education or the Secretary's designee. The burden of proof in a license denial action is on the applicant to show by a preponderance of the evidence that the applicant should not be denied a license because that applicant meets the qualifications for licensure pursuant to the applicable laws and regulations.

(6) a. Except as otherwise provided in paragraphs (c)(6)b. and c., of this section the Department, through the Associate Secretary, Educator Support, may suspend, revoke or limit a license issued under the provisions of this subsection for any of the causes set forth in § 1218(a) of this title.

b. The Department, through the Associate Secretary, Educator Support, shall revoke a license issued under the provisions of this subsection for any of the causes set forth in § 1218(b) of this title.

c. The Department, through the Associate Secretary, Educator Support, may automatically suspend any license without a prior hearing if the license holder is arrested or indicted by a grand jury for a violent felony as defined in § 4201(c) of Title 11. A suspension under this paragraph is effective on the date of the arrest or grand jury indictment. The provisions of § 1218(c) of this title shall apply to any automatic suspension under this subsection with the exception that the license holder may request an expedited hearing before the Secretary of Education within 20 calendar days from the date the notice of the Department's decision to temporarily suspend the license holder's license was mailed. In the event that the license holder requests an expedited hearing in a timely manner, the Secretary of Education or the Secretary's designee shall convene a hearing within 90 days of the receipt of such a request. An order of suspension under this subsection shall remain in effect until the final order of the Associate Secretary, Educator Support or the Secretary of Education becomes effective.

d. The Department, through the Associate Secretary, Educator Support, may take an action under paragraph (c)(6)a., b., or c. of this section on the basis of substantially comparable conduct occurring in a jurisdiction outside this State or occurring before a person applies for or receives any license.

e. Any license holder who has pled guilty or nolo contendere to, or has been convicted of, a crime in a court of law which would constitute grounds for revocation, suspension or limitation of license under § 1218(a) or (b) of this title or has been arrested or indicted by a grand jury for a violent felony as defined in § 4201(c) of Title 11, shall notify the Department of such action in writing within 20 days of such conviction, arrest or indictment, whether or not a sentence has been imposed. Failure to do so shall be grounds on which the Department may limit, suspend, or revoke the holder's license.

f. Any license holder who has surrendered an educator license or any professional license or certificate or who has had such a license or certificate revoked, suspended, or limited in any jurisdiction or by any agency shall notify the Department of such action in writing within 30 days of such action. Failure to do so shall be grounds on which the Department may limit, suspend or revoke the holder's license.

g. The Department may investigate any information received about a person that reasonably appears to be the basis for action under paragraphs (c)(6)a. through c. of this section. The Department shall not investigate anonymous complaints. The Department shall give written notice within a reasonable period of time to a license holder of any investigation initiated hereunder to the license holder's last known address. All information obtained during an investigation is confidential and shall not be considered public records under Delaware's Freedom of Information Act (Chapter 100 of Title 29). The Associate Secretary, Educator Support, shall review the results of each investigation and shall determine whether the results warrant initiating action under paragraph (c)(6)a., b. or c. of this section.

h. Whenever the basis of for action under paragraph (c)(6)a. or b. of this section is a guilty plea, nolo contendere with respect to, or a conviction of a crime, a copy of the record of the plea, nolo contendere or conviction certified by the clerk of the court entering the plea, nolo contendere or conviction shall be conclusive evidence thereof.

i. The Department, through the Associate Secretary, Educator Support, may enter a consent agreement with a person against whom action is being taken under paragraph (c)(6)a., b. or c. of this section.

j. The Associate Secretary, Educator Support, shall not take action against a person under paragraph (c)(6)a. or b. of this section without providing the person with written notice of the charges and with an opportunity for a full and fair hearing before the Secretary of Education. Notice shall be sent to the person's last known address. The license holder shall have 30 calendar days from the date the notice of the charges was mailed to make a written request for a hearing. Unless otherwise provided for in this subsection, the burden of proof in a license disciplinary action shall be on the agency taking official action to establish by preponderance of the evidence that the license holder has engaged in misconduct as defined by paragraphs (c)(6)a. and b. of this section or otherwise has failed to comply with the applicable laws and regulations relating to the retention of the license. If no written request for a hearing

is received by the Secretary of Education, the license holder's license shall be deemed to be revoked, suspended, or limited and the holder shall be so notified.

k. A license may be suspended for a period of time not to exceed 5 years. The license may be reinstated by the Department, upon written request, with verification that all requirements for license renewal have been satisfied. If the license expired during the period of suspension, the holder of the former license may reapply for the same tier license that was suspended but shall meet the license requirements that are in effect at the time of the application for the license.

*l.* If any of the causes listed in § 1218(a) or (b) of this title are determined, the Associate Secretary, Educator Support or the Secretary of Education after a hearing, may put limitations on a license that may include any of the following:

1. Restrictions on the ages of students with whom the license holder may work.

2. Additional supervision requirements.

3. Education, counseling, or psychiatric examination requirements.

m. If a decision of license limitation, suspension or revocation is based on § 1218(a)(4), (a)(5), or (b)(1) of this title, and if the plea or conviction is overturned and there is no subsequent proceeding leading to a plea or conviction, the individual whose license is limited, suspended or revoked may file a written request for reinstatement, including documentation of the final status of the judicial proceeding, and the license shall be reinstated.

n. An individual whose license has been revoked under paragraph (c)(6)a. of this section may petition the Department for reinstatement of the license not sooner than 5 years from the date of revocation. The individual shall submit to the Department a written petition showing credible evidence, by affidavit or otherwise, of the factors set forth in paragraph (c)(6)n.1. of this section.

1. The Department shall consider all of the following criteria in evaluating a petition for reinstatement and shall only grant such a petition if it is in the best interest of the public schools of the State:

A. The nature and circumstances of the individual's original misconduct.

B. The individual's subsequent conduct and rehabilitation.

C. The individual's present character.

D. The individual's present qualifications and competence to engage in the practice of instruction, administration or other related professional support services.

2. A former license holder is entitled to a full and fair hearing before the Secretary of Education or designee to challenge a denial of reinstatement pursuant to this subsection.

3. A license revoked under paragraph (c)(6)b. of this subsection or suspended under paragraph (c)(6)c. of this section may not be reinstated under this section. A license revoked under of § 1218(b)(1) of this title may only be reinstated pursuant to paragraph (c)(6)n. of this section and a license suspended under paragraph (c)(6)c. of this section may only be reinstated pursuant to § 1218(c)(5) of this title or after a hearing before the Secretary of Education or the Secretary's designee.

o. All communications between a license holder and the Department provided for in this subsection shall be by certified mail, return receipt requested.

(7) a. Notwithstanding any provision of this title to the contrary, a license issued by the Department pursuant to this subsection does not expire for a "qualifying person" as defined in paragraph (c)(7)d. of this section as follows.

1. If the qualifying person holds an initial license, for 180 days after the date the qualifying person returns from active deployment.

2. If the qualifying person holds a continuing or advanced license, for 270 days after the date the qualifying person returns from active deployment.

b. A qualifying person who held a valid continuing or advanced license at the time of deployment and who wishes to renew the continuing or advanced license shall submit to the Department an application for renewal within 180 days after the qualifying person has returned from active deployment.

c. The protection from license expiration provided under this subsection does not void or limit the obligations of the qualifying person to meet all requirements of licensure as established by this subsection and the regulations promulgated thereunder.

d. As used in this subsection, "qualifying person" means an individual who is a member of the active duty military, a member of the National Guard, a member of the military reserve, retired military, or a military veteran.

(8) Notwithstanding any provision of this title to the contrary, a "qualifying person," as defined in paragraph (c)(7)d. of this section, or the spouse of a qualifying person, may apply for reinstatement of a license issued by the Department pursuant to this subsection within 2 years of the lapse or expiration of any such license. The qualifying person or the spouse of a qualifying person shall submit an application to reinstate the license together with a copy of official verification that the applicant is a qualifying person or the spouse of a qualifying person and the qualifying person is assigned to a duty station in this State. This subsection shall not apply to a license that was suspended or revoked.

(d) The Department's Office of Child Care Licensing shall exercise general control and supervision to license, register, and monitor all residential and nonresidential child care facilities, including family child care homes, large family child care homes, child care centers, child placing agencies, residential child care facilities, youth camps that accept Purchase of Care, early education programs for children

below the grade of kindergarten that are operated by public or private schools, and day treatment programs unless otherwise exempted by law; provided however, that no license for a residential or nonresidential child care facility to be operated within the corporate limits of the City of Wilmington may be granted until the applicant has provided the Department with verification of licensure by the City of Wilmington to operate a child care facility.

(e) The Department shall establish a Council on Educational Technology. The Council shall be supported by staff from the Department of Education and the Department of Technology and Information, and shall be comprised of no more than 15 stakeholder representatives. The Council will:

(1) Provide strategic guidance for public education technology by conducting needs assessments;

(2) Offer policy and budget recommendations;

(3) Engage in strategic planning to ensure alignment between state and local efforts;

(4) Define acceptable use policies, procedures and processes to ensure compliance with federal and state regulations; and

(5) Provide support for technology-related procurement.

(21 Del. Laws, c. 67, § 2; 26 Del. Laws, c. 94, § 2; 27 Del. Laws, c. 106; Code 1915, § 2275; 32 Del. Laws, c. 160, § 7; Code 1935, § 2629; Code 1935, c. 71, § 146; 42 Del. Laws, c. 122, § 1; 43 Del. Laws, c. 190, § 3; 14 Del. C. 1953, § 121; 49 Del. Laws, c. 163; 57 Del. Laws, c. 113; 58 Del. Laws, c. 231; 59 Del. Laws, c. 87, § 1; 59 Del. Laws, c. 205, § 1; 62 Del. Laws, c. 118, § 1; 67 Del. Laws, c. 281, § 204; 67 Del. Laws, c. 431, § 2; 68 Del. Laws, c. 290, § 225; 69 Del. Laws, c. 64, § 275; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 425, §§ 343, 344; 71 Del. Laws, c. 180, § 5; 74 Del. Laws, c. 169, §§ 1, 2; 75 Del. Laws, c. 76, § 1; 75 Del. Laws, c. 77, §§ 39, 40, 45; 75 Del. Laws, c. 88, § 20(2); 77 Del. Laws, c. 114, §§ 1-4; 78 Del. Laws, c. 66, §§ 1-4; 78 Del. Laws, c. 113, §§ 3-5; 81 Del. Laws, c. 66, § 8; 81 Del. Laws, c. 202, § 1; 83 Del. Laws, c. 280, § 5; 83 Del. Laws, c. 401, § 1; 83 Del. Laws, c. 508, §§ 1-4; 85 Del. Laws, c. 62, § 337.)

## § 122. Rules and regulations.

(a) The Department shall adopt rules and regulations, consistent with the laws of this State, for the maintenance, administration and supervision throughout the State of a general and efficient system of free public schools in accordance with this title, including the rules and regulations specified in subsection (b) of this section. Such rules and regulations, when prescribed and published, shall not extend, modify or conflict with any law of this State or the reasonable implications thereof, and shall be binding throughout the State.

(b) The Department shall adopt all of the following rules and regulations:

(1) Governing the hygienic, sanitary and protective construction of school buildings; the selection, arrangement and maintenance of school sites and grounds; and the condemnation, for school purposes, of public school buildings that do not conform to such rules and regulations;

(2) Governing the physical inspection of and the protection of the health and physical welfare of public school students in the State;

(3) Governing the issuance of certificates and diplomas for the public schools of the State. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(4) Notwithstanding any other provision, rule, regulation or law to the contrary, determining the minimum number of core classes a student must take and pass each year in order to advance to a higher level; provided however, that the regulation shall, at a minimum, require students in first through eighth grades to pass at least 50% of all classes taken for credit, excluding physical education, and further provided that no student shall be passed to a higher grade level, without passing English/language arts or its equivalent each school year. These requirements shall be in addition to any limitations on grade level promotion or any other requirements imposed upon students pursuant to subchapter III of Chapter 1 of this title. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education.

(5) Determining the minimum courses of study for all public elementary schools and all public high schools of the State, including ensuring that all elementary school students have an opportunity to attend a school where all elementary school subjects, with the exception of foreign languages, are taught in the English language and requiring that all pupils of all public elementary schools and all public high schools of the State be instructed in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(6) Establishing recommended statewide uniform curricula for all public schools of the State. Teachers shall have a role in the curriculum alignment process. Districts shall provide evidence to the Department of Education of curriculum alignment within 12 months of the completion of the recommended curricula in each content area.

(7) Governing the attendance of teachers now employed and prospective teachers at the summer schools at the University of Delaware and Delaware State University, and, in cooperation with the Presidents of those institutions, determining the conditions by which such teachers and prospective teachers may receive from the State all or a part of the expenses incurred by such summer school attendance;

(8) Implementing the Delaware Higher Education Office’s purpose and responsibilities, governing postsecondary institutions that are not established according to Delaware law, and administering student assistance programs. Rules and regulations adopted pursuant to this subsection are subject to the approval of the State Board of Education;

(9) Determining the days on which the schools are closed by the authority of the local board for such reasons as storms, necessary repairs, quarantine, destruction of school property by fire, or other causes. Under the above conditions, a school employee shall suffer

no loss of pay, and the total number of hours required by § 1049(a)(1) of this title may be adjusted accordingly. Any excusal of educational hour requirements set forth in § 1049(a)(1) shall be approved by the Secretary and the State Board of Education;

(10) Providing for the enforcement of school attendance laws of this State, controlling the necessary absence of pupils enrolled in the public schools, and determining the circumstances under which such absence shall be considered necessary. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(11) Requiring a uniform series of forms and blanks for the keeping and reporting of all financial accounts, the annual school budget and all educational records and providing a series of forms and blanks for the same; and determining a standardized format for district and charter school financial reports, which shall include, but not be limited to, the current budget with expenditures, encumbrances and remaining balances by budget component. District and charter school financial reports shall be posted monthly on the district or charter school website and shall be provided in writing upon request. Any reporting or posting shall be consistent with state law.

(12) Providing for the physical examination of students and for the mental examination of such students who have made no advancement in their studies for 3 successive years of regular attendance and ensuring the implementation of § 3122 of this title;

(13) Assuring the permanent maintenance of the personnel records of all employees of all school districts and charter schools in this State, including the records of employees whose employment has terminated. These regulations must require all of the following:

a. The retention of all of the following for each employee:

1. All annual salaries.

2. Sick leave and vacation information.

b. The length of time that these records must be retained, which must be for a period that equals or exceeds the number of years required by the Delaware Public Archives.

(14) Providing for instruction in driver education during the summer months beyond the period usually designated as the school term. The Department shall, subject to approval by the State Board of Education, propose rules and regulations under this paragraph (b)(14). Such rules and regulations must provide for a comprehensive, quality program that, at a minimum, does all of the following:

a. Uses dual-controlled vehicles, adheres to procedures provided in § 2710(c) of Title 21, and requires that pupils demonstrate knowledge related to traffic stops by a law-enforcement officer under § 2713(e) of Title 21.

b. Makes the program available to any pupil who is a resident of the reorganized school district in which the program is offered or in which the program is offered in cooperation with other reorganized school districts, who has been enrolled in or is eligible for enrollment in the tenth grade or who is enrolled in grades 11 or 12, or who has reached that pupil's own fifteenth birthday on or before July 15.

c. Assigns teachers on a ratio of 1 teacher for each 125 qualified pupils, or assigns 1/5 of a teacher for each 25 qualified pupils, unless these ratios are modified by other sections of this title enacted after July 1, 1967.

d. Provides instruction to qualified pupils without charge.

e. Requires driver education teachers be regularly certified to teach driver education.

f. Pays salaries to teachers assigned to the program in accordance with Chapter 13 of this title.

(15) [Repealed.]

(16) Requiring health and wellness educational programs for grades K through 12, emphasizing the health enhancement benefits of seat belt usage, exercise, proper nutrition, and the avoidance of unhealthy behaviors such as smoking and drug abuse. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education. An advisory and resource committee comprised of the Secretary of Public Safety, the Secretary of Health and Social Services, and the Secretary of Education is hereby established to assist in the development of the program;

(17) Establishing mandatory drug and alcohol educational programs in each grade, kindergarten through grade 12, in each public school in this State. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(18) Providing for the operation of adult education and family literacy programs including, but not limited to, adult basic education, literacy education, adult high school, prison education, apprenticeship programs and family literacy. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;

(19) Providing, in cooperation with the Family Services Cabinet Council, for the operation of state-supported early education preschool intervention and birth mandate programs that are authorized by this title and designed to enhance individual student readiness for public school, unless specific authority is vested elsewhere by this Code;

(20) Establishing and monitoring the enforcement, in cooperation with the Department of Health and Social Services and the Department of Services for Children, Youth and Their Families, of standards for state-operated residential programs associated with state-operated educational programs that are authorized by this title;

(21) Establishing mandatory research-based fire safety education in grades kindergarten through grade 6 in each public school in this State as part of the appropriate subject area curriculum. Fire safety education may be taught by professional or volunteer firefighters. The education program shall be agreed upon jointly by the Secretary of Education and the Director of the State Fire School;

(22) Relating to public school teacher preparation, recruitment and retention. Regulations promulgated pursuant to this section shall provide that no individual, public or private educational association, corporation or institution, including any institution of post-secondary education, shall offer a course, or courses, for the training of school teachers to be licensed in this State without first having procured the assent of the Department for the offering of such courses;

(23) Requiring each reorganized school district and charter school to assess the physical fitness of each student at least once at the appropriate elementary school level (kindergarten through grade 5), the middle level (grade 6 through grade 8), and the high school level (grade 9 through grade 12), with the results to be provided to the parent, guardian or relative caregiver. Provided further, the fitness assessment shall be administered at common grade levels statewide;

(24) Defining eligibility for supportive instruction for school district and charter school students. Such regulations shall identify the licensed professionals authorized to certify eligibility for supportive instruction and provide that the certification of an advanced practice nurse, who is employed by or who has a collaborative agreement with a licensed physician, be accepted on the same basis as a physician certification. For purposes of this paragraph, "supportive instruction" means an alternative educational program provided in a home, hospital, or other setting for students temporarily unable to attend their school of enrollment on a full-time basis due to sudden illness, injury, accident, episodic flare up of a chronic condition, or other basis authorized by the Department of Education through regulation;

(25) Providing for the governance of any longitudinal data system or database, and governing the collection, use, maintenance, disclosure and sharing of educational records and the information contained therein. Rules and regulations promulgated pursuant to this subparagraph shall be developed in consultation and cooperation with the P-20 Council and Interagency Resource Management Committee (IRMC) and with the consent of the State Board of Education and shall comply with state and federal privacy and confidentiality laws, including, without limitation, the Family Educational Rights and Privacy Act [20 U.S.C. § 1232g], the Protection of Pupil Rights Amendment [20 U.S.C. § 1232h] and the Individuals with Disabilities Education Act [20 U.S.C. § 1401 et seq.] each as amended from time to time;

(26) Establishing, for purposes of student discipline, uniform definitions for student conduct which may result in alternative placement or expulsion, uniform due process procedures for alternative placement meetings and expulsion hearings, and uniform procedures for processing Attorney General's reports. Such regulations shall apply to all districts and charter schools. This paragraph shall not be interpreted to restrict the ability of district and charter schools to determine which student conduct shall result in expulsion or an alternative placement;

(27) a. Implementing a 1-time fee of no more than $100 for all applicants for an educator's first license in Delaware; provided, however, that the fee shall be reimbursed for any applicant who becomes employed as an educator in a Delaware public school. All moneys collected pursuant to this paragraph shall be deposited in the General Fund, with the exception of $90,000, which shall be retained annually by the Department in a special fund to be established for the sole purpose of reimbursing educators. Rules and regulations promulgated pursuant to this paragraph shall be subject to approval by the State Board of Education;

b. An applicant who meets the performance assessment requirement in subchapter II of Chapter 12 of this title and becomes employed in a Delaware public school will be reimbursed no less than $100. The reimbursements may be provided from funds collected under paragraph (b)(27)a. of this section; and

(28) Developing a process for districts and charter schools to annually identify any enrolled student who is a "military-connected youth." For purposes of this section, a "military-connected youth" means having an immediate family member, including a parent, stepparent, sibling or any other person residing in the same household, who is on active duty in; serving in the reserve component; or recently retired from a "branch of the United States armed forces." For purposes of this section, "branch of the United States armed forces" means all of the following:

a. United States Army.

b. United States Air Force.

c. United States Marine Corps.

d. United States Navy.

e. National Guard.

f. United States Coast Guard.

g. National Oceanic and Atmospheric Administration.

h. United States Public Health Service.

i. United States Space Force.

The identification of a "military-connected youth" shall not be used for purposes of determining school achievement, growth, or performance. Provided further, the identification of a "military-connected youth" is not a public record under Delaware's Freedom of Information Act (Chapter 100 of Title 29) or any other law and shall not be made public by any person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education.

(29) Establishing mandatory instruction in age- and developmentally-appropriate social emotional learning and mental health content in all public schools no later than the 2023-2024 school year. Recommended high quality evidence-based or evidence-informed

educational programming resources to be identified by the Department of Education in collaboration with, but not limited to, district and charter school educators, Department of Health and Social Services, Department of Services for Children, Youth and their Families, and National Alliance on Mental Illness Delaware (NAMI Delaware).

(30) Ensuring that the implementation of content standards is aligned to a culturally-responsive education with instruction that fosters academic achievement and cultural competence, intentionally acknowledges and values diversity of contributions and the experiences of all learners, and provides opportunities for individuals to see themselves and others in their learning, including by updating the Department's current diversity regulation [14 DE Admin. Code § 220] to include a nonexhaustive list of racial, ethnic, and cultural groups and promoting the integration of their contributions into local K-12 curricula.

(31) Requiring all school districts and charter schools to utilize a single, uniform student information system, as contracted for by the Department of Education.

(c) The Department shall implement rules and regulations promulgated and adopted by the Professional Standards Board and State Board of Education pursuant to § 1203 of this title governing qualifications, licensure, and certification of educators in all public schools of this State.

(d) The Department of Education shall perform and issue a written educational impact analysis of any new proposed regulation and of any regulation that is proposed to be continued pursuant to the review required by subsection (e) of this section. Such educational impact analysis shall address the following criteria:

(1) Whether the proposed regulation or the regulation sought to be continued is justified because it will help improve student achievement as measured against state achievement standards;

(2) Whether the proposed regulation or the regulation sought to be continued is justified because it will help ensure that all students receive an equitable education, that their health and safety are adequately protected and that their legal rights are respected;

(3) Whether the proposed regulation or the regulation sought to be continued preserves the necessary authority and flexibility of decision makers at the local board and school level and does not place unnecessary reporting or administrative requirements or mandates upon them;

(4) Whether the proposed regulation or the regulation sought to be continued places decision making authority and accountability for addressing the subject to be regulated in the same entity;

(5) Whether the proposed regulation or the regulation sought to be continued is 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;

(6) Whether there is a less burdensome method for addressing the purpose of the proposed regulation or the regulation sought to be continued; and

(7) The cost to the state and local school boards of compliance with the proposed regulation or the regulation sought to be continued.

(e) For the purpose of ensuring that all regulations are current, that unnecessary or unduly burdensome regulations are repealed or modified, and that more frequent comment from affected constituencies may be obtained, the Department of Education shall establish a process whereby each of its regulations in existence as of January 1, 1997, shall be subjected to review and readoption within the 4 years succeeding such date. Such review and readoption, or modification or repeal, shall be preceded by publication pursuant to Chapter 101 of Title 29. Any such regulation that the Department of Education readopts or readopts in modified form shall be accompanied by an educational impact analysis as required by subsection (d) of this section. Any regulation adopted by the Department of Education subsequent to January 1, 1997, shall be made effective for no more than 5 years and shall be subject to the review and readoption process set forth in this subsection.

(f) For the purpose of ensuring that state regulations do not impede innovation or the improvement of student achievement, the Department of Education in conformity with subsection (g) of this section may, upon application by a local board of education established pursuant to a provision of this title, waive any rule or regulation where:

(1) Such a waiver would further the accomplishment of state educational policies, particularly those state educational policies addressing student achievement in the core academic subjects of mathematics, science, language arts and social studies;

(2) Such a waiver would not impose undue administrative burdens upon the State or harm the State's ability to ensure that public funds are properly expended and that applicable state and federal laws are followed; and

(3) The purpose of the regulation or rule to be waived can be satisfied in a less burdensome or different manner than through compliance with the rule or regulation.

The school board of the district making such waiver request shall give notice of the consideration by notices posted in at least 10 public places in the district and on the door of every school in the district at least 20 days prior to the public meeting of the board of education at which the waiver request will be presented and discussed. The public shall be provided an opportunity to present comments concerning the waiver to be requested at a meeting of the local board following posting and preceding its formal adoption.

(g) For the purposes of ensuring that state regulations do not impede innovation or the improvement of student achievement, the local board may propose, upon application of a duly established school-based committee pursuant to a provision of this title or a school

principal of a school without such a committee who demonstrates significant faculty support for the waiver application, that any state rule or regulation, subject to exemption in § 505 of this title be waived where it makes written findings that: (i) such a waiver would further the accomplishment of state and local educational policies, particularly those policies addressing student achievement in the core academic subjects of mathematics, science, language arts and social studies; (ii) such a waiver would not impose undue administrative burden upon the State or harm the State's ability to ensure that public funds are properly expended and that applicable state and federal laws are followed; and (iii) the purpose of the regulation or rule to be waived can be satisfied in a less burdensome or different manner than through compliance with the rule or regulation. The board of education of the district in which the waiver is requested shall give notice of the receipt of such waiver request as follows:

(1) By notices posted in at least 10 public places in the district and on the door of every school in the district at least 20 days prior to the public meeting of the board at which the proposed waiver request will be presented and discussed. The public shall be provided an opportunity to present comments concerning the requested waiver at a meeting of the local board following posting and prior to its formal proposal; and

(2) The board of education shall transmit its written findings pursuant to subsection (g) of this section supporting the proposed waiver to the Department of Education within 5 days thereafter. Within 20 days thereof, the Department of Education may schedule, upon 20 days public notice, a hearing to consider whether to approve the proposed waiver. Absent the scheduling of such a hearing within such time period, the proposed waiver shall be considered approved by the Department of Education and shall then become effective, subject to State Board denial pursuant to this subsection. If the Department of Education schedules a hearing to consider a proposed waiver, it shall issue its decision within 30 days of the hearing. The State Board shall be advised of any waiver of a regulation it must promulgate or approve, and may deny such waiver by action taken within 30 days or by the next regularly scheduled meeting, whichever is earlier, of the waiver's approval by the Department.

(h) (1) Except as otherwise required by law, mandated by federal authority, or as determined by the Secretary to be an emergency situation requiring immediate action to protect public health or safety, no new or amended rule, regulation, or administrative procedure adopted by the Department which has a direct financial impact for the local school district, any school within a local school district or charter school, shall become effective for a local school district or any school within a local school district or charter school after the start of a fiscal year (July 1) unless the superintendent for that district or head of school for that charter school specifically approves such rule, regulation, or administrative procedure to be effective during that fiscal year.

(2) "Administrative procedure", as used in this subsection, means any action that establishes a method, practice, program, or procedure to be followed by a school or local school district or charter school.

(21 Del. Laws, c. 67, § 2; 26 Del. Laws, c. 94, § 2; 27 Del. Laws, c. 106; Code 1915, § 2275; 32 Del. Laws, c. 160, § 8; 35 Del. Laws, c. 156, § 1; 36 Del. Laws, c. 217, § 1; Code 1935, § 2630; 46 Del. Laws, c. 202, § 1; 14 Del. C. 1953, § 122; 49 Del. Laws, c. 106; 50 Del. Laws, c. 436, § 1; 56 Del. Laws, c. 192; 56 Del. Laws, c. 281; 56 Del. Laws, c. 292, § 1; 57 Del. Laws, c. 113; 57 Del. Laws, c. 752; 59 Del. Laws, c. 85, §§ 2-4; 59 Del. Laws, c. 420, § 1; 61 Del. Laws, c. 304, § 1; 62 Del. Laws, c. 118, §§ 2, 3; 62 Del. Laws, c. 323, § 1; 63 Del. Laws, c. 16; 63 Del. Laws, c. 290, § 1; 65 Del. Laws, c. 456, § 1; 66 Del. Laws, c. 303, § 286(a); 67 Del. Laws, c. 205, § 1; 67 Del. Laws, c. 344, § 5; 67 Del. Laws, c. 395, § 1; 68 Del. Laws, c. 328, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 365, § 1; 70 Del. Laws, c. 456, § 1; 71 Del. Laws, c. 180, §§ 5, 6; 71 Del. Laws, c. 181, § 1; 71 Del. Laws, c. 416, § 1; 72 Del. Laws, c. 294, § 23; 73 Del. Laws, c. 110, § 1; 73 Del. Laws, c. 137, § 1; 73 Del. Laws, c. 167, § 1; 73 Del. Laws, c. 374, §§ 1, 2; 74 Del. Laws, c. 13, § 17; 75 Del. Laws, c. 42, § 1; 75 Del. Laws, c. 409, § 1; 76 Del. Laws, c. 6, § 1; 78 Del. Laws, c. 112, § 1; 78 Del. Laws, c. 113, § 6; 78 Del. Laws, c. 189, § 1; 80 Del. Laws, c. 127, § 1; 80 Del. Laws, c. 143, § 1; 80 Del. Laws, c. 218, § 1; 80 Del. Laws, c. 257, § 1; 81 Del. Laws, c. 18, § 1; 81 Del. Laws, c. 43, § 4; 81 Del. Laws, c. 350, § 2; 83 Del. Laws, c. 387, § 2; 83 Del. Laws, c. 401, § 1; 84 Del. Laws, c. 323, § 2; 84 Del. Laws, c. 344, § 1; 84 Del. Laws, c. 431, § 1; 85 Del. Laws, c. 62, § 363; 85 Del. Laws, c. 356, § 1.)

## § 123. Funds from insurance; retention and use.

Any funds received by the Department from any insurance company by reason of the loss of school property insured in such company shall be paid to the Treasurer of the Department and by the Treasurer kept in a special fund. The special fund shall be used by the Department of Education to pay as far as possible or necessary for the repair or rebuilding of any building in connection with the loss sustained. Any moneys remaining in the special fund after carrying out this section shall be deposited in the General Fund of the State.

(Code 1915, c. 71; 32 Del. Laws, c. 160, § 51; 34 Del. Laws, c. 172, § 1; Code 1935, § 2640; 14 Del. C. 1953, § 126; 49 Del. Laws, c. 408; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 7.)

## § 124. Annual report.

The Department shall submit to the Governor, each year on or before January 1, an annual report covering the needs of the public education system as identified in the School Profiles published pursuant to § 124A of this title and other studies of the public school system conducted by the Department. The annual report shall include recommendations for additional legislation and for changes in existing legislation. The recommendations shall be accompanied by prepared bills to be laid before the Governor and the General Assembly.

The annual report shall include an assessment of the performance of Delaware's public school system using the information contained in the school profiles published pursuant to § 124A of this title and such other relevant information as is available. Such assessment shall

address Delaware's progress in promoting high student achievement for all students, the success of state and local educational initiatives, and the performance of the Department of Education.

(21 Del. Laws, c. 67, § 2; 26 Del. Laws, c. 94, § 2; 27 Del. Laws, c. 106; Code 1915, § 2275; 32 Del. Laws, c. 160, § 10; Code 1935, § 2642; 14 Del. C. 1953, § 127; 70 Del. Laws, c. 458, § 2; 71 Del. Laws, c. 180, § 8.)

## § 124A. Education-related data; school performance; reporting.

(a) (1) The Department of Education (Department) shall collect and release education-related data relating to student progress in Delaware schools. "Education-related data" includes reports and resources for topics such as student enrollment, educational staff, school and student performance, and student health and wellness.

(2) On or before August 15, 2003, and on or before August 1 of each subsequent year, the Department shall issue reports on all Delaware public schools, including information for charter schools, reorganized and vocational-technical school districts, and statewide. The information provided under this paragraph (a)(2) shall report on this State's public education system and progress toward achieving the educational goals established by the General Assembly, State, and the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301 et seq.

(b) (1) The purpose of the education-related data is to monitor progress and trends toward the achievement of this State's educational goals, to provide educators, families, and citizens with information they can use to make good choices for their children, and to hold the public educational system accountable for its performance and cost-effective use of public funds. Education-related data must be provided in a user-friendly form that permits educationally meaningful comparisons among schools and school districts, based on accurate, reliable, and normalized data. The Department must put a link to the reports required under paragraph (a)(2) of this section on all of the following:

a. The home page of the Department's website.

b. The school choice website under § 401 of this title.

(2) a. Reports must compare the data required under this section by each school, school district, and at the statewide level.

b. If informative and practicable to do so, reports must also compare the data required under this section to similar data at the national and regional level and for other states.

(c) The reports required under paragraph (a)(2) of this section must contain all of the following:

(1) Information pertaining to student testing and achievement, including proficiency rates, and educational outcomes as measured against this State's standards and other relevant indicators.

(2) Information pertaining to accountability.

(3) Information pertaining to school safety and discipline and student attendance, including truancy.

(4) Information pertaining to school district administrator-student ratios, school teacher-student ratios, and other staffing ratios.

(5) Information pertaining to pupil and staff population demographics, including the percent of low-income students, the percent of students with IEPs, and the percent of students who are ELL.

(6) Information pertaining to school district revenues, expenditures, tax rates, and wealth.

(7) Information pertaining to school curricular offerings, including the career pathways offered at a high school.

(8) Information pertaining to parent and community involvement in the school and school district.

(9) Information supplied by the school district or school pertaining to the criteria required under this subsection.

(10) Information pertaining to the role of the Title IX Coordinator, including the Title IX Coordinator's contact information.

(11) All other information as the Department, after consultation with the State Board, finds will serve the purposes under subsection (b) of this section.

(12) Information relating to sports and other extracurricular activities. The information provided for each sport under this paragraph (c)(12) must include if the school has a team for girls, a team for boys, or the team is co-ed.

(d) With the goal of encouraging the replication of effective educational policies and practices, the Education Profiles shall also highlight examples of exemplary programs, successful teaching, school climate or disciplinary strategies and other developments that may be of value in improving the performance of Delaware's students and public schools.

(e) The Department shall require public school districts to file district reports containing the data necessary to prepare the Education Profiles and shall prescribe a uniform format for such district reports. To the extent that the information required for the district reports must be filed by districts with the State pursuant to a separate section of this Code or Department regulation, the Department shall not require a duplicative report.

(f) The Education Profiles will be published, subject to an annual appropriation in the annual state budget act, at the expense of the State. Said profiles will be printed by the Department of Education in sufficient quantity and supplied to local school districts in sufficient quantity for distribution to district staff, parents and the community at large.

(g) The Department of Education with the consent of the State Board of Education shall promulgate rules and regulations to implement the provisions of this section.

(70 Del. Laws, c. 458, § 1; 71 Del. Laws, c. 180, § 9; 73 Del. Laws, c. 65, § 13; 74 Del. Laws, c. 28, § 1; 80 Del. Laws, c. 25, § 1; 85 Del. Laws, c. 190, § 1.)

## § 125. Penalty for false testimony.

Whoever, having been sworn or affirmed under § 121(a)(13) of this title to tell the truth, wilfully gives false testimony, is guilty of false swearing and shall be punished as perjury is punished.

(32 Del. Laws, c. 160, § 7; Code 1935, § 2629; 14 Del. C. 1953, § 129; 71 Del. Laws, c. 180, § 10.)

## § 126. Leases with the federal government.

The Department may enter into contracts with the government of the United States of America or its agencies for the leasing to the Department of machinery, tools, equipment, land, buildings or other items to be used in the school system of this State. The contracts so entered into may be for such terms not exceeding 20 years and on such conditions as the Department may deem advisable. The Department may sublease to reorganized school districts of the State the items so leased for such terms and on such conditions as the Department may deem advisable.

(14 Del. C. 1953, § 130; 53 Del. Laws, c. 127; 57 Del. Laws, c. 113; 71 Del. Laws, c. 180, § 11.)

## § 127. Driver education instruction in nonpublic high schools.

The Department of Education shall, subject to the approval of the State Board of Education, make rules and regulations concerning instruction in driver education in nonpublic high schools. Such rules and regulations must include all of the following provisions:

(1) The qualification of teachers for driver education in nonpublic high schools must be the same as the qualification for teachers in the public high schools.

(2) The ratio of teachers to pupils for assignment of driver education teachers in nonpublic high schools must be based upon 1 teacher for each 125 tenth grade pupils enrolled in the nonpublic high school or $^1/_5$ of a teacher assignment for each full 25 tenth grade pupils. Tenth grade pupils who are enrolled in the nonpublic high school but who are not residents of this State are excluded from this ratio.

(3) General supervision for the program of instruction in driver education in nonpublic high schools is under the jurisdiction of the Department of Education, but the Department may assign general supervision to a local public reorganized school district.

(4) Assignment of teachers to nonpublic high schools is by authority of the Department of Education and the Department may require from the nonpublic high schools a statement of certified enrollment on a date and in a form as the Department may require.

(5) Salary for teachers in nonpublic high schools, if paid from funds of this State, must be in accord with the regularly adopted salary schedules under Chapter 13 of this title. The salary must be divided by the appropriate factor specified in § 1305(b) of this title to account for supplements normally provided by local school districts. In addition to the calculation under this paragraph (5), teachers and administrators qualifying for professional development clusters in accordance with § 1305(k) of this title must receive an additional amount equal to the approved cluster percentage multiplied by the base salary amount defined in § 1305(b) of this title. This calculation may not be increased for 11- or 12-month employment. The percentage may be applied only to the base 10-month salary for 10-, 11-, and 12-month employees. In accordance with § 1305(o) of this title, the cluster percentage is capped at 15%.

(6) For the purposes of administration and supervision, the teachers of driver education in nonpublic high schools are assigned to the Department of Education.

(7) Funds for the payment of the salary due to teachers of driver education in nonpublic high schools must be appropriated to the Department of Education.

(8) A teacher of driver education may be assigned to several nonpublic high schools, or to both nonpublic and public high schools, in accord with the ratio for assignment under this section.

(9) Pupils must demonstrate knowledge related to traffic stops by a law-enforcement officer as required under § 2713(e) of Title 21.

(14 Del. C. 1953, § 131; 56 Del. Laws, c. 439, § 1; 57 Del. Laws, c. 113; 66 Del. Laws, c. 303, § 286(b); 71 Del. Laws, c. 180, § 12; 71 Del. Laws, c. 354, § 396; 73 Del. Laws, c. 312, § 312; 75 Del. Laws, c. 89, § 334; 81 Del. Laws, c. 280, § 366; 81 Del. Laws, c. 350, § 3.)

## §§ 128-130. Responsibility for property of former Educational Television Board; educational television; Public Educational Broadcasting Authority.

Repealed by 71 Del. Laws, c. 180, § 13, effective July 31, 1997.

## § 131. Public school enrollees' immunization program; exemptions.

(a) The Department shall from time to time, with advice from the Division of Public Health, adopt and promulgate rules and regulations to establish an immunization program to protect pupils enrolled in public schools from certain diseases. Such rules and regulations shall include at least the following:

(1) The designation of a basic series of immunizations to be administered according to these rules;

(2) The requirement that all persons enrolling in the public schools at any age or level as authorized by this title shall have:

a. Been immunized according to the required program prior to the time of enrollment in the Delaware schools;

b. Begun the series of immunizations not later than the time of enrollment to be completed within a reasonable time as prescribed by the Department in relation to the particular immunization involved; or

c. Presented written documentation of any claim of prior immunization in the form of a statement from the immunizing physician or agency or such other form as may from time to time be approved by regulation of the Department;

(3) Provision that persons seeking to be enrollees of the public school who have not been immunized or do not meet the requirements for immunization within the time prescribed shall be denied further attendance in the public schools;

(4) Provision for written notification of the parent, or legal guardian of an enrollee, of a pending exclusion;

(5) Provision for exemption from any or all of the immunization program prescribed for a particular enrollee upon a written statement from a physician, i.e., medical doctor or doctor of osteopathy, stating that the enrollee should not receive the prescribed immunization or immunizations required in the basic series because of the reasonable certainty of a reaction detrimental to that person. The asserted cause of medical exemption may be subject to review and approval by the Division of Public Health. A history of clinical illness of measles or rubella shall not be accepted as cause for exemption. The parents or legal guardian of a child medically exempt from the immunization program shall be informed by schools of the provisions within paragraph (a)(7) of this section;

(6) Provision for exemption from the immunization program for an enrollee whose parents or legal guardian, because of individual religious beliefs, reject the concept of immunization. Such a request for exemption shall be supported by the affidavit herein set forth:

AFFIDAVIT OF RELIGIOUS BELIEF
STATE OF DELAWARE

_____

1. (I) (We) (am) (are) the (parent(s)) (legal guardian(s)) of _____Name of Child .

2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.

3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by the orthodox belief in God.

4. This belief is not a political, sociological or philosophical view of a merely personal moral code.

5. This belief causes (me) (us) to request an exemption from the mandatory school vaccination program for _____ Name of Child .

6. (I) (We) acknowledge that, in the event that the Division of Public Health declares that there is an outbreak of a vaccine preventable disease, or if in the estimation of the Division of Public Health, (my) (our) child has had, or is at risk of having an exposure to a vaccine preventable disease, (my) (our) child shall be temporarily excluded from attendance at the public school, in which case, it will be (my) (our) responsibility, along with the school, to assist (my) (our) child in keeping up with school work, and (my) (our) child shall be authorized to return to school once approved by the Division of Public Health.

7. (I) (We) acknowledge that (I) (we) have been given the opportunity to receive from the school district information regarding the medical benefits and risks in choosing whether to have the child participate in the immunization program, and if (I) (we) have not taken that opportunity, it is hereby waived.

_____

Signature of Parent(s) or Legal Guardian(s)
SWORN TO AND SUBSCRIBED before me, a registered Notary Public, this ____ day of _____, ____
(Stamp or Seal)
Notary Public:
My commission expires:

(7) Provision that, in the event that the Division of Public Health declares that there is an outbreak of a vaccine preventable disease or if in the estimation of the Division of Public Health any child has had or is at risk of having an exposure to a vaccine preventable disease, any child who is enrolled in a public school and who has been exempt from the immunization program for any of the causes authorized herein shall be temporarily excluded from attendance at the public school. Rules and regulations of the Department shall provide that in the event of such temporary exclusion, it will be the responsibility of the school and the parents or legal guardian of the enrollee to assist the enrollee in keeping up with that enrollee's school work and that no academic penalty shall be suffered by the enrollee upon return to school if the student has maintained that student's relationship with the school through the assignments prescribed. An enrollee so temporarily excluded shall be authorized to return to school once approved by the Division of Public Health;

(8) Provision that in any situation where the parents or legal guardian of the enrollee states that the enrollee has been immunized, but that the record has been lost or destroyed by the provider of the immunizations, the following procedure may be carried out by that responsible person and shall be accepted by the local school district board of education or its designee in lieu of compliance with the immunization requirement:

a. The responsible person, or the school nurse, shall sign a statement that the record of the enrollee's immunization has been lost; and

b. The responsible person shall be responsible for the enrollee obtaining 1 dose of each of the vaccines prescribed in the basic series of immunization;

(9) Provision for an enrollee who has reached the statutory age of majority set by laws for the State to be responsible for that enrollee's immunization program and for execution of the request for religious exemption herein authorized;

(10) Provision that it shall be the responsibility of each Delaware public school district to administer, or prescribe a designee to administer, rules and regulations herein authorized and promulgated by the Department of Education.

(b) Appeals from the decision of the Department rendered pursuant to this section shall be to the Superior Court and shall be made in the same manner as is provided by the Superior Court Civil Rules for appeals from commissions, boards and agencies. Such appeal shall be on the record before the Department.

(62 Del. Laws, c. 404, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 14; 72 Del. Laws, c. 449, § 1; 73 Del. Laws, c. 46, § 1; 74 Del. Laws, c. 76, § 2; 80 Del. Laws, c. 91, § 1; 84 Del. Laws, c. 233, § 19.)

## § 132. Education Science in Motion Fund; receipts; rules and regulations.

(a) This section authorizes the creation of a special fund within the State Treasurer's office, designated the Education Science in Motion Fund, hereinafter referred to as the Fund. The Secretary of Education shall authorize the expenditure of moneys within the Fund.

(b) The Fund shall be expended for 2 vans equipped with science equipment, 1 for New Castle County and 1 for Kent and Sussex Counties, as well as for supplies, operating expenses and personnel.

(c) Receipts to the Fund shall include, but are not limited to:

(1) Appropriations made at the discretion of the General Assembly;

(2) Grant funds;

(3) Donations and contributions;

(4) Federal funds; and

(5) Appropriations made by local governments.

(d) The Department of Education shall solicit matching funds from organizations including, but not limited to, private foundations or alliances, public or nonpublic agencies, institutions, organizations or businesses.

(e) The Department of Education may adopt rules and regulations necessary for the implementation of this section.

(70 Del. Laws, c. 184, § 1; 71 Del. Laws, c. 180, § 15.)

## § 133. Health Advisory Council.

(75 Del. Laws, c. 330, § 1; expired under 75 Del. Laws, c. 330, § 3, eff. June 30, 2011.)

## § 134. Lead paint on outdoor structures.

All provisions of this title must comply with Chapter 30M of Title 16.

(81 Del. Laws, c. 396, § 5.)

## § 135. Purple Star Schools.

(a) The Delaware Department of Education shall designate any school, including a district or charter school, as a Purple Star School if the school applies and qualifies for the designation under this section.

(b) To qualify as a Purple Star School, a school must:

(1) Designate a staff member as a military liaison, whose duties include:

a. Identifying military-connected students enrolled at the school.

b. Serving as the point of contact between the school and military-connected students and their families.

c. Determining appropriate school services available to military-connected students; and

d. Assisting in coordinating school programs relevant to military-connected students.

(2) Maintain on the school Internet website an easily accessible web page that includes resources for military-connected students and their families, including information regarding:

a. Relocation to, enrollment at, registration at, and transferring records to the school.

b. Academic planning, course sequences, and advanced classes available at the school.

c. Counseling and other support services available for military-connected students enrolled at the school;

(3) Maintain a transition program led by students, where appropriate, that assists military-connected students in transitioning into the school.

(4) Offer professional development for staff members on issues related to military-connected students.

(5) Offer at least 1 of the following initiatives:

a. A resolution showing support for military-connected students and their families.

b. Recognition of the Month of the Military Child or Military Family Month with relevant events hosted by the school.

c. A partnership with a local military installation that provides opportunities for active duty military members to volunteer at the school, speak at an assembly, or host a field trip.

d. Other incentives as identified through the Department of Education's rules and regulations.

(c) The Department shall promulgate rules and regulations to administer this section.

(83 Del. Laws, c. 120, § 1.)

## § 136. Title IX Coordinator.

(a) There is established within the Department of Education the position of Title IX Coordinator.

(b) The purpose of the Title IX Coordinator is statewide support, guidance, and oversight related to and providing for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq. ("Title IX") as it pertains to interscholastic athletics in Delaware's public schools serving grades 6 through 12.

(c) Delaware's public schools serving grades 6 through 12 may not exclude a person from participation in, deny the benefits of, treat a person differently from another person in, or otherwise discriminate against a person in, an interscholastic, club, or intramural athletics, on the basis of sex.

(d) The Title IX Coordinator has the following duties:

(1) Offer annual Title IX training for school district and charter school Title IX coordinators, administrators, athletic directors, and coaches. The training must at minimum address the following:

a. History and purpose of Title IX.

b. How Title IX specifically applies to interscholastic athletics in grades 6 through 12 and its requirements affecting athletics in public schools serving grades 6 through 12.

c. Participation opportunities for students.

d. Treatment and benefits.

e. Data collection, analysis, and monitoring.

f. Handling grievances, complaints, and investigations at the school level.

g. Inclusion and equity in interscholastic athletics programs.

(2) Provide Title IX nonlegal technical assistance to school districts and charter schools that are Delaware Interscholastic Athletic Association member schools, including model policies and best practices.

(3) Collect and analyze data from school districts and charter schools necessary to evaluate statewide compliance with Title IX.

(4) Identify, create, and maintain model Title IX policies and procedures, including nondiscrimination policies and complaint procedures that are compliant with Title IX and state law.

(5) Act as a liaison between public schools and federal agencies on updated rules and guidance.

(6) Prepare a written report by December 1 of each year, summarizing training activities, technical assistance, data analysis, findings, and recommendations for improving Title IX interscholastic athletics compliance across this State. The report must be submitted to the Governor, the Director and Librarian of the Division of Legislative Services, the Secretary of the Senate, and the Chief Clerk of the House of Representatives for distribution to all members of the General Assembly, and posted publicly on the Department's website.

(e) School districts and charter schools are required to publicly post individual school data from the prior school year on their websites and report the data to the Department of Education no later than September 30 of each year. The data must include the following:

(1) Participation rates by sex in interscholastic and intramural athletics.

(2) Budget and expenditure information for student sports programs, including but not limited to equipment, facilities, travel, and coaching.

(f) The Title IX Coordinator may issue systemic or school-specific nonlegal guidance or request a school district, school, or charter school to engage in a strategic plan for improvement to address Title IX compliance concerns. Nothing in this subsection limits an individual's right to file a grievance with their school district, school, or charter school or to file a complaint with the U.S. Office for Civil Rights within the applicable federal statute of limitations.

(g) The Department of Education, in collaboration with the Delaware Interscholastic Athletic Association, will establish rules and regulations to implement and enforce this section.

(h) The Department of Education must request, through the annual budget process, sufficient funding to support the Title IX Coordinator position and the necessary upgrades to the Department's data systems to enable collection and analysis of athletics budget and expenditure data disaggregated by sex.

(85 Del. Laws, c. 477, § 1; 84 Del. Laws, c. 42, § 1.)

# Subchapter III

# State Public Education Assessment and Accountability System

## § 151. State assessment system; rules and regulations.

(a) The Department shall adopt rules and regulations consistent with the laws of this State governing the statewide assessment of student achievement and the assessment of the educational attainments of the Delaware public school system. The Secretary shall consult with

the State Board and representatives of the local school districts in designing and implementing the assessment program required under this section. The assessment program shall be designed and operated to provide the General Assembly, the Governor, the Secretary, the State Board of Education, educational administrators, teachers, parents and the public with timely and accurate information on student achievement and educational attainments.

(b) The Department shall administer both accountability and growth assessments of student achievement for students in grades 3 through 8, provided that additional grades may be added by the Department.

(c) The assessments referred to in subsection (b) of this section shall measure achievement in English language arts and mathematics for students in a minimum of grades 3 through 8 and high school, provided additional grades may be added by the Department. Science and social studies shall be assessed for students at least once in the elementary grades, at least once in the middle grades, and at least once in high school.

(d) The assessments required in subsections (b) and (c) of this section shall measure:

(1) Student performance as required by any federal mandate; and

(2) For grades 3 through 8, the academic progress of individual students.

(e) Notwithstanding any law or regulation to the contrary, matriculation and academic promotion requirements imposed by § 153 of this title shall be based upon the student's assessment results received on assessments referred to in subsections (b) and (c) of this section.

(f) The Department shall establish alternate assessments for children with disabilities who cannot participate in the statewide assessment of student achievement even with appropriate accommodations and modifications. Alternate assessments must be developed and used in the statewide assessment beginning not later than the 2010-2011 school year. Each local school district, through the individual student's Individualized Education Program Team or 504 Team, shall determine what assessment the student will take, as well as the student's matriculation or promotion status and necessary remedial activities if the student's performance on the assessment is below standard, and if the statewide assessment is administered, what accommodations and/or modifications will be utilized. However, no student shall be denied the opportunity to take the state assessments administered pursuant to subsections (b) and (c) of this section.

(g) For kindergarten through second grade, all school districts are required to follow the state standards, to assess the progress of students toward meeting those standards, and to report such progress to parents.

(h) The Department shall adopt rules and regulations to implement a common statewide readiness tool that will review a child's readiness for learning when they enter kindergarten. The readiness tool shall serve as the basis for an objective readiness review conducted by the child's teacher or other members of the child's school team. The readiness tool shall review, but not be limited to, the following 5 domains:

(1) Language and literacy development;

(2) Cognition and general knowledge;

(3) Approaches toward learning;

(4) Physical well-being and motor development; and

(5) Social and emotional development.

(i) Implementation of the tool delineated in subsection (h) of this section above shall be phased in with the first identified kindergarten classes completing the readiness review in fall 2012. Thereafter the implementation of the readiness reviews shall be phased in with additional kindergarten classes participating in fall 2013 and fall 2014, with statewide implementation no later than fall 2015. The readiness reviews shall be completed within 30 school days of the start of school. A kindergarten student shall be required to be reviewed for readiness once during the student's enrollment in kindergarten. The Department regulations promulgated pursuant to this section shall address any exceptions to the requirement for implementation of the readiness tool for all students, based on factors such as a student's late enrollment in kindergarten.

(j) Notwithstanding any other language in this title, a student who has been formally classified as having 1 of the following 4 conditions, and whose parent, IEP team, and school district superintendent or charter school leader believe will not produce valid results on either the standard or alternate assessment despite accommodations and adjustments, shall receive his or her alternate assessment through consideration of work samples, projects and portfolios, which facilitate authentic and direct gauges of student performance with respect to both relevant state standards and the student's IEP (a "portfolio assessment"). The definition of each of the following 4 conditions shall be the same that is in effect on July 15, 2014, in §§ 922 and 925 of this title of the Delaware Administrative Code [14 DE Admin. Code 922 and 925]:

(1) Moderate intellectual disability;

(2) Severe intellectual disability;

(3) Autism, accompanied by intellectual functioning equivalent to moderate or severe intellectual disability;

(4) Multiple disabilities, accompanied by intellectual functioning equivalent to moderate or severe intellectual disability.

The parents of a student classified as having 1 of these 4 conditions shall be informed of their child's rights under this section, but no IEP team, school or school district shall advocate that parents exercise those rights. Only a student's parents may initiate a portfolio assessment request under this section, and when such a request is made, the student's IEP team and school district superintendent or charter school leader shall make their determinations regarding the portfolio assessment within 60 days of said request. The Department

of Education shall promulgate regulations establishing a procedure for the design and evaluation of portfolio assessments requested under this subsection and for further reviews of individual schools and/or school districts that request an unusual number of portfolio assessments. The Department of Education shall also promulgate regulations providing for a method of measuring academic progress by students receiving a portfolio assessment under this section, which: (i) shall provide objective criteria by which student progress can be planned and measured; (ii) shall be developed in consultation with the Governor's Advisory Council on Exceptional Citizens; and (iii) shall satisfy the requirements of 20 U.S.C. §§ 1412, 6311, and any other applicable federal laws or regulations. Students who are granted a portfolio assessment under this subsection shall be included in the participation rate calculation for schools and school districts. Nothing in this subsection shall be construed to limit the authority of the Department to approve exemptions from assessments for students not covered by this subsection.

(k) Rules and regulations pursuant to this subchapter shall be proposed by the Secretary subject to approval by the State Board of Education.

(71 Del. Laws, c. 181, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 294, § 55; 73 Del. Laws, c. 44, § 1; 74 Del. Laws, c. 220, §§ 1, 2; 75 Del. Laws, c. 25, § 2; 75 Del. Laws, c. 305, § 1; 76 Del. Laws, c. 9, § 2; 77 Del. Laws, c. 194, §§ 1-3; 78 Del. Laws, c. 53, §§ 1-4; 78 Del. Laws, c. 264, § 1; 79 Del. Laws, c. 280, § 1; 79 Del. Laws, c. 300, § 1.)

## § 152. State high school diploma requirements [For application of this section, see 81 Del. Laws, c. 229, § 2].

(a) The Department of Education shall award a regular "State of Delaware High School Diploma" to a student graduating from a Delaware public high school.

(b) The Department shall award diplomas under subsection (a) of this section to students who:

(1) Successfully complete the prescribed course requirements established by the State, or the district or charter school, if district or charter school credit requirements are higher than those of the State; and

(2) Achieve proficient levels of performance, relative to the State high school content standards, on the assessments administered pursuant to § 151(b) and (c) of this title in conjunction with other academic indicators as defined by Department regulations.

(c) A high school student who fails to achieve a proficient level of performance on the assessments pursuant to this section may retake the assessments each succeeding year they continue in high school. This subsection shall not apply to students taking the alternative assessment pursuant to § 151(f) of this title.

(d) The Department shall award a State of Delaware — Diploma of Alternate Achievement Standards to a student who has met the requirements of the student's Individualized Education Program but will not complete the high school graduation course credit requirements established by the State, district, or charter school for a regular "State of Delaware High School Diploma" under subsection (a) of this section.

(e) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to implement this section.

(71 Del. Laws, c. 181, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 399, §§ 5, 6; 72 Del. Laws, c. 294, § 56; 73 Del. Laws, c. 44, §§ 2-4; 74 Del. Laws, c. 247, § 1; 75 Del. Laws, c. 24, § 1; 75 Del. Laws, c. 25, § 1; 76 Del. Laws, c. 9, §§ 1, 2; 78 Del. Laws, c. 53, § 5; 81 Del. Laws, c. 229, § 1.)

## § 152A. Delaware Certificate of Arts Excellence.

(a) For purposes of this section, "Department" means the Department of Education.

(b) The Department shall establish the Delaware Certificate of Arts Excellence to recognize students who graduate from a high school in this State and who demonstrate sustained engagement and achievement in the arts.

(c) The Department shall do all of the following:

(1) With the consent of the State Board of Education, adopt minimum requirements for the Certificate of Arts Excellence.

a. The minimum requirements for the Certificate of Arts Excellence may include a combination of academic classwork and real-life learning experiences in the arts.

b. The minimum requirements for the Certificate of Arts Excellence may include recognition of school or community involvement in arts or culture, work-based learning experiences, portfolio development, and other measures of college and career readiness.

c. At a minimum, the Certificate of Arts Excellence must be available to a student studying dance, music, theater, media arts, or visual arts.

(2) Design a certificate for the Certificate of Arts Excellence.

(3) Deliver the certificate designed under paragraph (c)(2) of this section to each high school in this State with a high school student who is awarded the Certificate of Arts Excellence by the Department.

(d) Beginning with the 2027 through 2028 school year, a student at a high school in this State may apply for a Certificate of Arts Excellence by submitting an application to the Department through the student's high school under paragraph (e)(1) of this section.

(e) Beginning with the 2027 through 2028 school year, a high school operated by a school district, charter school, or private school with a student that submits an application under subsection (d) of this section shall do all of the following:

(1) Determine if the student meets the requirements adopted under paragraph (c)(1) of this section to be awarded the Certificate of Arts Excellence and, if so determined, submit the application to the Department.

(2) If the student is determined under paragraph (e)(1) of this section to meet the requirements adopted under paragraph (c)(1) of this section, award the student, on graduation from high school, the Certificate of Arts Excellence.

(f) The Department, with the consent of the State Board of Education, may adopt regulations to implement, administer, and enforce this section.

(85 Del. Laws, c. 271, § 1.)

## § 153. Matriculation and academic promotion requirements.

(a) The Department shall identify 4 levels of individual student performance relative to the state content standards on the assessments administered pursuant to § 151(b) and (c) of this title to fulfill the following 3 important functions:

(1) Determine the level or levels of individual performance sufficient to demonstrate a proficient level of performance relative to the state content standards;

(2) Determine the level or levels of individual performance sufficient to demonstrate superior and proficient performance meriting recognition for outstanding and standards-level achievement pursuant to subsection (c) of this section; and

(3) Determine the level or levels of individual performance inadequate to demonstrate a proficient level of performance relative to the state content standards and which warrant requiring students performing at such levels to participate in academic improvement activities as specified in subsection (d) of this section.

(b) The Department may approve other individual student indicators that may be used to determine a student's performance relative to the state content standards. Such indicators shall:

(1) Provide a measure of individual student performance relative to the state content standards; and

(2) Include performance on district-administered assessments pursuant to subsection (e) of this section, performance on end-of-course assessments, student classroom work products, or classroom grades supported by evidence of student work that demonstrates a student's performance level pursuant to subsection (a) of this section.

(c) The Department will promulgate rules and regulations for scholarships awarded through the Michael C. Ferguson Achievement Awards program prior to 2016. Unused funds will revert to the Scholarships Fund for the Delaware Higher Education Office to allocate among the various programs under Chapter 34 of this title, with prior approval of the Secretary of Education, the Director of the Office of Management and Budget, and the Controller General, to meet state priorities, achieve program objectives, and respond to student demand.

(d) The Department shall require that students whose performance on the reading and mathematics assessments administered pursuant to § 151(b) and (c) of this title is inadequate to demonstrate a proficient level of performance relative to the state content standards, benchmarked to the extent practicable to accurately reflect the point in the school year that students actually are administered the statewide assessment, participate in academic improvement activities as follows:

(1) A third, fifth or eighth grade student whose performance on the reading portion of the assessments administered pursuant to § 151(b) and (c) of this title is Below the Standard, Level II on the statewide assessment, shall not advance to the next grade unless:

a. The student's parent or parents or guardian and the school district agree on an individual improvement plan (which may include but is not limited to summer school, before and/or after school instruction, Saturday school, and/or tutoring) to remediate those areas of weakness demonstrated by the state assessment. A student's parent or parents or guardian shall have the right to appeal the contents of an individual improvement plan to an academic review committee established pursuant to this section;

b. If no agreement pursuant to paragraph (d)(1)a. of this section can be reached, the student shall attend a summer school program and demonstrate a proficient level of performance on the state reading assessment prior to the commencement of the next school year. If at the end of summer school the student still does not demonstrate proficiency on the state reading assessment the student shall be retained unless an academic review committee composed of educators from the student's district determines that the student has demonstrated proficient performance relative to the state content standards using evidence from other indicators approved pursuant to subsection (b) of this section; or

c. The student has previously been retained for 2 years because of academic performance.

(2) A third, fifth or eighth grade student whose performance on the reading portion of the assessments administered pursuant to § 151(b) and (c) of this title is Well Below the Standard, Level I on the statewide assessment, shall not advance to the next grade unless:

a. The student attends a summer school program and demonstrates a performance of Below the Standard, Level II, or above on the state reading assessment prior to the commencement of the next school year; and if the student's performance is at Below the Standard, Level II, the student's parent or parents or guardian and the school district agree on an individual improvement plan in accordance with paragraph (d)(1)a. of this section.

b. An academic review committee composed of educators from the student's district determines that the student has demonstrated proficient performance relative to the state content standards using evidence from other indicators approved pursuant to subsection (b) of this section. Such evidence shall only be used if the student has not demonstrated a proficient level of performance on the reading assessment after at least 1 retake of the state assessment at a grade level; or

c. The student has previously been retained for 2 years because of academic performance.

d. Notwithstanding the requirements of paragraphs (d)(2)a. and (d)(2)b. of this section, a student may advance to the next grade level without attending summer school if an academic review committee composed of educators from the student's district or charter school determines that the student has demonstrated proficient performance relative to the state content standards using evidence from other indicators approved pursuant to subsection (b) of this section.

(3) An eighth grade student whose performance on the math portion of the assessments administered pursuant to § 151(b) and (c) of this title is Below the Standard, Level II on the statewide assessment, shall not advance to the next grade unless:

a. The student's parent or parents or guardian and the school district agree on an individual improvement plan (which may include but is not limited to summer school, before and/or after school instruction, Saturday school, and/or tutoring) to remediate those areas of weakness demonstrated on the state assessment. A student's parent or parents or guardian shall have the right to appeal the contents of an individual improvement plan to an academic review committee established pursuant to this section;

b. If no agreement pursuant to paragraph (d)(3)a. of this section can be reached, the student shall attend a summer school program and demonstrate a proficient level of performance on the state mathematics assessment prior to the commencement of the next school year. If at the end of summer school, the student still does not demonstrate proficiency on the state assessment, the student shall be retained unless an academic review committee composed of educators from the student's district determines that the student has demonstrated proficient performance relative to the state content standards using evidence from other indicators approved pursuant to subsection (b) of this section; or

c. The student has previously been retained for 2 years because of academic performance.

(4) An eighth grade student whose performance on the math portion of the assessments administered pursuant to § 151(b) and (c) of this title is Well Below the Standard, Level I on the statewide assessment, shall not advance to the next grade unless:

a. The student attends a summer school program and demonstrates a performance of Below the Standard, Level II, or above on the state mathematics assessment prior to the commencement of the next school year; and if the student's performance is at Below the Standard, Level II, the student's parent(s) or guardian and the school district agree on an individual improvement plan in accordance with paragraph (d)(3)a. of this section.

b. An academic review committee composed of educators from the student's district determines that the student has demonstrated proficient performance relative to the state content standards using evidence from other indicators approved pursuant to subsection (b) of this section. Such evidence shall only be used if the student has not demonstrated a proficient level of performance on the state mathematics assessment after at least 1 retake of the state assessment at a grade level; or

c. The student has previously been retained for 2 years because of academic performance.

d. Notwithstanding the requirements of paragraphs (d)(4)a. and (d)(4)b. of this section, a student may advance to the next grade level without attending summer school if an academic review committee composed of educators from the student's district or charter school determines that the student has demonstrated proficient performance relative to the state content standards using evidence from other indicators approved pursuant to subsection (b) of this section.

(5) With respect to a student whose performance continues to be deficient after completion of the retention year, the Department may not require that the student's district retain the student at grade level for another year, but shall require that the district develop an individual improvement plan pursuant to Department regulations. The Department regulations must require that each individual improvement plan identify a specific course of study for the student and the academic improvement activities the student must undertake in order to improve the student's ability to a proficient level. Academic improvement activities may include mandatory participation in summer school, extra instruction and mentoring programs.

(6) For a student whose performance on the statewide assessment pursuant to § 151(b) and (c) of this title at grade 6 or 7 in mathematics or grade 4, 6 or 7 in reading whose score assessment does not meet a proficient level of performance relative to the state content standards, the local school district shall, in consultation with the student's parent or parents or guardian, develop an individual improvement plan (which may include but is not limited to summer school, before and/or after school instruction, Saturday school and/or tutoring) to remediate those areas of weakness demonstrated by the assessment. To the extent the statewide assessment is not available, local school districts shall strive to use other means to identify students deemed in danger of failing to reach a proficient level of performance relative to the state content standards on assessments administered pursuant to § 151(b) and (c) of this title and shall develop individual improvement plans for those students to remediate identified areas of weakness.

(7) The Department may require school districts to undertake academic improvement activities with respect to students whose performance is inadequate to demonstrate a proficient level of performance relative to the state content standards on an assessment pursuant to § 151(b) and (c) of this title. Such activities may include extra instruction or mentoring programs.

(8) Any academic review committee established pursuant to this subsection shall include at least 1 teacher from the grade level to which the student may be promoted.

(9) An individual student's mandatory participation in summer school pursuant to paragraph (d)(2) or (4) of this section may not be excused on more than 2 occasions by the use of other indicators.

(e) The Department shall identify and certify alternative assessments to determine whether students have reached the same proficient level of performance as is required on the reading and mathematics assessments administered pursuant to § 151(b) and (c) of this title.

Any alternative assessment shall be equally rigorous, valid and reliable as the assessments administered pursuant to § 151(b) and (c) of this title. Approval of any alternative assessment by the Department shall require the joint approval of the Secretary and the State Board of Education who shall issue written findings supporting the Department's decision to approve an alternative assessment. Nothing contained in this subsection shall prevent an individual school district, with approval of the Department, from establishing alternative assessments to determine whether students have reached the same proficient level of performance required on the reading and mathematics assessments administered pursuant to § 151(b) and (c) of this title. Any alternative assessments proposed by an individual district shall, prior to approval, be found by the Department to be equally rigorous, valid and reliable as the assessments administered pursuant to § 151(b) and (c) of this title. Approval of any alternative assessment by the Department shall require the joint approval of the Secretary and the State Board of Education, who shall issue written findings supporting the Department's decision to approve an alternative assessment. Any district that receives such approval shall provide such continuing evidence of the alternative assessment's reliability and validity as the Secretary and State Board of Education shall require to ensure compliance with this subchapter.

(f) School districts may require any student to participate in academic improvement activities specified for the student by the district in accordance with the Department rules and regulations promulgated pursuant to this section or in accordance with the district's own policies. A student who refuses to comply with a district requirement for participation in academic improvement activities shall be subject to the same disciplinary actions as for other acts of absenteeism or truancy.

(g) Those students administered alternate assessments pursuant to § 151(f) of this title shall not be subject to the provisions of subsection (d) of this section.

(h) The Department shall promulgate rules and regulations to ensure the proper administration of the assessment pursuant to § 151 of this title. Such rules and regulations shall ensure that assessments are administered in accordance with security procedures which guarantee the validity of the results of such assessments.

(i) The Department shall promulgate rules and regulations to implement this section.

(71 Del. Laws, c. 399, § 1; 72 Del. Laws, c. 294, §§ 57-59; 72 Del. Laws, c. 309, § 1; 73 Del. Laws, c. 44, §§ 5-8; 73 Del. Laws, c. 257, §§ 1, 2, 3; 73 Del. Laws, c. 321, § 14; 74 Del. Laws, c. 167, §§ 1-5; 75 Del. Laws, c. 305, §§ 2-8; 77 Del. Laws, c. 431, § 16; 78 Del. Laws, c. 53, §§ 6-15; 83 Del. Laws, c. 413, § 4.)

## § 154. School accountability for academic performance.

(a) The Department shall create a program to provide the public with objective information about the academic performance of all Delaware public schools, including charter schools, through the Education Profiles required pursuant to § 124A of this title. The program shall classify schools based on the performance of their student bodies on the assessments administered pursuant to § 151(b) and (c) of this title, as well as other criteria as established by the Department of Education regulations pursuant to subsection (b) of this section. The Department shall classify schools by utilizing 3 ratings of school performance to be known as "Superior Performance," "Commendable Performance," and "Academic Watch." A public school may additionally be identified as "Under Improvement" pursuant to criteria of the Federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301 et seq.

(b) The Department shall establish criteria for the determination of whether a school is eligible for recognition, or subject to improvement and accountability activities. For the purposes of this section, a school may be defined as an aggregate of grade levels or, an actual facility. The Department regulations setting forth such criteria shall be at a minimum consistent with the requirements of the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301 et seq.

(c) The Department shall develop a program to commence during fiscal year 2004 to recognize the performance of schools designated as "Superior Performance" and "Commendable Performance." Such program shall, subject to the extent of available appropriations, include recognition of schools through the Education Profiles pursuant to § 124A of this title; special ceremonies, the award of plaques or flags.

(d) The Department shall develop a program to improve and hold accountable those schools identified as "Academic Watch." Such program shall be at a minimum consistent with any sanctions prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301 et seq. and "Under Improvement".

(e) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to implement this section; however any such rule or regulation related to collective bargaining shall be written consistent with the authority of the Public Employment Relations Board as that authority is established in Chapter 40 of this title.

(71 Del. Laws, c. 399, § 1; 72 Del. Laws, c. 294, §§ 51, 52; 73 Del. Laws, c. 54, §§ 1-15; 74 Del. Laws, c. 28, §§ 2-11; 74 Del. Laws, c. 68, § 291(b); 78 Del. Laws, c. 53, §§ 16, 17; 80 Del. Laws, c. 163, § 1.)

## § 155. School district and school board accountability for academic performance.

(a) The Department shall create a program to provide the public with objective information about the academic performance of all Delaware public reorganized and vocational-technical school districts, through the Education Profiles specific to each school district required pursuant to § 124A of this title. The program shall classify districts based on the assessments administered pursuant to § 151 (b) and (c) of this title, as well as other criteria established by the Department of Education regulations pursuant to subsection (b) of this section. The Department shall classify school districts by utilizing 3 ratings of district performance to be known as "Superior Performance," "Commendable Performance," and "Academic Watch." A school district may additionally be identified as "Under Improvement" pursuant to criteria of the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301 et seq.

(b) The Department shall establish the criteria for the determination of whether a school district is subject to recognition, or subject to improvement and accountability activities. The Department regulations setting forth such criteria shall be at a minimum consistent with the requirements of the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301 et seq.

(c) The Department shall develop a program to commence during Fiscal Year 2004 to recognize the performance of school districts designated as "Superior Performance" and "Commendable Performance." Such program shall, subject to the extent of available appropriations, include recognition of districts and their boards of education through the Education Profiles pursuant to § 124A of this title; special ceremonies, the award of plaques or flags.

(d) The Department shall develop a program to improve and hold accountable those school districts identified as "Academic Watch" and "Under Improvement." Such program shall be at a minimum consistent with any sanctions prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301 et seq.

(e) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to implement this section; however any such rule or regulation related to collective bargaining shall be written consistent with the authority of the Public Employment Relations Board as that authority is established in Chapter 40 of this title.

(71 Del. Laws, c. 399, § 1; 73 Del. Laws, c. 54, §§ 16-22; 74 Del. Laws, c. 28, §§ 12-17; 74 Del. Laws, c. 307, § 327(b); 78 Del. Laws, c. 53, §§ 18, 19, 21; 80 Del. Laws, c. 163, § 2.)

## § 156. Department of Education accountability for academic performance.

(a) An effectively functioning Department of Education should serve as a critical support structure for the entire Public Education system. In order to meet this challenge, the Department shall fully implement its leadership and service missions by committing itself to high standards of quality assurance and quality management practices. In order to ensure that the Department will remain focused on the principles of continuous quality improvement and client service and that it will do so in accordance with recognized national and/or international standards, the Secretary shall commission an independent entity to conduct and publish an annual customer satisfaction report to determine the level of satisfaction among education constituencies dependent on Department of Education services and policies. Such survey shall seek the views of local school boards, school administrators, teachers, parent organizations, the business community and other relevant constituencies. To further improve the performance of the Department of Education, the Secretary shall pursue the active involvement of the business community in reviewing management practices in the Department, such as the Department's success in deregulation, the quality of Department's strategic plan and the Department's success in meeting its strategic objectives, and the quality and cost-effectiveness of the technical assistance provided by the Department to local school districts. The report shall be submitted to the Governor 45 days before public distribution so that the Governor may take appropriate action based on its recommendations.

(b) The Department shall provide each school and school district high-quality diagnostic data analyzing the specific strengths and weaknesses of student performance within the school district, which is both user-friendly and timely in accordance with the timelines specific in this subchapter for the commencement of school and district improvement activities.

(c) Beginning in the year 2001, the Secretary of Education shall submit to the Governor and the General Assembly each year an annual education outcome report. The report must be based on the unit count taken in September of the school year immediately preceding the annual reporting date and must contain the following information:

(1) The number of students enrolled in twelfth grade, based on the September unit count;

(2) The number of those students still enrolled at the close of the school year who receive a high school diploma and the type of diploma received;

(3) The number of those students still enrolled at the close of the school year who complete twelfth grade, but do not receive a high school diploma;

(4) The number of those students who, by the close of the school year, have dropped out of school; and

(5) The number of those students who, by the close of the school year, transferred to other schools.

(d) Each year the Secretary shall conduct a graduate follow-up study of students who completed the twelfth grade during the preceding school year to determine the educational and employment status of each student. The survey shall request information regarding the postsecondary education enrollment status and the employment status of students and shall, at a minimum, include the following questions:

(1) a. Is the student presently enrolled in a postsecondary educational institution of any type?

b. Is the student enrolled full-time or part-time?

c. What is the student's major area of study?

d. What is the name of the institution in which the student is enrolled?

(2) a. Is the student presently employed?

b. Is the student employed full-time or part-time?

c. The name and address of the student's employer?

d. In what industry is the student employed?

e. What position does the student hold?

f. What is the student's hourly/weekly/annual salary?

(3) What is the student's perception of the value of that student's own secondary education in terms of preparation for postsecondary education or employment?

(e) For the purpose of performing a comparative longitudinal analysis of the information collected for an annual educational outcome report, the Secretary shall compile similar information about students who graduated in 1998 and 1999, and shall use the 1998 information as the basis for all comparisons. The goal of educational outcome accountability is to decrease the 2.9% 1998 Delaware public school dropout rate for grade 12, as published in the Department of Education report entitled Delaware Dropouts, 1997-1998 Summary Statistics, December 1998.

(f) Nothing in this section prohibits the Department of Education from conducting a more comprehensive survey and/or evaluation for the annual educational outcome report.

(71 Del. Laws, c. 399, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 430, § 1; 74 Del. Laws, c. 28, §§ 18-21.)

## § 157. Parental involvement in education, expectations of parents, expectations of schools and school personnel.

(a) There is no adequate substitute for the involvement of a concerned and committed family in the education of a child. The State therefore endeavors to encourage parents and families to become involved in the education of their children and to operate a system of public schools which welcomes and fosters such positive involvement by parents and families.

(b) Among the most important elements of effective parental and family involvement in education are: communication—regular, 2-way, meaningful communications between parents and schools; effective parenting skills—the exercise by parents of good parenting skills for the benefit of their children and the fostering of such skills by public schools; parental involvement in student learning—parents play an integral role in student learning and emphasize the importance of education, and schools assist parents in these endeavors; volunteerism—parents are welcomed by schools, and commit themselves to providing support to their children's schools as volunteers; school based decisionmaking—parents involve themselves in the educational decisionmaking process at the school and district level and are welcomed in that role by schools; collaboration with the community—parents and schools work together to strengthen the connection between families, schools and community resources such as nonprofit organizations, business and religious institutions.

(c) The Department of Education shall work with the Delaware State Congress of Parents and Teachers to promulgate and maintain in current form a Parents' Declaration of Responsibilities reflecting the elements set forth in subsection (b) of this section and such other elements of effective parental and family involvement as the Department identifies. Such Declaration shall identify responsibilities for parents and families, as well as the responsibilities the public schools have to help parents meet such responsibilities.

(d) The Department of Education shall encourage local school districts and schools to adopt the Parents' Declaration of Responsibilities as local policy and to encourage parents at the beginning of each school year to execute an agreement to commit themselves to carry out, to the best of their abilities, the responsibilities outlined in the Declaration.

(71 Del. Laws, c. 399, § 1.)

## § 158. Reading screening.

(a) As used in this section:

(1) "Literacy intervention approaches" means evidence-based, specialized reading, writing, and spelling instruction that is systematic and explicit and intensified based on the needs of the student. Dyslexia-specific intervention approaches may require greater intensity, such as smaller groups, increased frequency of instruction, and individualized progression through steps, than typical evidence-based reading instruction.

(2) "Universal reading screener" means a tool used as part of a multi-tiered system of support to determine if a student is at risk for developing reading difficulties and the need for intervention and to evaluate the effectiveness of core curriculum as an outcome measure. A universal reading screener must do all of the following:

a. Measure, at a minimum, phonemic awareness, phonological awareness, symbol recognition, alphabet knowledge, decoding and encoding skills, fluency, and comprehension.

b. Identify students who have a potential reading deficiency, including identifying students with characteristics of dyslexia.

(b) (1) Beginning July 1, 2023, a district or charter school shall screen each student enrolled in kindergarten through third grade 3 times a year for reading competency using a universal reading screener chosen from the list of aligned universal reading screeners maintained by the Department of Education (Department). The results of the screening and any intervention approaches being implemented shall be communicated in writing to each student's parent or guardian, either through inclusion in existing periodic progress reports or report cards, or otherwise. A district or charter school shall provide educators time during the contractual day to complete data entry and compilation associated with the screener, to communicate with families, and any other responsibility as outlined in this section. A district or charter school shall provide coverage for instruction or student support when the educator is meeting the responsibilities outlined in this section.

(2) Beginning July 1, 2024, districts and charter schools shall provide 1 or more literacy interventions from the list of aligned literacy intervention approaches maintained by the Department for each student or group of students identified with a potential reading deficiency.

(c) The Department, in consultation with curriculum and special education supervisors from local education agencies, elementary school teachers, and elementary special education teachers, shall develop, maintain, and publish a list of universal reading screeners and a list of literacy intervention approaches that are aligned with the essential components of evidence-based reading instruction listed under § 1280(c)(3) of this title. Initial publication of the lists must occur by December 1, 2022.

(1) In determining which universal reading screeners to include on the list, the Department shall also consider the following factors:

a. The time required to conduct the screening, with the intention of minimizing impact on instructional time.

b. The timeliness in reporting screening results to teachers, administrators, and parents.

c. The integration of assessment and instruction the screener provides, including the ability to provide progress-monitoring capabilities and a diagnostic tool to support teachers or a progress-monitoring team with targeted instruction based on student needs.

d. Screening, diagnostic assessment, and progress-monitoring processes shall be aligned with multi-tiered system of support procedures and tools should be norm-referenced, criterion-referenced, or curriculum-based as appropriate.

(2) The Department shall include with its list of aligned universal reading screeners and literacy intervention approaches, an explanation of how these screeners and interventions were selected, including consultation with national expert organizations and the evidence base as demonstrated by the National Center on Intensive Intervention or similar validated research.

(3) The Department shall provide professional learning on reading screening and literacy intervention approaches at no cost which shall be provided during the contractual day.

(d) Each school district and charter school must report to the Department, on or before October 31 and June 30 of each year, the number and percentage of students, disaggregated by grade and by individual school, identified with a potential reading deficiency, including characteristics of dyslexia, pursuant to the screening mandated in subsection (b) of this section, and the literacy intervention approaches being provided.

(e) Beginning in 2023, on or before December 31, the Department shall annually compile the information received from districts and charters under subsection (d) of this section and deliver a comprehensive report to the State Board of Education, the Governor, the Chairs of the Education Committees of the Senate and House of Representatives, the Director and the Librarian of the Division of Legislative Services, and the Delaware Public Archives. The report must also be available to the public on the Department's website.

(83 Del. Laws, c. 416, § 1; 84 Del. Laws, c. 255, § 9; 85 Del. Laws, c. 379, § 1.)

## § 159. State high school diploma for veterans serving during times of war or conflict.

(a) Notwithstanding any statute, rule or regulation to the contrary, the Department shall provide for the awarding of a state high school diploma to any veteran who:

(1) Left a Delaware school prior to graduation in order to serve in the armed forces of the United States;

(2) Did not receive a Delaware high school diploma, or received a G.E.D., as a consequence of such service; and

(3) Was discharged from the armed services under honorable conditions.

(b) The Department and the Delaware Commission of Veterans Affairs shall jointly promulgate rules, regulations and guidelines for the identification of eligible veterans and for the awarding of diplomas pursuant to this subsection, which shall include posthumous awards.

(c) For purposes of this section, "veteran" means any veteran who performed service during any of the following periods: World War II: December 7, 1941 through December 11, 1946, and also during occupation of defeated territories up to September 8, 1951; Korean War: June 27, 1950 through January 31, 1955; and Vietnam: May 1, 1961 through April 30, 1975.

(73 Del. Laws, c. 23, § 1; 81 Del. Laws, c. 90, § 1.)

# Subchapter III-A

# Interstate Compact on Education for Children of Military Families

## § 160A. Purpose.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or districts or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

(76 Del. Laws, c. 327, § 1.)

## § 161A. Definitions.

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: Full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

B. "Children of military families" means: a school-aged child(ren), enrolled in kindergarten through twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to § 167A of this title.

D. "Deployment" means: The period 1 month prior to the service members' departure from their home station on military orders though 6 months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under § 168A of this title, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to § 171A of this title that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

Q. "Transition" means:

(1) The formal and physical process of transferring from school to school; or

(2) The period of time in which a student moves from 1 school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Space Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

(76 Del. Laws, c. 327, § 1; 84 Del. Laws, c. 233, § 20; 84 Del. Laws, c. 323, § 3.)

## § 162A. Applicability.

A. Except as otherwise provided in subsection B. of this section, this compact shall apply to the children of:

(1) Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;

(2) Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and

(3) Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

(1) Inactive members of the national guard and military reserves;

(2) Members of the uniformed services now retired, except as provided in subsection A. of this section;

(3) Veterans of the uniformed services, except as provided in subsection A. of this section; and

(4) Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

(76 Del. Laws, c. 327, § 1.)

## § 163A. Educational records and enrollment.

A. *Unofficial or "hand-carried" education records.* — In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. *Official education records/transcripts.* — Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. *Immunizations.* — Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. *Kindergarten and first grade entrance age.* — Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

(76 Del. Laws, c. 327, § 1.)

## § 164A. Placement and attendance.

A. *Course placement.* — When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career-challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. *Educational program placement.* — The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to:

(1) Gifted and talented programs; and

(2) English as a second language (ESL).

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. *Special education services.* — (1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and

(2) In compliance with the requirements of § 504 of the Rehabilitation Act, 29 U.S.C. § 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing § 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. *Placement flexibility.* — Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. *Absence as related to deployment activities.* — A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

(76 Del. Laws, c. 327, § 1; 70 Del. Laws, c. 186, § 1.)

## § 165A. Eligibility.

A. *Eligibility for enrollment.* — (1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(3) A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. *Eligibility for extracurricular participation.* — State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

(76 Del. Laws, c. 327, § 1; 70 Del. Laws, c. 186, § 1.)

## § 166A. Graduation.

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. *Waiver requirements.* — Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. *Exit exams.* — States shall accept:

(1) Exit or end-of-course exams required for graduation from the sending state; or

(2) National norm-referenced achievement tests; or

(3) Alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of subsection C. of this section shall apply.

C. *Transfers during senior year.* — Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that 1 of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections A. and B. of this section.

(76 Del. Laws, c. 327, § 1; 70 Del. Laws, c. 186, § 1.)

## § 167A. State coordination.

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, 1 representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.

(76 Del. Laws, c. 327, § 1.)

## § 168A. Interstate Commission on educational opportunity for military children.

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

(A) Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

(B) Consist of 1 Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

(1) Each member state represented at a meeting of the Interstate Commission is entitled to 1 vote.

(2) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(3) A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

(4) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(C) Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

(D) Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(E) Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a 1-year term. Members of the executive committee shall be entitled to 1 vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an ex officio, nonvoting member of the executive committee.

(F) Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(G) Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by federal and state statute;

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) Involve accusing a person of a crime, or formally censuring a person;

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigative records compiled for law enforcement purposes; or

(7) Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(H) Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered

in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

(I) Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, insofar as it reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

(J) Create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

(76 Del. Laws, c. 327, § 1.)

## § 169A. Powers and duties of the Interstate Commission.

The Interstate Commission shall have the following powers:

(A) To provide for dispute resolution among member states.

(B) To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

(C) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

(D) To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

(E) To establish and maintain offices which shall be located within 1 or more of the member states.

(F) To purchase and maintain insurance and bonds.

(G) To borrow, accept, hire or contract for services of personnel.

(H) To establish and appoint committees including, but not limited to, an executive committee as required by § 168A, subsection (E), of this title which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

(I) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

(J) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

(K) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(L) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

(M) To establish a budget and make expenditures.

(N) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(O) To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(P) To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

(Q) To establish uniform standards for the reporting, collecting and exchanging of data.

(R) To maintain corporate books and records in accordance with the bylaws.

(S) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(T) To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

(76 Del. Laws, c. 327, § 1.)

## § 170A. Organization and operation of the Interstate Commission.

(A) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission;

(2) Establishing an executive committee, and such other committees as may be necessary;

(3) Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

(5) Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

(6) Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

(7) Providing "start-up" rules for initial administration of the compact.

(B) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

(C) *Executive committee, officers and personnel.* — (1) The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

(2) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

(D) The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or wilful and wanton misconduct of such person.

(1) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or wilful and wanton misconduct of such person.

(2) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or wilful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorneys' fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or wilful and wanton misconduct on the part of such persons.

(76 Del. Laws, c. 327, § 1.)

## § 171A. Rulemaking functions of the Interstate Commission.

(A) *Rulemaking authority.* — The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in

a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

(B) *Rulemaking procedure.* — Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act", of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

(C) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

(D) If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(76 Del. Laws, c. 327, § 1.)

## § 172A. Oversight, enforcement, and dispute resolution.

(A) *Oversight.* — (1) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(3) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

(B) *Default, technical assistance, suspension and termination.* — If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

(2) Provide remedial training and specific technical assistance regarding the default.

(3) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(4) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(5) The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

(6) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(7) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(C) *Dispute resolution.* — (1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

(2) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(D) *Enforcement.* — (1) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) The Interstate Commission, may by majority vote of the members, initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in

default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

(76 Del. Laws, c. 327, § 1.)

## § 173A. Financing of the Interstate Commission.

(A) The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(B) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(C) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(D) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall by audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

(76 Del. Laws, c. 327, § 1.)

## § 174A. Member states, effective date and amendment.

(A) Any state is eligible to become a member state.

(B) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

(C) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

(76 Del. Laws, c. 327, § 1.)

## § 175A. Withdrawal and dissolution.

(A) *Withdrawal.* — (1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute, which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until 1 year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(B) *Dissolution of compact.* — (1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to 1 member state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

(76 Del. Laws, c. 327, § 1.)

## § 176A. Severability and construction.

(A) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(B) The provisions of this compact shall be liberally construed to effectuate its purposes.

(C) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

(76 Del. Laws, c. 327, § 1.)

### § 177A. Binding effect of Compact and other laws.

(A) *Other laws.* — (1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact are superseded to the extent of the conflict.

(B) *Binding effect of the compact.* — (1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

(76 Del. Laws, c. 327, § 1.)

## Subchapter IV

## State Assessment System Security and Violations

### § 170. Definitions.

For purposes of this subchapter only, the following terms shall have the meanings indicated:

(1) "Assessment administration" means the range of activities from the initial procurement of secure assessment materials including those delivered via the computer through testing and the return of secure assessment materials to the Department or its agents;

(2) "Assessment site" means the physical location of the assessment administration, including a computer lab, classroom, or other room;

(3) "Department" means the Delaware Department of Education;

(4) "Individual" means a student, teacher, administrator, local or state school board member, or other employee, agent or contractor employed by the Delaware public school system whether local or at the state level, and including an employee, agent or contractor of a charter school;

(5) "Log-in" means the process of accessing the assessment website;

(6) "School district" means any school district, special school or charter school created pursuant to the provisions of this title;

(7) "Secure browser" means the computer browser that prevents the student from accessing functions of the computer that are not allowed during assessment;

(8) "State Assessment System" means the assessment program established pursuant to subchapter III of this chapter, including the assessments administered pursuant thereto; and

(9) "Student identification number" means the unique identification number assigned to each student in the State under which his or her student records are maintained.

(73 Del. Laws, c. 81, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 53, §§ 23-25.)

### § 171. Security and data procedures.

(a) The Department shall promulgate rules and regulations to ensure the security of the assessment administration, training of personnel and collection and reporting of assessment data.

(b) The Department's rules and regulations shall provide for:

(1) The security of the printed materials during assessment administration and the storage under lock and key of all secure assessment materials, including answer documents, before and after assessment administration;

(2) Procedures to safeguard computer access information and use of the secure browser, including the printing of assessment content;

(3) The proper administration of assessments and the monitoring of assessment administrations by school district personnel; and

(4) Procedures for the accurate and timely collection, storage and retrieval of state assessment system materials and data.

(73 Del. Laws, c. 81, § 1; 78 Del. Laws, c. 53, §§ 26-30.)

### § 172. Assessment behavior violations.

It is an assessment security violation for an individual to fail to follow state assessment system administration procedures promulgated by the Department, and no individual shall:

(1) Give any examinee access to secure assessment items or materials except in the regular course of an authorized administration of the state assessment;

(2) Give unauthorized individuals or other persons access to secure assessment items or materials;

(3) Copy, reproduce, use, or otherwise disclose in any manner inconsistent with assessment security regulations and procedures any portion of the secure assessment materials;

(4) Provide answers during the assessment administration either orally, in writing, or by any other means to an examinee;

(5) Coach any examinee during assessment administration by giving the examinee answers to secure assessment questions or otherwise directing or guiding a response or by altering or interfering with the examinee's response in any way;

(6) Fail to follow security regulations and procedures for the storage, distribution, collection and return of secure assessment materials or fail to account for all secure assessment materials before, during and after assessment administration;

(7) Fail to properly monitor assessment administration, including permitting inappropriate collaboration between or among individuals; fail to remove or cover nonallowable resources from the assessment site during the assessment administration; or fail to destroy scratch paper used by students during the assessment administration;

(8) Fail to prohibit students from accessing or using electronic equipment (e.g., cellular phones, personal digital assistant devices, iPods, electronic translators), other than those authorized for use by the Department for the assessment administration;

(9) Fail to confirm proper identification of students being administered the assessment or intentionally give a student the wrong student identification number during the log-in, causing any student to log in and take the assessment under another student's records;

(10) Fail to collect and destroy any materials bearing student identification number(s) and student name(s) used to provide student(s) with this information during the assessment administration;

(11) Produce unauthorized copies of assessment content from the computer website; fail to properly destroy authorized copies; or allow copies to be taken outside the assessment site;

(12) Allow assessment administration by unauthorized personnel or personnel who have not received assessment administration certification;

(13) Administer secure assessments on dates other than those authorized by the Department;

(14) Participate in, direct, aid, counsel, assist, encourage or fail to report any of the acts prohibited in this subchapter; or

(15) Refuse to disclose to the Department information regarding assessment security violations; or

(16) Refuse to cooperate in the investigation of a suspected breach of assessment security, whether such investigation is conducted by a school district or the Department. The investigation shall include a review of mitigating circumstances, if applicable.

(73 Del. Laws, c. 81, § 1; 78 Del. Laws, c. 53, §§ 31-41.)

### § 173. Data reporting violations.

School districts and individuals shall not:

(1) Fail to report assessment scores, numbers of students administered the assessments any other data element required to be reported to the Department;

(2) Report incorrect or otherwise inaccurate assessment scores, numbers of students administered the assessments or any other data element required to be reported to the Department;

(3) Exclude a student from participation in the state assessment except in accordance with the regulations of the Department;

(4) Refuse to disclose to the Department information concerning a violation of the foregoing data reporting requirements; or

(5) Refuse to cooperate in the investigation of a suspected data reporting violation, whether such investigation is conducted by a school district or the Department. The investigation shall include a review of mitigating circumstances, if applicable.

(73 Del. Laws, c. 81, § 1; 78 Del. Laws, c. 53, §§ 42, 43.)

### § 174. Civil sanctions for violations.

(a) A student who violates any of the provisions of § 172 of this title shall be subject to the following:

(1) At the discretion of the Department, the assessment score of such student may be invalidated and the student may be declared ineligible to retake the assessment until the next official testing opportunity; and

(2) Such disciplinary action as deemed appropriate by the student's school district.

(b) An individual other than a student who knowingly violates any of the provisions of this subchapter shall be subject to the following:

(1) Such personnel sanctions as might otherwise be imposed by the individual's employer for an act of misconduct;

(2) A hearing conducted by the Professional Standards Board to determine revocation of any license issued to such individual pursuant to the provisions of Chapter 12 of this title; and

(3) Payment of any costs incurred by the State or Department as a result of the violation.

(73 Del. Laws, c. 81, § 1; 78 Del. Laws, c. 53, § 44.)

## Subchapter V

## Delaware Higher Education Office

### § 180. Purpose.

The Delaware Higher Education Office serves as a source of higher education information and expertise for the executive and legislative departments of the State and for Delaware citizens who can benefit from higher education. It serves as a mechanism for members of

the public and professional groups to address higher education issues and ensure that resources are continuously focused to meet state priorities. The Higher Education Office, with the Department of Education, will support student transition between K-12 education and postsecondary education environments, and support increased student achievement.

(73 Del. Laws, c. 188, § 6; 77 Del. Laws, c. 431, § 2.)

### § 181. Responsibilities.

The Office shall do all of the following:

(1) Ensure that state resources for higher education are targeted to state priorities serving Delawareans.

(2) Ensure that higher education is accessible and affordable for all Delaware students who qualify for admission by providing financial assistance and guidance services.

(3) Strengthen the role and impact of higher education in elementary and secondary education reform, achievement of student performance expectations, and teacher professional development.

(4), (5) [Repealed.]

(6) Enhance the capacity for quality data collection and reporting to meet federal mandates, regional and interstate contractual agreements, and national data sharing requirements.

(7) In cooperation with the Department of Education, identify and implement methods to ensure a seamless transition for Delaware residents from elementary and secondary education to postsecondary education.

(8) Ensure that higher education services reflect changing needs and capabilities by exploring regional and national trends, and recommending implementation as appropriate.

(9) Promote student academic preparation for higher education and help educate Delawareans on saving for college.

(10) Expand education opportunities available through interstate agreements, such as the Southern Regional Education Board (SREB) and the State Higher Education Executive Officers Association (SHEEO), and publicize and promote their use.

(11) [Repealed.]

(12) Monitor and assist in resolution of consumer complaints related to student financial assistance, academic credit, and credit transfer; coordinate efforts as appropriate with the Department of Justice and private consumer protection agencies.

(13), (14) [Repealed.]

(15) Administer specific programs relating to higher education and others as may be established or assigned by the General Assembly and the Department of Education.

(16) [Repealed.]

(73 Del. Laws, c. 188, § 6; 77 Del. Laws, c. 431, §§ 2-4; 83 Del. Laws, c. 401, § 1; 83 Del. Laws, c. 413, § 1.)

### § 182. Staff.

The Department of Education may employ a Director of the Delaware Higher Education Office and other staff as necessary to meet its mandate and provide effective service within the limitations of and the manner prescribed by the annual Appropriations Act. Employees of the Office shall be compensated in accordance with the provisions set forth in Chapter 13 of this title.

(73 Del. Laws, c. 188, § 6; 77 Del. Laws, c. 431, § 5.)

### § 183. Regulations.

The Department of Education, through the Delaware Higher Education Office, is authorized to adopt rules and regulations to implement this subchapter, subject to the State Board of Education's approval.

(73 Del. Laws, c. 188, § 6; 77 Del. Laws, c. 431, § 6; 83 Del. Laws, c. 401, § 1.)

### § 184. Regulations.

Transferred by 77 Del. Laws, c. 431, effective July 23, 2010, to § 183 of this title.

## Subchapter VI

## Institutions of Higher Education

(83 Del. Laws, c. 401, § 2.)

### § 185. Definitions.

For purposes of this subchapter:

(1) "Accrediting agency" means an accrediting agency that is recognized by the United States Secretary of Education as a reliable authority concerning the quality of education or training offered by the postsecondary institutions or programs the agency accredits.

(2) "Department" means the Department of Education.

(3) “Institution” means a postsecondary institution as defined in this section or a private business and trade school as defined in Chapter 85 of this title.

(4) “Postsecondary institution” means a person, as defined in § 302 of Title 1, that offers postsecondary courses, postsecondary programs of courses, or postsecondary programs that lead to a certificate or degree in the State. The term does not include institutions that are established by Delaware law. or private business and trade schools under Chapter 85 of this title, except as otherwise provided in this subchapter.

(5) “Secretary” means the Secretary of Education.

(6) “Teach-out plan” means a written plan developed by an institution that provides for the equitable treatment of students if the institution ceases to operate before all students have completed their program of study. Such plan may include, if required by the institution’s accrediting agency, a teach-out agreement between institutions.

(83 Del. Laws, c. 401, § 2.)

## § 186. Certificate of approval to operate a postsecondary institution.

(a) No person may operate a postsecondary institution without having obtained a certificate of approval from the Department. In order for the Department to issue a certificate of approval, a person must have the power to confer degrees from another state or territory, meet all of the statutory requirements in this subchapter, meet all of the regulatory requirements set forth in the Department’s regulations adopted pursuant to this subchapter, and pay the application fee. Notwithstanding the foregoing, the Department may issue a certificate of approval to a person who has the power to confer degrees from another state or territory and meets the requirements of a reciprocity agreement to which the Department is a party. A certificate of approval is not transferrable.

(1) If a person does not have approval to confer degrees from another state or territory and the person wishes to confer degrees, the person must obtain approval to confer degrees from the Department as provided in § 125 of Title 8.

(2) Postsecondary institutions located outside of the United States and its territories may be considered for approval to confer degrees from the Department only upon accreditation from an accrediting agency.

(b) The person’s certificate of approval must be displayed on the person’s website and made available to students upon request.

(c) A certificate of approval is issued for a 5-year period. A person must submit an application to renew a certificate of approval prior to the certificate of approval expiring.

(83 Del. Laws, c. 401, § 2.)

## § 187. Application requirements and procedures.

(a) A person desiring to obtain a certificate of approval must submit a verified application to the Department setting forth all of the following information:

(1) The name of the postsecondary institution and ownership and controlling officers’ information.

(2) The specific courses, programs of courses, or certificates or degrees that will be offered.

(3) The facility or facilities where instruction will be given, including all websites, applications, or technology through which courses will be offered.

(4) The educational and teaching qualifications of instructors and administrators.

(5) The defined mission with goals and objectives.

(6) The financial resources and records.

(7) The need to establish operations in the State.

(8) Insurance to maintain the postsecondary institution’s solvency in case of loss by fire, fraud, or other causes to protect the postsecondary institution in liability matters, and to assure the postsecondary institution’s continuity of operation.

(9) Funding in the event of closure.

(10) Accrediting agency.

(11) Organizational pattern and administrative structure.

(12) Student services.

(13) Admission, retention, and graduation standards.

(14) Evaluation of faculty, program, and facilities and resources.

(15) Learning resources.

(16) Catalog.

(17) The address of the person’s registered office and the name and address of the person’s registered agent for service of process in the State.

(18) The disclosure of any criminal history and violations of local, state, or federal law.

(b) The application must also contain all of the following commitments:

(1) The person will conduct the postsecondary institution in accordance with federal, state, and local law, and the rules and regulations established by the Department.

(2) The person has appointed and will maintain a registered office and registered agent for service of process in the State.

(3) The person has and will maintain sufficient funds or a surety bond issued by a company authorized to do business in the State in the amount required by the Department in its rules and regulations that will protect the contractual rights of students.

(4) The person has and will maintain a teach-out plan that includes any information required by the Department and states all of the following:

a. The postsecondary institution will make all reasonable efforts to ensure that any closure of the postsecondary institution complies with the requirements of § 192 of this title.

b. Any institutional financial aid agreement offered to a student must contain language stating that, in the event of a closure that is not in compliance with § 192 of this title, the institutional debt will be void and will not be recovered, collected, or enforced.

(5) The person has and will maintain a cancellation policy which must provide a full refund of moneys paid by a student if the student's enrollment was procured as a result of any misrepresentation in advertising, promotional materials of the postsecondary institution, or representations by the person or a representative of the postsecondary institution or other violation of § 193 of this title.

(6) The person will permit the Department to inspect the postsecondary institution and to make available to the Department information pertaining to the activities required for the administration of this subchapter.

(7) All advertising and solicitation, whether direct or indirect, will be free from misrepresentation, deception, or fraud, and no fraudulent or deceptive statements will be made as to possible future employment opportunities or wage expectations.

(c) The application must be signed by the person under oath.

(d) The application must be submitted to the Department with the applicable fee.

(e) The Department's regulations shall provide the criteria to be met for approval and the procedures to be followed by an applicant for a certificate of approval.

(83 Del. Laws, c. 401, § 2.)

## § 188. Restriction of certificate to fields indicated in application; supplementary applications.

A person's certificate of approval is restricted to the courses, programs of courses, and programs that lead to a certificate or degree that are specified in the person's application for the certificate of approval. The holder of a certificate of approval must submit a supplemental application to the Department for approval of additional courses, programs of courses, and programs that lead to a certificate or degree it desires to offer during the effective period of the certificate of approval.

(83 Del. Laws, c. 401, § 2.)

## § 189. Fees.

The Department may establish application fees for approval and renewal of a certificate of approval. The Department shall set the fees in an amount that approximately and reasonably reflect the costs of administering this subchapter. An application fee may not be refunded in the event that the certificate of approval is denied or revoked. Fees must be deposited in the General Fund of the State.

(83 Del. Laws, c. 401, § 2.)

## § 190. Denial of certificates of approval.

(a) The Department may deny an application for a certificate of approval or an application to renew a certificate of approval for any of the following causes:

(1) Violating this subchapter or any rule or regulation made by the Department.

(2) Furnishing false, misleading, or incomplete information to the Department or failure to furnish information requested by the Department.

(3) Any person, who signed an application, entered a plea of nolo contendere to, or was found guilty of any crime involving moral turpitude.

(4) Any person who signed an application, is found by competent medical authority to be addicted to the use of any narcotic drug, other than a drug currently prescribed for treatment, or is found mentally incompetent.

(5) Violating any commitment made in the application for a certificate of approval.

(6) Presenting or causing to be presented to prospective students information that is false, misleading, or fraudulent.

(7) Failing to provide or maintain premises or equipment in a safe and sanitary condition as required by laws, regulations, or ordinances applicable to the location of the postsecondary institution.

(8) Failing to maintain financial resources adequate for the satisfactory conduct of the courses or programs offered or to retain sufficient and qualified instructional and administrative staff.

(9) Offering a course, program of courses, or program that leads to a certificate or degree that has not been approved by the Department.

(10) Failing to meet the criteria for approval.

(11) Failing to maintain state licensing requirements for applicable offerings.

(12) An act or practice by a person or an agent of the person that violates local, state, or federal law.

(b) Whenever the Department proposes to deny an application for a certificate of approval or an application for the renewal of a certificate of approval, it shall first give written notice to the applicant of the reasons for denial and the opportunity for a hearing before the Secretary. The applicant must be afforded at least 20 calendar days from the date the notice is mailed to request a hearing. If no written request for a hearing is received by the Secretary, the applicant's application is deemed denied as set forth in the notice and the Department shall notify the applicant the application is denied.

(c) Any hearing before the Secretary must be held within 90 calendar days of the date the Secretary receives a request for a hearing. Notice of the hearing must be given at least 20 calendar days before the day it is held.

(d) All hearings must be conducted by the Secretary or the Secretary's designee, who must prepare a proposed order for the Secretary's consideration. In connection with such hearings, the Secretary or the Secretary's designee has the power to administer oaths; issue subpoenas for witnesses and the production of books, accounts, papers, records, and documents; exclude plainly irrelevant, immaterial, insubstantial, cumulative, and privileged evidence; and limit unduly repetitive proof, rebuttal, and cross-examination.

(e) The burden of proof in a certificate of approval denial action is on the applicant to show by a preponderance of evidence that the applicant should not be denied a certificate of approval because the applicant meets the requirements to be issued a certificate of approval.

(83 Del. Laws, c. 401, § 2.)

## § 191. Revocation of certificates of approval.

(a) The Department may revoke a certificate of approval that has been issued to a person for any of the following causes:

(1) Violating this subchapter or any rule or regulation made by the Department.

(2) Furnishing false, misleading, or incomplete information to the Department or failure to furnish information requested by the Department.

(3) Violating any commitment made in the application for a certificate of approval.

(4) Presenting or causing to be presented to prospective students information that is false, misleading, or fraudulent.

(5) Failing to provide or maintain premises or equipment in a safe and sanitary condition as required by laws, regulations, or ordinances applicable to the location of the postsecondary institution.

(6) Failing to maintain financial resources adequate for the satisfactory conduct of the courses or programs offered or to retain sufficient and qualified instructional and administrative staff.

(7) Offering a course, program of courses, or program that leads to a certificate or degree that has not been approved by the Department.

(8) Failing to meet the criteria for approval.

(9) Failing to maintain state licensing requirements for applicable offerings.

(10) An act or practice by a person or an agent of the person that violates local, state, or federal law.

(b) Whenever the Department proposes to revoke a certificate of approval, it shall first give written notice to the certificate holder of the reasons for revocation and the opportunity for a hearing before the Secretary. The applicant must be afforded at least 20 calendar days from the date the notice is mailed to request a hearing. If no written request for a hearing is received by the Secretary, the certificate holder's certificate is revoked as set forth in the notice and the Department shall notify the holder the holder's certificate is deemed revoked.

(c) Any hearing before the Secretary must be held within 90 calendar days of the date the Secretary receives a request for a hearing. Notice of the hearing must be given at least 20 calendar days before the day it is held.

(d) All hearings must be conducted by the Secretary or the Secretary's designee who must prepare a proposed order for the Secretary's consideration. In connection with such hearings, the Secretary or the Secretary's designee has the power to administer oaths; issue subpoenas for witnesses and the production of books, accounts, papers, records, and documents; exclude plainly irrelevant, immaterial, insubstantial, cumulative, and privileged evidence; and limit unduly repetitive proof, rebuttal, and cross-examination.

(e) The burden of proof in a certificate of approval revocation action is on the Department to show by a preponderance of evidence that there is cause for revoking a certificate of approval.

(83 Del. Laws, c. 401, § 2.)

## § 192. Ceasing operation.

(a) All postsecondary institutions that have been approved to confer degrees under this subchapter or private business and trade schools that have been approved to operate under Chapter 85 of this title shall perform all of the following duties prior to ceasing operation:

(1) Promptly notify the Department, in writing, of any known financial liabilities or risks that will likely result in the imminent closure of the institution or otherwise adversely affect the institution's ability to fulfill its obligations to admitted and currently enrolled students within 45 days of obtaining knowledge of any financial liability or risk.

(2) Promptly notify the Department and all admitted and currently enrolled students, in writing, of any decision to cease operation within 45 days of the institution's governing body deciding to close the institution.

(3) Provide the Department with monthly progress reports on the status of communications to students, faculty, and stakeholders as well as the development of arrangements for currently enrolled students via teach-out plan or articulation agreement, beginning 30 days after notifying the Department of the decision to cease operation and continuing every 30 days thereafter until the institution is closed.

(4) Notify all currently enrolled students and students enrolled during the 5 prior years, in writing, of the process for obtaining student records after the institution's closure and points of contact for transferring credits, financial aid, information about students' rights and responsibilities as student loan borrowers, athletics, and support services 3 months before the institution ceases operation.

(5) Notify all currently enrolled students of the potential to discharge any federal student loans under the federal Closed School Discharge Program [20 U.S.C. §§ 1087 and 1087dd] or other applicable federal law 3 months before the institution ceases operation.

(6) Identify a custodian of student records and notify the Department of the custodian and point of contact for student records 3 months before the institution ceases operation.

(7) Provide the Department with the institution's plan for providing monetary refunds to students and, if applicable, a copy of the institution's current surety bond 3 months before the institution ceases operation.

(8) Provide the Department with the institution's teach-out plan, report, and responses to the institution's accrediting agency upon submission to or receipt from the accrediting agency 3 months before the institution ceases operation.

(9) In the event of a merger with another institution that is authorized to operate under this subchapter, both institutions will coordinate with the Department to submit an application for a certificate of approval for the newly created institution.

(b) As used in this section, "student records" means all those documents that are necessary to provide a meaningful record of student performance and financial aid, including all of the following:

(1) Academic records, including written evaluations and competency assessments.

(2) Catalogues.

(3) Change of grade forms.

(4) Class lists, including original grade sheets.

(5) Commencement programs/graduation lists.

(6) Schedules of classes.

(7) Financial aid transcripts and supporting documents.

(83 Del. Laws, c. 401, § 2.)

## § 193. Consumer fair practices and complaints.

(a) This section applies to all postsecondary institutions and private business and trade schools as defined in Chapter 85 of this title.

(b) All postsecondary institutions and private business and trade schools and their representatives are subject to the Consumer Fraud Act of subchapter II of Chapter 25 of Title 6. Recruitment, admissions, contractual agreements, student financial assistance, obligations to repay student loans, placement assistance, job placement rates, advertising, refund policies, accreditation, and transferability of credits are within the definition of "merchandise" in § 2511 of Title 6.

(c) A statement offering a program of study printed in the institutional catalog at the time of a student's enrollment in the program is deemed to constitute a representation that the student has a reasonable expectation of completion of the program within the timeframe specified by the Department in regulation.

(d) No person, directly or through an agent, may use the terms "approval," "approved," "authorized," "approved to operate," "approval to operate," "authorized to operate," "approved to confer degrees," "approval to confer degrees," "authorized to confer degrees," "certificate," "certificate of approval," "certified," or similar language without having been issued a certificate of approval by the Department and, if applicable, approval to confer degrees from the Department as provided in § 125 of Title 8.

(e) No person, directly or through an agent, may make a statement that a postsecondary institution or its courses of instruction have been accredited unless the accrediting agency is identified.

(f) No person, directly or through an agent, may make a statement that a postsecondary institution or its courses of instruction have been approved by a state or the federal government unless the approval can be substantiated by a certificate or letter of approval issued by the approving agency of the state or federal government.

(g) A violation of subsection (c), (d), (e), or (f) of this section is an unlawful practice under § 2513 of Title 6 and a violation of subchapter II of Chapter 25 of Title 6.

(h) If a student enters into a financial agreement with an institution at a time the institution was not compliant with the requirements of § 186 or Chapter 85 of this title, the financial agreement is void. Any moneys paid to the institution under the agreement must be refunded to the student.

(i) Any written complaints alleging a violation of this subchapter that the Department receives will be reviewed by the Department. The Department will provide information on potential violations of this subsection or the Consumer Fraud Act [subchapter II of Chapter 25 of Title 6] to the Department of Justice.

(j) The Department's authority to act under this subsection is independent of a determination by the Department of Justice or a court that a person violated this subsection or the Consumer Fraud Act [subchapter II of Chapter 25 of Title 6].

(83 Del. Laws, c. 401, § 2.)

## § 194. Regulations.

The Department of Education is authorized to adopt rules and regulations to implement this subchapter, subject to the State Board of Education's approval.

(83 Del. Laws, c. 401, § 2.)

# Part I
# Free Public Schools
## Chapter 2
## The Public School System
### Subchapter I
### System of Free Public Schools

### § 201. System of free public schools.

The system of free public schools throughout this State shall be general and efficient.

(14 Del. C. 1953, § 201; 56 Del. Laws, c. 292, § 4.)

### § 202. Free schools; ages; attendance within school district; nonresidents of Delaware.

(a) The public schools of this State shall be free to persons who are residents of this State and who are age 5 years through 20 years inclusive when they are attending kindergarten through grade 12.

(b) The public schools of any school district which maintains schools established under § 203 or § 204 [repealed] of this title for persons below the age of 5 years shall be free to persons who are residents of such school district and who have attained the specified age below the age of 5 years for which such schools are established.

(c) Persons attending the public schools of this State shall attend the public schools in the school district within which they reside, except as provided in Chapters 4, 5 and 6 of this title and in Chapter 92, Volume 23, Laws of Delaware, as amended by Chapter 172, Volume 55, Laws of Delaware. Notwithstanding the foregoing, homeless children and unaccompanied youth, as defined by 42 U.S.C. § 11434a, shall attend school in accordance with the McKinney-Vento Homeless Education Assistance Improvement Act [42 U.S.C. §§ 11431 to 11435]; provided any person determined to be ineligible under the act may be denied enrollment. Children in the custody of the Department of Services for Children, Youth and Their Families under Chapter 25 of Title 13 must attend school in accordance with § 202A of this title.

(d) Persons who are nonresidents of this State may attend the public schools of this State under such terms and conditions as may be otherwise provided by law.

(e) (1) For purposes of this section, a student shall be considered a resident of the school district in which that student's parents or legal guardian resides. If the child's parents do not reside together and a court of appropriate jurisdiction has entered a custody order, the child's residency for school attendance purposes shall be determined as follows unless otherwise agreed in a writing signed by both parents:

a. In cases in which 1 parent is awarded sole custody, the child shall be considered a resident of the district in which the sole custodian resides.

b. In cases in which the parents are granted joint custody, the child shall be considered a resident of the district in which the primary residential parent resides.

c. In cases in which the parents are granted shared custody, the child may be considered a resident of either parent's district.

Under no circumstances shall a child be enrolled in 2 different schools at the same time.

(2) If a child seeks to be considered a resident of a particular school district based on the residence of anyone other than that child's parent or parents or legal guardian, the student must have:

a. A signed order from a court of appropriate jurisdiction granting custody to or appointing as the child's guardian the resident with whom that child is residing; or

b. Suitable documentation certifying that the child resides within the district by action of the State or approval by the school district to be considered the student's residence; or

c. A completed and notarized Establishment of Delegation of Power to Relative Caregivers to Consent for Registering Minors for School (also known as "Caregivers School Authorization") pursuant to subsection (f) of this section confirming a caregiver's ability to provide consent in those cases where the student is being cared for by an adult relative caregiver without legal custody or guardianship.

(3) Children under the care or custody of the Department of Services for Children, Youth and Their Families are exempted from the provisions of this subsection. Children in the care and custody of the Department of Services for Children, Youth and Their Families who are in foster care under Chapter 25 of Title 13 must attend school in accordance with § 202A of this title.

(f) (1) A child may be enrolled in a particular school district based upon the submission of a Caregivers School Authorization if the following conditions are satisfied:

a. The child resides with a relative caregiver who is 18 years of age or older, is a Delaware resident, and resides in the district in which the child seeks enrollment;

b. The child resides with the relative caregiver as a result of:

1. The death, serious illness, incarceration or military assignment of a parent or legal guardian;

2. The failure or inability of the parent or legal guardian to provide substantial financial support or parental care or guidance;

3. Alleged abuse or neglect by the parent, legal guardian or others in the parent or legal guardian's residence;

4. The physical or mental condition of the parent or legal guardian which prevents necessary care and supervision of the child;

5. The loss or uninhabitability of the student's home as the result of a natural disaster; or

6. Other circumstances as deemed appropriate by the school district;

c. The child is not currently subject to an expulsion from school (as set forth in § 4130 of this title) or suspended from school for conduct that could lead to expulsion;

d. The child's residency with the caregiver is not for the purpose of:

1. Attending a particular school (although a caregiver's school district may be considered when deciding placement of the child as between 2 or more relative caregivers);

2. Circumventing the Enrollment Choice Program (Chapter 4 of this title);

3. Participating in athletics at a particular school;

4. Taking advantage of special services or programs offered at a particular school; or

5. Other similar purposes; and

e. The caregiver submits to the school district in which the child seeks enrollment a completed and notarized Caregivers School Authorization using the most recent form developed for this purpose by the Department of Health and Social Services. The Caregivers School Authorization must include the following:

1. The name and date of birth of the child;

2. The name, address and date of birth of the caregiver;

3. The names of the child's mother, father, legal custodian or guardian;

4. Relationship of the caregiver to the child, documented by proof of relationship as defined by regulation;

5. A statement that the caregiver has full-time care of the student, documented as required by regulation;

6. A statement indicating which of the circumstances described in paragraph (f)(1)b. of this section applies;

7. A statement that the caregiver will be the person responsible for enrolling the student in school, being the legal contact for the school, and making school-based medical and special education decisions;

8. The notarized and dated signatures of the caregiver, parents, legal custodians or guardians, including a sworn statement of the accuracy of the information provided and confirming that the caregiver and other signatories are aware of the penalties for falsely completing the Authorization. If after a reasonable effort the caregiver is unable to locate the parents, then as an alternative to including the parents' signatures, the Authorization shall include a statement of reasonable efforts made to locate the parents;

9. If available, any custody order in effect regarding the child. The order shall be submitted as an attachment to the Caregivers School Authorization and shall include only that portion of the order indicating to whom custody is granted.

If the documentation required to verify the information in the Caregivers School Authorization cannot be obtained by the caregiver, then the schools shall permit the child to enroll provided that a custody or guardianship petition that is date stamped to indicate that it has been filed with Family Court is provided within 10 business days of enrollment. Additional time for submission of the date stamped petition may be provided as deemed appropriate by the individual district. The petition shall permit enrollment until the end of the school year or until such time as the court enters a decision disposing of the custody or guardianship petition, whichever first occurs;

(2) A relative caregiver is an adult who by blood, marriage or adoption is the child's great grandparent, grandparent, stepgrandparent, great aunt, aunt, stepaunt, great uncle, uncle, stepuncle, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the student.

(3) A caregiver who completes and submits a Caregivers School Authorization form to register a child in that caregiver's care for school is authorized and agrees to act in the place of the parent or parents with respect to the child's education decisions (including but not limited to special education decisions) and the person the school contacts regarding truancy, discipline and school-based medical care. Once a Caregivers School Authorization is submitted and approved, school districts are no longer responsible, for so long as the Authorization is valid, for communicating with the parent, custodian or guardian who has signed the Authorization or is listed as unable to be found.

(4) A Caregivers School Authorization that complies with the requirements of this section shall be honored by any school in any school district. The school districts shall determine whether a particular Caregivers School Authorization complies with the requirements of this section. A caregiver may appeal the school district's decision to the local board of education of the school district. Any school district that reasonably and in good faith relies on a Caregivers School Authorization has no obligation to make any further inquiry or investigation.

(5) Persons who knowingly make false statements in the Caregivers School Authorization shall be subject to a minimum civil penalty of $1000 and maximum of the average annual per student expenditure and may be required to reimburse the school district tuition

costs. Further, such persons may be subject to criminal prosecution pursuant to § 1233 of Title 11. The justices of the peace shall have jurisdiction in these cases.

(6) Caregivers School Authorizations filed prior to January 1 shall be honored for the balance of the current school year and for the subsequent school year. Caregivers School Authorizations filed on or after January 1 shall be honored for the balance of the current school year and for the 2 subsequent school years. In either case, the Authorization shall expire on August 1 of the applicable school year unless the caregiver receives permission from the school district to extend the length of time that the Authorization will be honored. Caregivers School Authorizations may be cancelled at any time if the minor stops living with the relative caregiver or upon written revocation of the Authorization by the child's caregiver, parent, legal custodian or guardian.

(7) The Department of Health and Social Services shall be authorized to promulgate regulations to implement this law. This law shall take effect upon the promulgation of such regulations. Relationship and proof of actual full-time caregiving will be verified as stated in the regulations.

(g) For the purposes of this section, a military-connected student who is the dependent of either a person in the active military service of the United States, or in a full-time status during active service with a force of the Delaware National Guard, whose parent or guardian is being relocated to the State under military orders and is transferred to or is pending transfer to a military installation within the State, shall be deemed to be a resident for the purposes of enrollment by the receiving local school district or charter school. The local school district or charter school shall permit military-connected students to enroll preliminarily by remote registration without charge and shall not require the parent or guardian of the military-connected student or the student to physically appear at a location within the district to register the student, if the parent or guardian presents evidence of military orders that a parent or guardian will be stationed in this State during the current or following school year. The parent or guardian may use an address within the district of residence where the military-connected student is to be enrolled, the address of a temporary on-base billeting facility, a purchased or leased home or apartment, or federal government or public-private venture off-base military housing. Proof of required residency shall not be required at the time of the remote registration but shall be required within 10 days of the student's attendance, unless the attendance occurs within the unit count window, where proof of residency should be provided prior to the close of unit count.

(14 Del. C. 1953, § 202; 56 Del. Laws, c. 292, § 4; 64 Del. Laws, c. 315, §§ 1, 2; 69 Del. Laws, c. 28, § 1; 70 Del. Laws, c. 180, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 52, § 1; 72 Del. Laws, c. 208, §§ 1, 2; 72 Del. Laws, c. 299, §§ 1, 2; 74 Del. Laws, c. 175, § 1; 74 Del. Laws, c. 403, § 1; 75 Del. Laws, c. 125, §§ 1, 2; 76 Del. Laws, c. 136, § 13; 81 Del. Laws, c. 92, § 1; 83 Del. Laws, c. 166, § 1.)

## § 202A. School enrollment for children in the custody of the Department of Services for Children, Youth and Their Families.

(a) For purposes of this section, "school of origin" means any of the following:

(1) The school in which the child is enrolled at the time of entry into the custody of the Department of Services for Children, Youth and Their Families (DSCYF).

(2) The school in which the child is enrolled at the time of any change in placement while in the custody of DSCYF.

(3) The school identified for the next grade level in the same school district where the child in the custody of DSCYF is enrolled.

(b) (1) A child in the custody of DSCYF under Chapter 25 of Title 13 must remain in the child's school of origin, unless a determination is made that it is not in the child's best interest to attend such school.

(2) If it is determined that it is not in the best interest of a child to remain in the child's school of origin, the child must immediately be enrolled in the child's school of residence based on the current address of the DSCYF custody placement, even if the records or other documents normally required for enrollment are not produced. The school in which the child is enrolled shall immediately contact the child's school of origin to obtain relevant academic and other records.

(3) The determination of a child's best interest under this subsection must, at a minimum, be made by a representative of DSCYF, a representative of the child's school of origin, and a representative of the child's school of residence based on the address of the DSCYF custody placement at the time of the determination.

(c) (1) If a child leaves the custody of DSCYF, the child must remain in the school in which the child is enrolled through the remainder of the academic year, unless a determination is made that it is not in the child's best interest.

(2) The determination of a child's best interest under this subsection must, at a minimum, be made by a representative of DSCYF, a representative of the school in which the child is enrolled, and a representative of the child's school of residence based on the address of the DSCYF custody placement at the time of the determination.

(d) The Secretary of Education shall promulgate regulations to establish a process for the determination of a child's best interest under subsections (b) and (c) of this section.

(81 Del. Laws, c. 92, § 2; 82 Del. Laws, c. 243, § 35.)

## § 203. Special programs.

The Department with the approval of the State Board of Education and the school board of any local reorganized school district, either separately or jointly, may establish special programs for children who are in need of education not provided for in regular classes or schools.

Such special programs may include, but are not limited to, bilingual programs, programs for persons who are truant or insubordinate or programs for pregnant students.

(14 Del. C. 1953, § 203; 56 Del. Laws, c. 292, § 4; 57 Del. Laws, c. 113; 63 Del. Laws, c. 177, § 1; 68 Del. Laws, c. 126, § 1; 71 Del. Laws, c. 180, § 16; 72 Del. Laws, c. 395, § 372; 75 Del. Laws, c. 155, § 1; 78 Del. Laws, c. 5, §§ 1-3.)

## § 204. Kindergartens and playgrounds and other schools.

Repealed by 71 Del. Laws, c. 180, § 17, effective July 31, 1997.

## § 205. Vocational-technical centers, or schools.

The Department of Education with the approval of the State Board of Education may establish such vocational-technical centers, or schools as in its judgment will promote the educational interests of the State.

(14 Del. C. 1953, § 205; 56 Del. Laws, c. 292, § 4; 71 Del. Laws, c. 180, § 18.)

## § 206. Braille literacy rights and education.

(a) In developing the individualized written education program for each student with blindness or visual impairment, it is the presumption that proficiency in Braille reading and writing is essential for each student to achieve satisfactory educational progress. The assessment required for each student includes a Braille skills inventory, including a statement of strengths and weaknesses.

(1) This section does not require Braille instruction and its use if, in the course of developing the student's individualized educational program, each member of the team concurs that the student's visual impairment does not affect reading and writing performance commensurate with ability.

(2) This section does not require exclusive use of Braille if other special education services are appropriate to the student's needs. The provision of other appropriate services does not preclude Braille use or instruction.

(b) Instruction in Braille reading and writing are sufficient to enable each student with blindness or visual impairment to communicate effectively and efficiently with the same proficiency expected of the student's peers of comparable ability and grade level. The student's individualized educational plan must specify at least all of the following:

(1) The results obtained from the inventory required in subsection (a) of this section.

(2) How Braille will be implemented as the primary mode for learning through integration with other classroom activities.

(3) The date on which Braille instruction will commence.

(4) The length of the period of instruction and the frequency and duration of each instructional session.

(5) The level of competency in Braille reading and writing to be achieved by the end of the period, and the objective assessment measures to be used.

(6) The evidence used to determine that the student's ability to read and write effectively without special education services will not be impaired if a decision has been made under subsection (a) of this section that Braille instruction or use is not required for the student.

(c) Each publisher of a textbook that a local education agency purchases must, in addition to granting copyright permission for transcription into Braille, large print, or tape for students with visual impairments as already established by law, furnish to the Division for the Visually Impaired a print or electronic copy in the American Standard Code for Information Interchange (ASCII) from which Braille versions of the texts can be produced. The print copy is also required since the accompanying graphics must be reproduced by hand and some subject matter, such as mathematics, must still be hand transcribed.

(d) [Repealed.]

(e) In order to meet the instructional needs of each student with blindness or visual impairment, the Division for the Visually Impaired shall hire an itinerant teacher of the visually impaired for every 28 students, or a major fraction thereof, who are registered and receiving instruction from a local education agency. At least 2 of these teacher units must be 12-month employees in order to insure competent Braille instruction during the summer months.

(70 Del. Laws, c. 237, § 1; 71 Del. Laws, c. 180, § 19; 78 Del. Laws, c. 179, § 132; 83 Del. Laws, c. 455, § 1.)

## § 207. Legislative educational impact statements.

Repealed by 73 Del. Laws, c. 312, § 334, effective June 25, 2002.

## § 208. Digital recording of board meetings.

All boards of education of public school districts, vocational-technical high school districts, and all boards of directors of charter schools shall digitally record all of their public meetings and shall make the recordings available to the public on the districts' or charter schools' websites within 7 business days of each meeting. These recordings shall remain available on the website for at least 1 year after their posting on the website. These recordings are not official board minutes, but are a means to enhance communication to the public and to state legislators. The requirements of this section do not apply to board executive sessions, or workshops and retreats where no voting will take place.

(80 Del. Laws, c. 244, § 1.)

### § 209. Qualifications of board members; disqualifying crimes [For application of this section, see 83 Del. Laws, c. 187, § 8].

(a) An individual may not serve as a member of the State Board of Education or the board of a public school district or vocational-technical school district if any of the following apply to the individual:

(1) The individual has ever been convicted or has ever pleaded guilty or nolo contendere to any of the following:

a. Any crime against a child constituting a felony.

b. Any sexual offense against a child.

c. Any crime constituting a felony sexual offense or unlawful sexual contact in the third degree under § 767 of Title 11.

(2) The individual has been convicted or has pleaded guilty or nolo contendere within the preceding 10 years to any crime constituting a felony that is not a permanent disqualification under paragraph (a)(1) of this section.

(3) The individual has been convicted or has pleaded guilty or nolo contendere within the preceding 5 years to any of the following:

a. Any crime against a child constituting a misdemeanor, except for unlawful sexual contact in the third degree under § 767 of Title 11.

b. Possession of a controlled substance or a counterfeit controlled substance classified as such in Schedule I, II, III, IV, or V of Chapter 47 of Title 16, except for any of the following:

1. Possession of a personal use quantity of marijuana under § 4764 of Title 16.

2. Possession of drug paraphernalia under § 4771 of Title 16.

c. Any crime constituting a misdemeanor offense against public administration involving bribery, improper influence or abuse of office.

(4) The individual fails to comply with subsection (c) of this section.

(b) Before an individual may be appointed to or qualify as a candidate for membership on the State Board of Education or the board of a public school district or vocational-technical school district, the individual must obtain a criminal background check and Child Protection Registry check under § 309 of Title 31.

(c) (1) a. A member of the State Board of Education or a vocational-technical school district board must inform the Governor if the member is charged with a crime under subsection (a) of this section.

b. The Governor may require a member of the State Board of Education or a vocational-technical school district board to obtain a new background check under § 309 of Title 31 if the Governor has reasonable suspicion that the member has been charged with a crime under subsection (a) of this section.

(2) a. A member of the board of a public school district must inform the superintendent of the school district and other members of that school district board if the member is charged with a crime under subsection (a) of this section.

b. The superintendent of a school district may require a member of the district school board to obtain a new background check under § 309 of Title 31 if the superintendent has reasonable suspicion that the member has been charged with a crime under subsection (a) of this section.

(83 Del. Laws, c. 187, § 1.)

## Subchapter II

## Neighborhood Schools

### § 220. Purpose.

It is the intent and purpose of the General Assembly through this subchapter to establish and implement a plan for neighborhood schools in Northern New Castle County that is fair and equitable to all affected children in New Castle County.

(72 Del. Laws, c. 287, § 2.)

### § 221. Definitions.

(1) “Committee” means the Wilmington Neighborhood Schools Committee.

(2) “District” or “districts” means Brandywine School District, Colonial School District, Christina School District and/or Red Clay Consolidated School District, either jointly or severally, as context indicates.

(3) “Plan” means a Neighborhood School Plan.

(72 Del. Laws, c. 287, § 2.)

### § 222. Wilmington Neighborhood Schools Committee.

(a) The Wilmington Neighborhood Schools Committee shall consist of 17 members, as follows:

(1) Two members designated by the Mayor of the City of Wilmington;

(2) Three members designated by the President of City Council for the City of Wilmington;

(3) One member designated by the Governor with such member being a resident of the City of Wilmington;

(4) One member designated by the President Pro Tempore of the Senate with such member being a resident of the City of Wilmington;

(5) One member designated by the Speaker of the House of Representatives with such member being a resident of the City of Wilmington;

(6) Two members representing the Wilmington business community designated by the Mayor;

(7) One member from a community based organization designated by the Mayor;

(8) One member from a community based organization designated by the President of City Council;

(9) One member from each of the 4 school boards with such persons serving from a Wilmington nominating district; and

(10) One member residing in the City of Wilmington and representing the New Castle County Vo-Tech School District.

(b) Each member shall serve at the pleasure of the holder of the office or the entity having the authority to appoint the member to the Committee. The Chairperson of the Committee shall be designated by the Mayor from the 17 members and serve as Chairperson at the pleasure of the Mayor. The majority of the Committee shall constitute a quorum and no motion or resolution of the Committee may be adopted without the approval of a majority of its members.

(c) The Committee shall not be compensated but shall be reimbursed for reasonable and necessary travel expenses incurred in connection with the performance of its official duties. Funding for the research and analysis required by this section shall also be provided by the Department of Education.

(d) The Committee shall review and analyze current public school feeder patterns, current resource allocations among the districts, current populations of children residing in the City of Wilmington attending public schools, and population projections for children residing in the City of Wilmington likely to attend public schools in the future.

(e) Based on the information and analysis, the Committee shall submit recommendations to the Mayor of the City of Wilmington and the City Council by January 3, 2001, concerning the creation of a Wilmington School District, neighborhood schools within the current district configurations, or neighborhood schools under some alternative district configuration. The recommendations shall identify specific time lines for implementation as well as specific actions, legislative or otherwise, required to implement the recommendations. The recommendations shall also estimate the costs or savings both in terms of capital expense and/or operational expense based on existing unit count allocations and the required local match. Prior to submitting the recommendations, the Committee shall hold at least 5 public hearings to take testimony and questions from members of the public and other interested stakeholders.

(f) Upon review and consideration of the Committee's recommendations, the City Council and the Mayor of the City of Wilmington shall forward their plan on behalf of the City of Wilmington to the General Assembly by March 15, 2001. The plan shall identify specific time lines for implementation as well as specific actions, legislative or otherwise, required to implement the recommendations. The plan shall also estimate the costs or savings both in terms of capital expense and/or operational expense based on existing unit count allocations and the required local match. The General Assembly shall act on the plan by June 30, 2001.

(72 Del. Laws, c. 287, § 2.)

## § 223. Neighborhood School Plans.

(a) In the context of the plan submitted, or lack thereof, pursuant to § 222(f) of this title and any action taken by the General Assembly and the Governor to implement the Wilmington plan, the school boards of Brandywine School District, Colonial School District, Christina School District and Red Clay Consolidated School District shall develop a Neighborhood School Plan for their districts that assigns every student within the district to the grade-appropriate school closest to the student's residence, without regard to any consideration other than geographic distance and the natural boundaries of neighborhoods. Notwithstanding the above, the Plan may assign students to schools based on factors other than geographic distance and natural neighborhood boundaries if a substantial hardship to a school or school district, student or a student's family exists; provided, that no student shall be assigned to any school on the basis of race and school assignments shall be made without regard to the racial composition of the schools. Districts may consider as part of their neighborhood school plans, interdistrict school assignments for individual schools, with the concurrence of other districts, to the extent such assignments further the purposes of this subchapter.

(b) Neighborhood School Plans shall consist of the following grade configurations:

(1) A lower-level school, or elementary school, consisting of either grades K-5 or grades K-6;

(2) A middle-level school, or junior high school, consisting of either grade 6 or 7 to grade 8 or 9; or

(3) An upper-level school, or high school, consisting of either grades 9-12 or grades 10-12.

If a district has only 2 school configurations, the plan may contain any combination of grade levels. To the extent a district concludes that an alternative configuration would better accomplish the goals of this subchapter, the district may present an alternative neighborhood school plan in addition to the plan based on the above configurations.

(c) Each district shall hold at least 5 public hearings concerning their proposed plan prior to submission to the State Board of Education.

(d) The school board of each district shall submit its plan to the State Board of Education by November 15, 2001, for its review and approval. If approved, the State Board of Education shall notify the Director of the Office of Management and Budget and Controller

General who shall, subject to an annual appropriation, release to the district a 1-time payment of $1.25 million from the General Fund for transition costs incurred by the district in implementing the plan. If the State Board of Education does not approve the plan, it shall notify the district in writing, identify the reasons why the plan was not approved, and require the district to resubmit the plan within 60 days of the notice of denial. If the district fails to resubmit the plan in accordance with this subchapter within 60 days, the State Board of Education shall refer the matter to the Attorney General's Office to bring an action in a court of competent jurisdiction to compel compliance with this subsection.

(e) Each district shall implement its Neighborhood School Plan within 18 months of receiving payment of 1-time transition costs pursuant to subsection (c) of this section.

(f) A citizen with standing may bring a private cause of action in a court of competent jurisdiction to enforce the requirements of this section.

(g) Nothing in this section is intended to deny or interfere with a student attending a special education program, an alternative school or a charter school, or electing to attend a school through the enrollment choice program.

(h) Notwithstanding any requirement of this subchapter, no district shall be required to submit or implement any Neighborhood School Plan, for grades 6-12 if the district shall, for the 2002-2003 school year, enroll 40% or more of its students through the School District Enrollment Choice Program ("Choice Program") established in Chapter 4 of this title. For any district not meeting this test in the 2002-2003 school year, that district may qualify for this exemption by demonstrating that it has enrolled 40% of its students through the Choice Program in the immediately preceding school year.

(72 Del. Laws, c. 287, § 2; 74 Del. Laws, c. 335, § 1; 75 Del. Laws, c. 88, § 21(7); 76 Del. Laws, c. 280, § 403.)

# Part I
# Free Public Schools
## Chapter 3
## Delaware Interscholastic Athletic Association

### § 301. Purpose and intent.

(a) The purpose of the Delaware Interscholastic Athletic Association is to do all of the following:

(1) Preserve and promote the educational significance of interscholastic athletics.

(2) Ensure that interscholastic sports remain compatible with the educational mission of the member schools.

(3) Provide for fair competition among member schools.

(4) Promote sportsmanship and ethical behavior.

(5) Establish and enforce standards of conduct for athletes, coaches, administrators, officials, and spectators.

(6) Protect the physical well-being of athletes.

(7) Promote healthy adolescent lifestyles.

(b) The General Assembly intends for the Delaware Interscholastic Athletic Association to work in consultation and cooperation with the Department of Education toward full implementation of this chapter.

(73 Del. Laws, c. 374, § 3; 83 Del. Laws, c. 518, § 1.)

### § 302. Definitions [For application of this section, see 85 Del. Laws, c. 253, § 23].

As used in this chapter:

(1) “Advanced practice registered nurse” means as defined in § 1902 of Title 24.

(2) “Association” means the Delaware Interscholastic Athletic Association.

(3) “Athletic advantage” means a student transfers from a sending school to a receiving school for any of the following reasons:

a. To seek a superior team.

b. To seek a team more compatible with the student’s abilities.

c. Dissatisfaction with the student’s position or playing time at the student’s sending school.

d. To follow a coach to another school at which the coach is employed.

e. Dissatisfaction with a philosophy, policy, method, or action of a coach or administrator pertaining to interscholastic athletics.

f. To avoid disciplinary action that another state athletic association has imposed.

g. To avoid disciplinary action that the sending school imposed and is related to or affects interscholastic athletic participation.

(4) “Athletic trainer” means as defined in § 2602 of Title 24.

(5) “Attendance zone” means a geographical area established by law or by the governing body of a public school that entitles a student to attend a specific public school.

(6) “Board” means the Board of Directors of the Delaware Interscholastic Athletic Association.

(7) “Department” means the Department of Education.

(8) “Executive Director” means the Executive Director of the Delaware Interscholastic Athletic Association.

(9) “Guardian” means an individual that a court order has established is responsible for the care and management of a student.

(10) “Health-care provider” means a physician, a physician associate, an advanced practice registered nurse, or another licensed health-care professional, each of whom is trained and experienced in the evaluation, management, and care of concussions.

(11) “HIB” means harassment, intimidation, or bullying.

(12) “Member school” means a school that is a full or associate member of the Association.

(13) “Participate” means to take part in an interscholastic athletic sport tryout, practice, scrimmage, or contest.

(14) “Physician” means as defined in § 1702 of Title 24.

(15) “Physician associate” means as defined in § 1770A of Title 24.

(16) “Receiving school” means the school that a student transfers into after withdrawing from the student’s sending school.

(17) “Relative caregiver” means an adult who does not have legal custody or guardianship of a student but is, by blood, marriage, or adoption, any of the following to the student:

a. Great-grandparent, grandparent, or step-grandparent.

b. Great-aunt, aunt, step-aunt, great-uncle, uncle, or step-uncle.

c. Step-parent.

d. Sibling, step-sibling, or half-sibling.

e. Niece or nephew.

f. First cousin or first cousin once removed.

(18) "School day" means each day that students attend school during a regular academic school year, including a partial day in which students attend school for instructional purposes, as adopted by a school's district or governing body. "School day" does not include weekends, holidays, summer school, or other days that are not part of a school's regular academic year.

(19) "Secretary" means the Secretary of the Department of Education.

(20) "Sending school" means the school from which a student transfers to enroll in a receiving school.

(21) "State Board" means the State Board of Education.

(22) "Transfer" means a student has officially withdrawn from a sending school and officially enrolled in a receiving school under the receiving school's established registration process.

(73 Del. Laws, c. 374, § 3; 83 Del. Laws, c. 518, § 2; 84 Del. Laws, c. 217, § 2; 84 Del. Laws, c. 343, § 1; 84 Del. Laws, c. 472, § 1; 85 Del. Laws, c. 253, § 3.)

## § 303. Regulations, policies, and procedures [Effective until implementation of the contingency in 85 Del. Laws, c. 404, § 3].

(a) The Board shall promulgate regulations relating to member school interscholastic athletics. The Board may develop necessary policies and procedures to implement this chapter.

(b) (1) The Board shall develop regulations relating to secondary and middle school interscholastic athletics. In addition to the regulations required under § 304 of this title and §§ 10111 and 10113 of Title 29, the regulations must include at least all of the following:

a. Regulation of interscholastic athletic programs of each public school at the middle and high school levels.

b. Regulation of the interscholastic athletic program of each nonpublic school that elects to become a member school.

c. The manner in which a nonpublic school may elect to become a member school.

d. Eligibility requirements for a student to participate in interscholastic athletics, except as under § 313, § 314, or § 315 of this title.

e. Requirements for a student who participates in interscholastic athletics and nonschool competitions, except as under § 313, § 314, or § 315 of this title.

f. Requirements for a coach or sports official in interscholastic sports.

g. Sanctioning of school team competitions.

h. Other matters affecting interscholastic athletics.

(2) The Board may not approve a regulation that denies a student the right to simultaneously try out for, practice with, or participate in a game on a team similar to the school team on which that student is a member. The Board may, however, authorize dual membership and participation on a similar team only upon written consent by the student's parent, custodian, or guardian. The written consent must clearly state the authority to participate on a particularly specified team of a designated organization or institution.

(c) The Board shall adopt regulations as to the sports over which the Association has jurisdiction.

(d) The Board shall adopt regulations applicable to a member school regarding the appropriate recognition and management of a student athlete exhibiting signs or symptoms consistent with a concussion. The regulations must require at least all of the following:

(1) Each student athlete and the athlete's parent or guardian shall annually sign and return a concussion information sheet, that the Board designs, prior to the athlete initiating practice or competition.

(2) Each coach shall complete concussion training consistent with a timetable and curriculum that the Board establishes by regulation.

(3) A student athlete must be promptly removed from play if the athlete is suspected of sustaining a concussion or exhibits signs or symptoms of concussion until completion of assessment by a qualified health-care provider or medical clearance from a qualified health-care provider.

(4) Written clearance for return to play after a concussion must be from a health-care provider.

(e) The Board shall adopt regulations applicable to a member school regarding student athletes and awareness, recognition, and management of sudden cardiac arrest. The Board shall, through either regulation or policy adopted under regulation, do at least all of the following:

(1) Develop and make publicly available a sudden cardiac arrest information sheet that includes information regarding the nature and warning signs of sudden cardiac arrest.

(2) Prior to participating in practice or competition, require each student athlete and the athlete's parent or guardian sign and return a sudden cardiac arrest information sheet that the Board designs.

(3) Require each student athlete to complete a heart history questionnaire as part of the preparticipation physical examination.

(4) [Repealed.]

(5) Present to each coach and official sudden cardiac arrest awareness information.

(f) The Board shall adopt regulations relating to secondary and middle school interscholastic athletics that do at least all of the following:

(1) Require all coaches to obtain and maintain certification in cardiopulmonary resuscitation (CPR), first aid, and the use of an automated external defibrillator (AED). Training and certification in CPR and AED use must be consistent with national evidence-based emergency cardiovascular care guidelines.

(2) Require that each school with an athletic department or program develop an athletic Emergency Action Plan (Plan) to respond to incidents of cardiac arrest or a similar life-threatening emergency during a school athletic practice or event. The Plan must follow nationally-recognized recommendations and be venue specific, widely distributed, posted, and rehearsed annually.

(3) Require that an AED be clearly marked and easily accessible in an unlocked location at each school athletic venue and event during any school-sponsored athletic event or team practice in which students of the school are participating. The AED must be placed in accordance with nationally-recognized guidelines focused on emergency cardiovascular care.

(4) Require that AEDs be tested and maintained according to the manufacturer's operational guidelines.

(5) Require notification is provided to the Office of Emergency Medical Services regarding the AED, the type acquired, and its location.

(73 Del. Laws, c. 374, § 3; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 192, § 1; 79 Del. Laws, c. 419, § 1; 83 Del. Laws, c. 518, § 3; 84 Del. Laws, c. 217, § 2; 84 Del. Laws, c. 343, § 2; 84 Del. Laws, c. 344, § 2; 85 Del. Laws, c. 108, § 1.)

## § 303. Regulations, policies, and procedures [Effective upon implementation of the contingency in 85 Del. Laws, c. 404, § 3].

(a) The Board shall promulgate regulations relating to member school interscholastic athletics. The Board may develop necessary policies and procedures to implement this chapter.

(b) (1) The Board shall develop regulations relating to secondary and middle school interscholastic athletics. In addition to the regulations required under § 304 of this title and §§ 10111 and 10113 of Title 29, the regulations must include at least all of the following:

a. Regulation of interscholastic athletic programs of each public school at the middle and high school levels.

b. Regulation of the interscholastic athletic program of each nonpublic school that elects to become a member school.

c. The manner in which a nonpublic school may elect to become a member school.

d. Eligibility requirements for a student to participate in interscholastic athletics, except as under § 313, § 314, or § 315 of this title. The Board must require students who participate in interscholastic athletics to complete annual sportsmanship and anti-harassment training as part of the eligibility process.

e. Requirements for a student who participates in interscholastic athletics and nonschool competitions, except as under § 313, § 314, or § 315 of this title.

f. Requirements for a coach or sports official in interscholastic sports, which must include at least the following:

1. For officials, if a criminal background check or Child Protection Registry check is not otherwise required under § 309 of Title 31, an initial and subsequent fingerprint-based state and federal criminal background check as well as a Child Protection Registry check obtained by the applicable officials' association that meets the same requirements for volunteers, employees, or contractors in a child-serving entity under § 309 of Title 31, and which is evaluated by the officials' association to ensure the official does not meet any of the prohibitions under § 309(d) of Title 31. For purposes of any Rap Back System reporting, subsequent criminal record reports must be provided by the State Bureau of Identification to the Department, or, for officials working with private schools that do not participate in the Rap Back System, to the DIAA, which must maintain appropriate release forms to ensure continuous monitoring with the knowledge of the official. An individual with a criminal history that would preclude the individual from being employed or contracted by the Department or from providing volunteer services for the Department under § 309 of Title 31 may not serve as a sports official.

2. The completion of diversity and anti-discrimination training that addresses implicit bias, harassment prevention, cultural competency, and inclusion.

g. Sanctioning of school team competitions.

h. Require each member school to fully cooperate with DIAA investigations of alleged regulatory violations under § 304 of this title.

i. Require all officials' associations to enter an agreement with the DIAA that requires the association to maintain background check records obtained under paragraph (b)(1)f.1. of this section and to provide the records to DIAA upon request for DIAA to monitor and verify compliance with requirements under this section.

j. Other matters affecting interscholastic athletics.

(2) The Board may not approve a regulation that denies a student the right to simultaneously try out for, practice with, or participate in a game on a team similar to the school team on which that student is a member. The Board may, however, authorize dual membership and participation on a similar team only upon written consent by the student's parent, custodian, or guardian. The written consent must clearly state the authority to participate on a particularly specified team of a designated organization or institution.

(c) The Board shall adopt regulations as to the sports over which the Association has jurisdiction.

(d) The Board shall adopt regulations applicable to a member school regarding the appropriate recognition and management of a student athlete exhibiting signs or symptoms consistent with a concussion. The regulations must require at least all of the following:

(1) Each student athlete and the athlete's parent or guardian shall annually sign and return a concussion information sheet, that the Board designs, prior to the athlete initiating practice or competition.

(2) Each coach shall complete concussion training consistent with a timetable and curriculum that the Board establishes by regulation.

(3) A student athlete must be promptly removed from play if the athlete is suspected of sustaining a concussion or exhibits signs or symptoms of concussion until completion of assessment by a qualified health-care provider or medical clearance from a qualified health-care provider.

(4) Written clearance for return to play after a concussion must be from a health-care provider.

(e) The Board shall adopt regulations applicable to a member school regarding student athletes and awareness, recognition, and management of sudden cardiac arrest. The Board shall, through either regulation or policy adopted under regulation, do at least all of the following:

(1) Develop and make publicly available a sudden cardiac arrest information sheet that includes information regarding the nature and warning signs of sudden cardiac arrest.

(2) Prior to participating in practice or competition, require each student athlete and the athlete's parent or guardian sign and return a sudden cardiac arrest information sheet that the Board designs.

(3) Require each student athlete to complete a heart history questionnaire as part of the preparticipation physical examination.

(4) [Repealed.]

(5) Present to each coach and official sudden cardiac arrest awareness information.

(f) The Board shall adopt regulations relating to secondary and middle school interscholastic athletics that do at least all of the following:

(1) Require all coaches to obtain and maintain certification in cardiopulmonary resuscitation (CPR), first aid, and the use of an automated external defibrillator (AED). Training and certification in CPR and AED use must be consistent with national evidence-based emergency cardiovascular care guidelines.

(2) Require that each school with an athletic department or program develop an athletic Emergency Action Plan (Plan) to respond to incidents of cardiac arrest or a similar life-threatening emergency during a school athletic practice or event. The Plan must follow nationally-recognized recommendations and be venue specific, widely distributed, posted, and rehearsed annually.

(3) Require that an AED be clearly marked and easily accessible in an unlocked location at each school athletic venue and event during any school-sponsored athletic event or team practice in which students of the school are participating. The AED must be placed in accordance with nationally-recognized guidelines focused on emergency cardiovascular care.

(4) Require that AEDs be tested and maintained according to the manufacturer's operational guidelines.

(5) Require notification is provided to the Office of Emergency Medical Services regarding the AED, the type acquired, and its location.

(73 Del. Laws, c. 374, § 3; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 192, § 1; 79 Del. Laws, c. 419, § 1; 83 Del. Laws, c. 518, § 3; 84 Del. Laws, c. 217, § 2; 84 Del. Laws, c. 343, § 2; 84 Del. Laws, c. 344, § 2; 85 Del. Laws, c. 108, § 1; 85 Del. Laws, c. 404, § 1.)

## § 304. Other duties, powers, and authority [Effective until implementation of the contingency in 85 Del. Laws, c. 404, § 3].

The Board has the duties, powers, and authority necessary for the enforcement of this chapter and the regulations adopted under this chapter. Regulations under this chapter must do at least all of the following:

(1) Establish annual membership fees.

(2) Establish standing committees.

(3) Determine the existence of a violation of the regulations by a member school, athlete, coach, administrator, official, or spectator and penalize a violation by official reprimand, placement on probation, fine, suspension, or other action as the Board deems appropriate.

(4) Investigate, conduct a hearing on, and take action on an alleged violation of a regulation under this chapter that a member school, athlete, coach, administrator, official, or spectator commits.

(5) Interpret regulations made under this chapter, and conduct hearings and take action on requests for a waiver of the regulations.

(6) Establish the fee for officiating a contest or competition.

(73 Del. Laws, c. 374, § 3; 81 Del. Laws, c. 329, § 1; 83 Del. Laws, c. 518, § 4; 84 Del. Laws, c. 344, § 3.)

## § 304. Other duties, powers, and authority [Effective upon implementation of the contingency in 85 Del. Laws, c. 404, § 3].

The Board has the duties, powers, and authority necessary for the enforcement of this chapter and the regulations adopted under this chapter. Regulations under this chapter must do at least all of the following:

(1) Establish annual membership fees.

(2) Establish standing committees.

(3) Establish procedures to determine the existence of a violation of the regulations by a member school, athlete, coach, administrator, official, or spectator and penalize a violation by official reprimand, placement on probation, fine, suspension, or other action as the Board deems appropriate.

(4) Establish procedures to investigate, conduct a hearing on, and take action on an alleged violation of a regulation under this chapter that a member school, athlete, coach, administrator, official, or spectator commits.

(5) Establish procedures to interpret regulations made under this chapter, and conduct hearings and take action on requests for a waiver of the regulations.

(6) Establish the fee for officiating a contest or competition.

(73 Del. Laws, c. 374, § 3; 81 Del. Laws, c. 329, § 1; 83 Del. Laws, c. 518, § 4; 84 Del. Laws, c. 344, § 3; 85 Del. Laws, c. 404, § 2.)

## § 305. Board composition [For application of this section, see 85 Del. Laws, c. 253, § 23].

(a) The Board of Directors consists of 17 members, 15 of whom are voting members. The membership is composed as follows:

(1) The President of the Delaware Chief School Officers Association, of the Delaware Association of School Administrators, or the President's designee.

(2) Three public school principals. Each of these members must represent a different county in this State, and each member must represent a member school.

(3) One nonpublic school head of school or the equivalent, who represents a member school.

(4) Four athletic directors. Three of the members must represent a different county, and 1 member must represent a nonpublic school.

(5) One of the following professionals, who is knowledgeable about sports medicine:

a. A physician.

b. A physician associate.

c. An advanced practice registered nurse.

(6) One mental or behavioral health specialist who is employed by a member school.

(7) One athletic trainer.

(8) Three public members, 1 each appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor, and composed as follows:

a. One member may be a parent of a current or recent student athlete from a member school.

b. Each member must be a Delaware resident for at least 3 years.

c. Each member must be knowledgeable about athletics.

d. A member may not be an employee of a member school.

e. A member may not have a material financial interest in providing goods or services to the Association or a member school.

(9) The Director of Athletics, Community, and Campus Recreation of the University of Delaware, or the Director's designee. This is a nonvoting member.

(10) The Director of Athletics of Delaware State University, or the Director's designee. This is a nonvoting member.

(b) The Governor shall appoint, with the advice and consent of the Senate, each member except a member who serves by virtue of position or a member that the Speaker of the House of Representatives or President Pro Tempore of the Senate appoints under paragraph (a)(8) of this section. The Governor shall consider knowledge of athletics in general and interest in interscholastic athletics in deciding whom to appoint.

(c) (1) A member who is not appointed under this section by virtue of position serves a 3-year term and may not serve more than 3 terms or a total of 9 years. The terms may be consecutive or nonconsecutive. The Governor, Speaker of the House of Representatives, or President Pro Tempore of the Senate may appoint a member for a term of less than 3 years to ensure terms expire on a staggered basis.

(2) The member who is appointed under paragraph (a)(5) of this section has no limit to the number of years per term or number of terms that the member serves, except that the member serves at the Governor's pleasure.

(d) A member serves until a replacement is appointed under the same process as the member's appointment. A member appointed to fill a vacancy serves for the remainder of the term of the member whom that member replaces.

(e) [Repealed.]

(f) An act or vote by an individual appointed in violation of this section is invalid. An amendment or revision of this chapter is not sufficient cause for an appointment or attempted appointment in violation of this section unless the amendment or revision amends this section to permit the appointment or attempted appointment.

(g) A school district or nonpublic school may not have more than 1 member on the Board.

(h) (1) An appointing authority under this section may remove that appointing authority's member for gross inefficiency, misfeasance, nonfeasance, malfeasance, or neglect of duty in office.

(2) An appointing authority may consider that appointing authority's member who is in neglect of duty in office or ceases to meet a county representation or residency requirement to have resigned and may accept the member's resignation.

a. A member is deemed in neglect of duty if the member is absent from 3 consecutive, regular board meetings or attends less than 50% of board meetings in a calendar year, unless a majority of the board excuses the member for good cause.

b. A member ceases to meet a residency requirement if the member is no longer a resident of the county in which the member resided when appointed to the Board and the residency was a requirement of the appointment.

(i) A member who may select a designee must select the designee only from that member's organization, to serve in the member's stead and at the member's pleasure. The member must provide the designation to the chair in writing. A designee has the same duties and rights as the member the designee represents.

(73 Del. Laws, c. 374, § 3; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 247, §§ 1-9; 83 Del. Laws, c. 518, § 5; 84 Del. Laws, c. 472, § 2; 85 Del. Laws, c. 253, § 4.)

## § 306. Quorum and voting.

(a) The number of board members who must be present in order to have a quorum and conduct business is the majority of appointed members. A vacancy on the Board is not counted to determine whether quorum is met.

(b) An affirmative vote of a majority of board members is required to approve an act of the Board. A vacancy on the Board is not counted for approval of an act of the Board.

(73 Del. Laws, c. 374, § 3; 76 Del. Laws, c. 247, § 10; 83 Del. Laws, c. 518, § 6.)

## § 307. Chair; administration.

(a) The Board shall elect annually from its members a chair, vice-chair, and, as the Board deems necessary, other officers. In the event of a vacancy in 1 of the officers, the Board shall elect a replacement at its next meeting or a meeting called for that purpose.

(b) The Board shall select for hire an Executive Director to work in collaboration with the Department. The Executive Director is an employee of the Department and receives compensation commensurate with the Department salary scale at the director level.

(c) The Department shall provide an administrative assistant or equivalent to staff the Association. The administrative assistant shall receive compensation commensurate with the Department salary scales and be evaluated according to Department policies and procedures. The Department shall provide other staff to the Association as provided in the budget.

(d) The Executive Director must become a bona fide resident of the State within 6 months following the Executive Director's date of hire.

(73 Del. Laws, c. 374, § 3; 83 Del. Laws, c. 518, § 7; 84 Del. Laws, c. 342, § 1.)

## § 308. Meetings of the Board.

(a) The Board shall hold regularly scheduled meetings at least once per month and at other times as the chair deems necessary or at the request of a majority of the board members.

(b) The Board shall meet at a place within the State as it may determine. The place for each meeting must be determined prior to giving notice of the meeting.

(c) Notice of each board meeting must meet the requirements of Chapter 100 of Title 29.

(d) Each board meeting and hearing must be open to the public under Chapter 100 of Title 29.

(e) (1) Minutes of each board meeting must meet the requirements of Chapter 100 of Title 29 and the Association shall maintain copies at the offices of the Department.

(2) At a hearing in which evidence is presented, a record must be made from which a verbatim transcript can be prepared. The person requesting the transcript incurs the expense of preparing the transcript.

(f) [Repealed.]

(73 Del. Laws, c. 374, § 3; 83 Del. Laws, c. 518, § 8.)

## § 309. Secretary; powers and duties.

The Association is a unit of the Department. The Secretary shall promulgate regulations necessary to establish the Association as a unit of the Department.

(73 Del. Laws, c. 374, § 3; 83 Del. Laws, c. 518, § 9.)

## § 310. The Interscholastic Athletic Fund: payment of expenses; deposits of receipt.

(a) The expenses of the Association are paid from the Interscholastic Athletic Fund, a special fund created to fund this chapter. An appropriation that the General Assembly makes to the Department for the Association must be allocated to this fund. This fund is interest bearing.

(b) The Association may receive state appropriations, federal moneys, membership dues, tournament revenues, fees, fines, official dues, merchandising and licensing revenue, interest, and event, professional development, and scholarship sponsorships.

(c) The Association may establish special fund accounts to track revenue. A special fund account must be interest bearing and may not subject to reversion. The Association is exempt from the state bid law.

(d) The Association may not operate an account outside of the state accounting system.

(e) The Interscholastic Athletic Fund or a special fund account under this section must be utilized to support the activities and operations of Delaware interscholastic athletics and may include the purchase of general liability insurance as it relates to the rental of non-state-owned venues for sponsored events, including tournaments.

(f) The expenditure of funds from the Interscholastic Athletic Fund must be in accordance with the Division of Accounting budget and accounting procedures.

(73 Del. Laws, c. 374, § 3; 80 Del. Laws, c. 298, § 302; 83 Del. Laws, c. 518, § 10.)

## § 311. Annual report.

The Board, in consultation and cooperation with the Department, shall submit an annual report to the Governor, the General Assembly, and the Director and the Librarian of the Division of Legislative Services on or before January 31 each year.

(73 Del. Laws, c. 374, § 3; 83 Del. Laws, c. 518, § 11; 84 Del. Laws, c. 255, § 10.)

## § 312. Board decision and appeal; State Board's duties.

(a) The Board shall decide on each controversy involving a regulation under this chapter, including a waiver of the regulations promulgated under this chapter. The Board may not decide on a controversy involving a waiver under § 315 of this title, except as under § 316 of this title.

(b) The Board shall issue in writing its decision in a controversy involving a waiver of a regulation promulgated under this chapter within 20 days from the date of hearing.

(c) A party to a controversy may appeal the Board's decision, except a decision under § 316 of this title, to the State Board by doing all of the following:

(1) Stating the party's grievance in a petition.

(2) Ensuring that the petition is served on the Executive Director by certified or registered mail within 30 days after receiving notice of the decision.

(d) The State Board shall do all of the following;

(1) Rule on each appeal under this section.

(2) Provide through regulation adequate procedures for a hearing on an appeal under this section.

(3) Overturn the Board's decision only if the State Board finds that the Board's decision was not supported by substantial evidence or was arbitrary or capricious.

(73 Del. Laws, c. 374, § 3; 81 Del. Laws, c. 72, § 1; 83 Del. Laws, c. 518, § 12; 84 Del. Laws, c. 343, § 3.)

## § 313. Transfers; eligibility; periods of ineligibility.

(a) Immediate eligibility. —

(1) A student who transfers schools is immediately eligible to participate in an interscholastic athletic sport in which the student has not previously participated, upon enrollment at the student's receiving school.

(2) A student who transfers schools is immediately eligible to participate in an interscholastic athletic sport in which the student has previously participated, upon enrollment at the student's receiving school, if all of the following apply:

a. The student did not participate in the interscholastic athletic sport during the previous 180 school days.

b. The student is released from the student's sending school.

c. The student has completed the enrollment process into the student's receiving school.

d. The student is pursuing an approved course of study at the student's receiving school.

e. The student meets all other Association eligibility requirements.

(3) A student who is placed with the Department of Children, Youth and their Families is immediately eligible to participate in an interscholastic athletic sport upon enrollment at the student's receiving school.

(4) First transfer; immediate eligibility. —

A student who has participated in interscholastic athletics at the high school level during the previous 180 school days may transfer 1 time to an Association member school and be immediately eligible to participate in interscholastic athletics at the student's receiving school, if both of the following criteria are met:

a. The student's transfer is before the earliest allowable start date of the fall interscholastic athletic sport season of the student's third year of eligibility at the high school level.

b. The student does not participate in a contest in the same interscholastic athletic sport for different schools during the same school year.

(b) Subsequent transfers; period of ineligibility. —

(1) A student is subject to a period of ineligibility of 30 days or ½ of the maximum number of contests, whichever is less, for each interscholastic athletic sport in which the student participated during the previous 180 school days, if either of the following apply:

a. The student has already transferred schools at least 1 time. A student under this paragraph is not eligible to participate in the interscholastic athletic sport's post-season.

b. The student transfers after the earliest allowable start date of the fall interscholastic athletic sport season of the student's third year of eligibility at the high school level.

(2) A period of ineligibility under this subsection begins on the receiving school's first day of competition for the relevant interscholastic athletic sport.

(3) To calculate the maximum number of contests under paragraph (b)(1) of this section, the Association shall round down to the nearest whole number if the number of contests is not divided evenly.

(c) Applicability. —

Sections 313, 314, 315, and 316 of this title apply to all of the following:

(1) A student enrolled in grades 9 through 12.

(2) Each student at each level of participation in an interscholastic athletic sport, not only the varsity level.

(3) Each Association-sanctioned sport in which a student who transfers schools participated during the 180 school days preceding the transfer.

(d) Tracking form. —

The receiving school of a student seeking eligibility to participate in interscholastic athletics must submit to the student's sending school a tracking form to initiate the eligibility process. The sending school shall complete the tracking form and submit the completed form to the receiving school and the Executive Director. The tracking form must indicate whether immediate eligibility applies or which, if any, of the exceptions under § 314 of this title apply.

(84 Del. Laws, c. 343, § 4.)

## § 314. Exceptions to ineligibility.

(a) A period of ineligibility under § 313 of this title does not apply and a student is not required to seek a waiver of ineligibility if any of the following apply:

(1) McKinney-Vento Education for Homeless Children and Youth Act. —

The student's transfer is the result of the student becoming homeless, as "homeless children and youths" is defined under the McKinney-Vento Education for Homeless Children and Youths Act, 42 U.S.C. § 11434a.

(2) Court action. —

The student's transfer is the result of court action. "Court action" means an order from a court that affects a legally-committed student. A copy of the court order signed by a judge, commissioner, or master of a court of competent jurisdiction is required to meet this exception. A petition for the transfer of custody or guardianship, an affidavit, or a notarized statement signed by the affected parties is not sufficient to meet this exception.

(3) Caregivers School Authorization. —

The student's transfer is under § 202(f) of this title.

(4) Unsafe School Choice Option Policy. —

The student's transfer is based on the student attending a sending school that is a persistently dangerous school or the student is the victim of a violent felony while in or on the grounds of the sending school, and the student opts to transfer to safe school in the same school district under the Unsafe School Choice Option Policy under 14 DE Admin. Code 608.

(5) HIB transfer. —

The student's transfer is because the student experienced harassment, intimidation, or bullying at the student's sending school that resulted in the implementation of a process or policy under Chapter 41 of this title. This exception is established through documentation from the student's sending school that the sending school investigated a complaint under Chapter 41 of this title and determined that the proper action to remediate the complaint is an alternative placement or school transfer. Neither the Board nor the Executive Director may hold a hearing or investigate whether the student was harassed, intimidated, or bullied.

(6) Change at sending school. —

The student's sending school has closed or discontinued all of the school's interscholastic athletics sports programs. To establish that the sending school discontinued all of the school's interscholastic athletics sports programs, the student or sending school must submit to the receiving school and Executive Director documentation demonstrating that the sending school's interscholastic athletics sports programs have been discontinued.

(7) Change in residence. —

The student's transfer follows a change in the student's primary residence, and the change in residence was made with the intent that it is permanent and not primarily for athletic purposes. A student is eligible if any of the following apply:

a. Military assignment. —

The student's change in residence is directly related to an order from a branch of the United State military service, including a reserve component.

b. In-state change of residence. —

The student's change in residence is due to the student's family changing legal residence.

1. "Legal residence" means the family's legal habitation is fixed and the student's parent or guardian has the present intention to reside permanently at that habitation.

2. The family must have sold, rented, or disposed of the family's previous residence, and no member of the family continues to reside in the previous residence.

3. The student may not maintain dual residency for the purpose of athletic eligibility.

4. A change in residence under this paragraph (a)(7)b. includes enrollment in a new school district or attendance zone. A student's move within the student's current school district does not apply if the student is not required to transfer schools.

5. Proof of the change in residence must be provided. Methods to prove a change in residence include a utility bill, closing documents, voter registration, or other legal documentation. A change in address on a drivers license, without more, is insufficient to prove a change in residence.

c. Out-of-state change in residence. —

The student changes residences from out-of-state and into this state, and is attending a high school in this state for the first time. Paragraphs (a)(7)b.1. through 5. of this section apply to meet this exception.

(b) A student or the student's parent, guardian, or relative caretaker shall submit to the Executive Director the documentation required for the exception under this section that applies to the student.

(c) An exception under this section does not apply if the student transferred for athletic advantage.

(84 Del. Laws, c. 343, § 5.)

## § 315. Waivers of ineligibility.

(a) Waiver. —

The Executive Director shall waive ineligibility under § 313 of this title if the Executive Director determines that all of the following criteria have been established:

(1) Strict enforcement of ineligibility does not serve to accomplish the purpose of this chapter.

(2) The spirit of ineligibility under this chapter is not offended or compromised by waiving ineligibility.

(3) The principle of educational balance over athletics is not offended or compromised by waiving ineligibility.

(4) Waiving ineligibility does not result in a safety risk to a teammate or competitor.

(b) Written decision. —

The Executive Director shall issue in writing the Executive Director's decision regarding a request to waive ineligibility under this chapter. The Executive Director must issue the written decision no later than 15 days after the application for a waiver is submitted. A notice of the right to appeal under § 316 of this title must be included in the written decision.

(c) Burden of proof. —

The student who has applied for a waiver under this section has the burden of proof in establishing that the criteria under subsection (a) of this section are met.

(d) Application requirements. —

An application for a waiver under this section must include all facts relevant to the request, including sufficient information for the Executive Director to reach a determination. If an application does not include all the required documentation under subsection (e) of this section, the Executive Director may request the missing documentation. If the student does not provide the missing documentation, the Executive Director may refuse to process the application or may accept the student's reason for not providing the missing documentation.

(e) Documentation required. —

An application for a waiver under this section must include all of the following documentation:

(1) The student's official transcripts from eighth grade through the current school year and most recent report card or grade report, if the student's most recent grades are not included in the transcripts.

(2) The student's attendance records for the previous 2 years.

(3) A letter from the principal or headmaster of the student's sending school, either supporting or not supporting the waiver request.

(4) A letter from the student's parent, guardian, or relative caregiver, explaining in detail the circumstances for requesting a waiver. If the student is 18 years or older, the student or the student's parent, guardian, or relative caregiver may provide the letter.

(5) Documentation of withdrawal from the student's sending school, if applicable.

(6) Documentation of acceptance into the student's receiving school, such as an acceptance letter from the receiving school.

(7) School district choice enrollment program documents that show the date of withdrawal and the date of enrollment, if applicable.

(8) The school calendar for the student's receiving school.

(9) The student's medical records, if applicable.

(10) The student's legal documentation, if applicable.

(11) The student's individualized education plan, if applicable.

(12) Certification from the student's sending school and receiving school that the student is transferring for the reasons indicated on the student's application for a waiver, and that the student's transfer is not motivated by an athletic advantage, except as under subsection (g) of this section. If the student is unable to obtain the certification from either school, the student may submit a written statement explaining why the student is unable to obtain the certification.

(f) Date of filing. —

An application for a waiver under this section must be filed at least 30 days prior to the start of the interscholastic athletic sport season in which the student wishes to participate.

(g) Transfer for athletic advantage. —

A student who transfers from the student's sending school to receiving school for athletic advantage may apply for a waiver under this section.

(84 Del. Laws, c. 343, § 6.)

## § 316. Appeal of Executive Director's decision.

(a) A party to a controversy may appeal the Executive Director's decision under § 315 of this title to an appeals panel comprised of 3 Board members. The Board's chair shall select the 3 members of the appeals panel on a per case basis.

(b) To request an appeal, a party to a controversy must do all of the following:

(1) State the party's grievance in a petition.

(2) Ensure that the petition is served on the Executive Director by certified or registered mail within 15 days after receiving notice of the Executive Director's decision.

(c) In considering an appeal, the appeals panel shall do all of the following:

(1) Review the documents that the Executive Director considered in making the decision on the waiver.

(2) Overturn the Executive Director's decision only if the Board finds that the decision is not supported by substantial evidence or is arbitrary or capricious.

(3) Issue a decision affirming or overturning the Executive Director's decision not later than 30 days after receiving a petition under subsection (b) of this section.

(d) The appeals panel may not do either of the following:

(1) Consider evidence or documents that were not part of the information that the Executive Director considered in making the Executive Director's decision.

(2) Hold a hearing on the appeal or ask questions of the student who is the subject of the appeal.

(84 Del. Laws, c. 343, § 7.)

## § 317. Forms.

The Executive Director shall develop or approve forms necessary to implement §§ 313, 314, 315, and 316 of this title. The Executive Director may develop or approve other forms as needed to implement this chapter.

(84 Del. Laws, c. 343, § 8.)

# Part I
# Free Public Schools
## Chapter 4
## School District Enrollment Choice Program

### § 401. School District Enrollment Choice Program; establishment; statement of purpose; application.

(a) There is hereby established an enrollment choice program within the public school system of this State.

(b) In establishing this program, it is the goal of the General Assembly to increase access to educational opportunity for all children throughout the State regardless of where they may live. It is therefore the intent of the General Assembly that this chapter be construed broadly to maximize parental choice in obtaining access to educational opportunities for their children.

(c) For the school year commencing July 1, 1996, and each succeeding school year, a parent residing within this State may enroll that parent's child in a public school in any reorganized school district, vocational-technical school district, or charter school in the manner provided in this chapter.

(d) (1) The forms prescribed and policies adopted under this chapter, including the online application, shall be available on the websites of all of the following:

a. Each reorganized school district.

b. Each vocational-technical school district.

c. Each charter school.

d. The Department of Education.

(2) The Department of Education's school choice website must contain a link to the website with the reports under § 124A(a)(2) of this title.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 35, § 1; 83 Del. Laws, c. 316, § 1; 85 Del. Laws, c. 190, § 2.)

### § 402. Definitions [For application of this section, see 83 Del. Laws, c. 316, § 3].

For the purposes of this chapter, the following terms shall have the following meanings:

(1) "Application" shall mean the standard application for educational options. This application, which consists of an online application or a written application, shall be provided by the Department of Education.

(2) "District of residence" means any reorganized school district in which the parent of a student resides, and in the case of a military-connected student, means the anticipated district of residence.

(3) "Good cause" means a change in a child's residence due to a change in family residence, or a change in the state in which the family residence is located within 60 days of obtaining a new lease or mortgage, a change in a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, a change in a waitlist offer as defined in § 405(c) and (d) of this title, participation by a child in a foreign exchange program, a reported, recorded, and substantiated instance of "bullying" against their child as defined in § 4161 of this title, or participation by a child in a substance abuse or mental health inpatient or day treatment program, or a set of circumstances consistent with this definition of "good cause."

(4) "Online application" shall mean the standard application receipt and processing tool approved by the Department of Education and used by all reorganized school districts, vocational-technical school districts, and charter schools.

(5) "Parent" shall mean parent, relative caregiver pursuant to § 202(f) of this title or legal guardian of the person of the child.

(6) "Receiving district" shall mean any reorganized school district other than the district of residence in which a student seeks to enroll. Where the district of residence includes more than 1 school or more than 1 program within any school providing instruction at a given grade level, and a parent of a child entering such grade level applies to enroll that parent's child in a public school program within the district of residence other than the program in which the child would normally be enrolled based on the child's place of residence, the district of residence shall also be considered to be the receiving district for all purposes of this chapter, except for the purposes of § 408 of this title.

(7) "Receiving local education agency" shall mean any public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions, other than the school district of residence, which administers any school or program in which a student seeks to enroll, including any receiving district. Where the local education agency is the school district of residence that includes more than 1 school or more than 1 program within any school providing instruction at a given grade level, and a parent of a child entering such grade level applies to enroll that parent's child in a public school program within the district of residence other than the program in which the child would normally be enrolled based on the child's place of residence, the district of residence shall also be considered to be the receiving local education agency for all purposes of this chapter, except for the purposes of § 408 of this title. Notwithstanding § 505 of this title, the term "receiving local education agency" shall include reorganized school district, vocational-technical school district or charter school.

(8) "Working days" shall mean working days as determined by a local education agency's administrative calendar.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 242, § 6; 75 Del. Laws, c. 48, § 1; 79 Del. Laws, c. 35, § 2; 79 Del. Laws, c. 267, § 1; 79 Del. Laws, c. 323, § 1; 80 Del. Laws, c. 383, § 1; 81 Del. Laws, c. 122, § 9; 83 Del. Laws, c. 166, § 2; 83 Del. Laws, c. 316, § 1; 84 Del. Laws, c. 233, § 21.)

## § 403. Pupil application; withdrawal [For application of this section, see 83 Del. Laws, c. 316, § 3].

(a) (1) Any parent of a school age child may apply to enroll that parent's own child in a school or program in a reorganized school district, vocational-technical school district, or charter school by submitting an online application or written application, on a standard form provided by the Department of Education, to the Department of Education or to the receiving local education agency and to the district of residence on or after the first Monday in November and on or before the second Wednesday in January for enrollment during the following school year, except that a parent may apply to a receiving local education agency until the first day of the school year for enrollment in a kindergarten program during that school year. Any student not currently registered in a public school in the State of Delaware must be registered in their school of residence before submitting a Delaware standard application for education options.

(2) a. To be eligible to apply to a school or program in a receiving local education agency under paragraph (a)(1) of this section, a child must first be registered in the child's assigned public school within the district that the child would normally be enrolled based on the child's place of residence.

b. The registration required under paragraph (a)(2)a. of this section must be through the uniform registration process under Chapter 4A of this title, whether through internet-based or in person registration.

c. During the registration process under paragraph (a)(2)a. of this section, there must not be unnecessary barriers or burdens to accessing school choice opportunities.

(3) The Department of Education shall distribute applications to the appropriate receiving local education agency no later than 10 working days after the application deadlines set forth in this subsection.

(4) Receiving districts may require the submission of information beyond that contained in the standard form provided that it requires the submission of the same information by the parents of children residing in the attendance zone for the school.

(5) Notwithstanding the requirements of this subsection, charter schools, vocational-technical school districts, and magnet schools may accept applications submitted after the second Wednesday in January to fill remaining availability.

(b) If a parent of a school age child fails to file an application by the deadline established in subsection (a) of this section, and good cause exists for the failure to meet the deadline, the receiving local education agency and the district of residence shall accept and consider the application in the same manner as if the deadline had been met.

(c) The parent of a school age child may withdraw the application at any time prior to action on the application by the board of the receiving local education agency by giving written notice to the boards of the receiving local education agency and the district of residence.

(d) The parent shall indicate on the standard form the schools and programs to which the parent is applying on behalf of the parent's child, as well as the parent's order of preference of the schools or programs.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 387, § 1; 71 Del. Laws, c. 180, § 20; 71 Del. Laws, c. 242, §§ 4, 5; 75 Del. Laws, c. 48, § 2; 79 Del. Laws, c. 35, § 3; 79 Del. Laws, c. 267, § 2; 83 Del. Laws, c. 252, § 2; 83 Del. Laws, c. 316, § 1; 84 Del. Laws, c. 42, § 1.)

## § 404. Receiving district and local education agency procedures.

(a) Within 10 working days after an application deadline, the receiving district shall transmit a notice to the district of residence that it has received the application.

(b) The board of the receiving local education agency shall take action no later than the last day of February of the school year preceding enrollment to approve or disapprove an application for admission to a program in grades 1 through 12, and no later than June 15 of the school year preceding enrollment to approve or disapprove an application for admission to a kindergarten program. Charter schools, vocational-technical school districts, and magnet schools may act on applications accepted in accordance with the provisions of § 403(a) of this title to fill remaining availability.

(c) With respect to any application filed in accordance with the provisions of § 403(b) of this title, the board of the receiving local education agency shall take action to approve or disapprove the application no later than 45 days after receipt thereof, unless the application is received prior to a lottery conducted as outlined in a local education agency's enrollment policy in the case of over-enrollment.

(d) The board of the receiving local education agency shall transmit a notice of the board's action to the parent of the child, and to the board of the district of residence within 5 working days after board action.

(e) The parent who applied for the child shall notify the board of the receiving local education agency in writing no later than the third Friday in March, whether an offer is accepted or rejected.

(f) No later than November 30 of each year, the board of each receiving district shall transmit to the Department of Education notice of the capacity of each school in the receiving district for the following academic year and the projected enrollment for the following academic year. The capacity and projected enrollment figures may be revised until January 30. For the purposes of this subsection, "capacity" shall have the same meaning as set forth in § 405(d) of this title, and "projected enrollment" shall mean the total number of returning students and new attendance zone students the receiving district anticipates will enroll for the following academic year.

(g) No later than October 31 of each year, each receiving district shall hold at least 1 public information session about choice opportunities available in schools and programs in that district for the coming academic year.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 387, § 2; 79 Del. Laws, c. 35, § 4; 79 Del. Laws, c. 267, § 3.)

## § 405. Criteria for approval or disapproval [For application of this section, see 83 Del. Laws, c. 316, § 3].

(a) Each receiving local education agency shall adopt and make available a policy regarding the order in which applications for enrollment pursuant to this chapter shall be considered and the criteria by which such applications shall be evaluated.

(b) Prior to the applicable application deadline established in § 403(a) of this title, each receiving district shall adopt and make available a policy establishing criteria for acceptance or rejection of applications and setting priorities for acceptances consistent with this section. Such criteria shall be reasonably related to the nature of the program or school for which the application is submitted and may not differ from the criteria used for acceptance or rejection of applications submitted by parents of children residing in the attendance zone of the school, if applicable, except that a district shall give priority to the following categories of students in the order listed:

(1) First, to returning students who continue to meet the requirements for the program or school, including students graduating from 1 school to another within a single program;

(2) Second, to students who meet the requirements for the program or school and who seek to attend based upon the residence of the student's parent within the designated feeder pattern, if any, for the school; and

(3) Third, to the siblings of students currently enrolled in the school or in a program in accordance with paragraph (b)(2) of this section who will be returning to the school for the following academic year, provided that any siblings seeking priority under this paragraph meet the requirements for the program or school. Priority must be given to siblings of students who live in the reorganized school district where the school is located, and may be given to siblings of students who do not live in the reorganized school district where the school is located.

In addition to the above a receiving district may next give priority to students who have designated the program or school as a first, second, or third choice; to students who live within the district; to military-connected students who are the dependents of an active service member of the United States military, the Delaware National Guard, or a reserve component of the United States military; and to children of school employees; as long as they otherwise meet the criteria of the program or school. After a receiving district has admitted all qualifying students consistent with the criteria in this subsection, the receiving district, shall use a lottery process to admit additional students and generate a ranked waiting list. The Department may verify the randomness of the lottery process.

(c) Each receiving local education agency shall accept applications, in a manner consistent with the policy adopted pursuant to this subsection, until there is a lack of capacity in each school and program. Students who meet the receiving local education agency's criteria for acceptance in the policy but who are not selected due to a lack of capacity in the school or program shall be placed on a ranked waiting list maintained by the receiving local education agency until the first day of the receiving local education agency's school year for which they applied.

(d) Consistent with subsection (b) of this section, a receiving local education agency may disapprove an application because of lack of capacity in a particular program or school. For purposes of this section, "capacity" means the maximum number of students that a program or school can contain as determined solely by considerations of physical space, physical resources, specific program requirements, and class size for each grade level. For the purposes of this section, "lack of capacity" means that the school or program calculates projected enrollment for the following academic year to be at least 85% of its capacity.

(e) A district which is subject to a court-ordered desegregation plan may approve and disapprove applications in accordance with § 406(a) of this title.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 242, § 7; 79 Del. Laws, c. 35, § 5; 79 Del. Laws, c. 267, § 4; 83 Del. Laws, c. 316, § 1; 84 Del. Laws, c. 322, § 1.)

## § 406. Racial balance.

(a) If approval of all of the applications for transfer into or out of a district would result in the district being out of compliance with any applicable court-ordered desegregation plan, the district shall establish the number of majority and minority group pupils who may transfer into or out of the district.

(b) Any action by the board of the district of residence to disapprove the application pursuant to this section shall be taken no later than March 15 of the school year preceding enrollment.

(c) The board of the district of residence shall transmit a notice of the board's action pursuant to this section to the parent within 5 working days after board action.

(70 Del. Laws, c. 180, § 3.)

## § 407. Duration of enrollment in receiving district [For application of this section, see 83 Del. Laws, c. 316, § 3].

(a) (1) A pupil accepted for enrollment in a school or program pursuant to this chapter shall be entitled to remain enrolled therein until graduation from the school or completion of the program provided that the pupil continues to meet the requirements for such school or program, provided however, that upon the concurrence of the boards of both the district of residence and the receiving district, a pupil's

right to remain enrolled may be terminated prior to graduation from or completion of the program where such termination is based upon the pupil's

a. Failure to continue to comply with the receiving district's requirements for attending school or class, or

b. Multiple violations of, or one or more serious violations of, the receiving district's student code of conduct.

(2) A pupil accepted for enrollment in a school or program pursuant to this chapter shall remain enrolled therein for a minimum of 2 years unless, during that 2-year period, 1 of the following occurs:

a. A pupil graduates from the school or completes the program;

b. The pupil's parent or parents cease to be residents of the pupil's original district of residence;

c. At the conclusion of any academic year during such 2-year period, the pupil ceases to meet the academic requirements for such school or program;

d. If daycare was indicated on the relevant choice application as a reason for seeking enrollment, or if daycare was a reason for granting priority to consideration of or granting of the relevant choice application, or the provider of daycare services to the pupil ceases doing business or relocates to a location so distant from the original location as to render the original combination of daycare and choice enrollment no longer reasonably practicable for the pupil or the parent or parents of such pupil; or

e. The board of the district of residence, the board of the receiving district, and the parent or parents of the pupil agree for any reason to terminate such enrollment;

f. The provisions of paragraphs (a)(2)a. through (a)(2)e. of this section shall apply unless the receiving district, at its sole discretion, agrees to maintain a child in a choice placement. Due to the unique educational and developmental needs of primary age children, on a case by case basis, districts may grant exceptions to allow students in grades kindergarten through grade 3 to remain in school choice even if they fail to meet required educational standards;

g. The pupil's parents or guardians wish to terminate the agreement due to a set of circumstances consistent with the definition of "good cause" defined in § 402 of this title.

(b) Notwithstanding the provisions of subsection (a) of this section, a parent may apply to terminate that parent's own child's enrollment in the receiving district prior to the expiration of the minimum period established in subsection (a) of this section by submitting a written application, on a form provided by the Department of Education, to the child's then-existing district of enrollment no later than December 1 for enrollment during the following school year.

(c) If a parent of a child fails to file an application by the deadline of December 1 and good cause exists for the failure to meet the deadline, the child's then-existing district of enrollment shall accept and consider the application in the same manner as if the deadline had been met.

(d) The parent of a child may withdraw the application at any time prior to action on the application by the board of the child's then-existing district of enrollment.

(e) Within 10 working days of receiving an application to withdraw, the child's then-existing district of enrollment shall transmit a notice to the district of residence that it has received the application.

(f) The board of the child's then-existing district of enrollment shall take action to approve or disapprove the application no later than December 15 of the school year preceding enrollment.

(g) The board of the receiving district shall transmit a notice of the board's action to the parent of the child and to the board of the district of residence within 5 working days after board action.

(h) The action of a board in a child's then-existing district of enrollment to accept an application to terminate enrollment pursuant to this section shall be final; however, nothing in this subsection shall prohibit a board in its sole discretion from conditioning its approval of termination pursuant to this section upon acceptance of the child into another district or program pursuant to an application submitted in accordance with chapter.

(i) Unless accepted for enrollment in a school or program in another district pursuant to this chapter, a child whose enrollment in a receiving district concludes or terminates pursuant to this section shall automatically be re-enrolled in the child's district of residence for the ensuing school year. Any such student shall be enrolled by the district of residence according to the feeder pattern in which the child's parent resides unless, pursuant to the provisions of § 405(b) of this title, all available space has been filled by returning students, in which case the student shall apply and be considered for enrollment in any other school in the district of residence in which there is space available in accordance with the provisions of this chapter.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 20; 71 Del. Laws, c. 242, §§ 1, 2; 72 Del. Laws, 1st Sp. Sess., c. 258, § 138; 79 Del. Laws, c. 323, § 1; 80 Del. Laws, c. 383, § 1; 81 Del. Laws, c. 122, § 10; 83 Del. Laws, c. 316, § 1.)

## § 408. State and local education funding.

(a) A pupil enrolled in a receiving district pursuant to this chapter shall be included in the unit count of the receiving district for all purposes relating to the allocation of all state and federal education funding and shall not be included in the unit count of the district of residence for any such purposes.

(b) If a parent of a pupil enrolled outside the district of residence pursuant to this chapter moves during the school year to a district different from either the district of residence or the receiving district, the child's first district of residence shall continue to be responsible

for payments to the receiving district for the balance of the school year pursuant to subsection (e) of this section. The child's new district of residence shall be responsible for all such payments during succeeding years, and such payments shall be calculated as the lower local cost per pupil, as defined in subsection (d) of this section, of the new district of residence and the receiving district.

(c) The Department of Education shall annually calculate the local cost per pupil expended by each school district for each type of pupil for the school year immediately preceding and shall annually certify each district's local cost per pupil expenditure by September 1 of each year.

(d) Local cost per pupil as used in this section shall be calculated as follows:

$$\frac{\text{Total Operating Expenditure in Preceding Fiscal Year}}{\text{Total Division I Units minus Special School Units}} \times \text{Number of Pupils per Unit}$$

Where:

| | | |
|---|---|---|
| Total local Operating Expenditure in Preceding FY | = | Sum of all expenditures from local sources minus local expenditures for tuition minus local expenditures for debt service minus local expenditures for Minor Capital Improvement minus local cafeteria expenditures minus any other local expenditures deemed by the Secretary of Education to be inappropriate for inclusion for the purpose of this chapter. |
| Division I Units for each District or Special School | = | Division I Units certified by the Department of Education as of September 30 of each year |
| Pupils per Unit | = | Number of Pupils required for one particular unit of funding as specified in § 1703 of this title |

(e) The district of residence shall, except as provided for in subsection (h) of this section, pay to the receiving district the lower local cost per pupil expenditure of the 2 districts, adjusted by an inflation factor specified annually in the annual appropriations act, such payment to be made by November 30 of each year. In the case of a district of residence that has a higher local cost per pupil than the receiving district, the district of residence shall pay in to a special fund to be known as the "School Choice Fund," the difference per pupil between their local cost per pupil expenditure and that of the receiving district. The Department of Education shall establish and administer the School Choice Fund as an appropriated special fund account. Deposits by districts of residence to this account shall also be completed by November 30 of each school year.

(f) Once all payments have been made pursuant to subsections (b) and (e) of this section, the full amount in the "School Choice Fund" account shall be allocated to all receiving districts that had a local cost per pupil, as defined in subsection (d) of this section, that was higher than the district of residence for pupils choosing to attend schools in districts other than their district of residence. These funds shall be provided in a pro-rata fashion so that the gap that exists in a receiving district between the local per pupil cost in the receiving district and the amount paid by the district of residence is closed by an equal percentage in each receiving district.

(g) Once all payments have been made pursuant to subsections (b), (e) and (f) of this section, the State, from the annual appropriations made for Division III Equalization and/or that portion of the Growth and Upgrade Contingency that represents actual Division III Equalization unit growth, will provide funding to all receiving districts that had a local cost per pupil, as defined in subsection (d) of this section, that was higher than the district of residence of pupils who choose to attend school in said receiving districts. This funding will be provided to each such receiving district so that the gap that exists in such receiving district between the local per pupil expenditures in the receiving district and the amount paid by the district of residence is closed by an equal percentage in each receiving district to the extent that the actual appropriations allow.

(h) Any pupil, who because of educational need, requires services that are appropriately financed pursuant to the provisions of Chapter 6 of this title, either at the outset or subsequent to a decision to enroll in a public school other than a school in the pupil's district of residence, shall remain the financial responsibility of the district of residence. The amount of the financial obligation shall be determined in accordance with the provisions of Chapter 6 of this title.

(i) Any payment received by a local school district pursuant to this section may be used for current operations, local share of minor capital improvements, local debt service payments or to make tuition payments.

(j) In the event of any mid-year termination of a pupil's enrollment under this chapter, nothing contained in this section shall prevent the district of residence and the receiving district from entering into an agreement providing for the pro-ration of student funding between or among the district of residence, the receiving district, a successor district of residence and/or a successor receiving district.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 132, §§ 362, 363; 71 Del. Laws, c. 180, § 21; 71 Del. Laws, c. 242, § 3; 71 Del. Laws, c. 354, § 384.)

## § 409. Transportation.

(a) The parent of any child enrolled in a district other than the district of residence, or enrolled in a school within the district of residence other than the school in which the child would normally be enrolled based upon the residence of the child's parent or parents, shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the receiving district.

(b) A child in grades 6 through 12 may use an annual student bus pass under § 2901(c) of this title.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 132, § 369; 71 Del. Laws, c. 180, § 22; 76 Del. Laws, c. 280, § 404; 82 Del. Laws, c. 188, § 1.)

## § 410. Interscholastic sports [Repealed].

(70 Del. Laws, c. 180, § 3; 81 Del. Laws, c. 72, § 2; repealed by 84 Del. Laws, c. 343, § 9, effective Aug. 2, 2024.)

## § 411. Pupils suspended, expelled, or truant in district of residence.

If a child for whom an application has been submitted pursuant to this chapter has been suspended or expelled, or has been absent from school without a valid excuse for more than 15 school days during a school year, in the district of residence, the board of the receiving district may, in its sole discretion, refuse to consider the application or refuse to approve the application, or refuse to enroll the child in the receiving district until the child has been reinstated in the district of residence, provided, however that nothing in this section shall be construed to enlarge upon the authority of any district to accept for re-enrollment any student who has been expelled from a school district in this State, as such authority is limited by the provisions of § 4130 of this title. "Valid excuse" shall have the same meaning as in § 2721 of this title.

(70 Del. Laws, c. 180, § 3; 79 Del. Laws, c. 35, § 6.)

## § 412. Credits; graduation.

A pupil who has been enrolled in a receiving district and who has met that district's graduation requirements shall be granted a diploma by that district. That district shall accept credits toward graduation requirements that were awarded by another district.

(70 Del. Laws, c. 180, § 3.)

## § 413. Discipline not affected.

Nothing in this chapter shall be deemed to affect or alter district policies with regard to disciplining students, including suspensions or expulsions.

(70 Del. Laws, c. 180, § 3.)

## § 414. Intra-district choice.

Where the district of residence includes more than one school or more than one program within any school providing instruction at a given grade level, a parent of a child entering such grade level may apply to enroll that parent's own child in any public school program within the district of residence other than the program in which the child would normally be enrolled based on the child's place of residence in the manner provided in this chapter, and in such cases, the district of residence shall also be considered to be the receiving district for all purposes of this chapter, except that the provisions of § 408 of this title shall not apply to any such applications or changes in enrollment.

(70 Del. Laws, c. 180, § 3; 70 Del. Laws, c. 186, § 1.)

# Part I
# Free Public Schools
## Chapter 4A
## Uniform Public School Registration Process

(83 Del. Laws, c. 252, § 1.)

### § 401A. Definitions.

For purposes of this chapter:

(1) “Charter school” means a public school established under Chapter 5 of this title.

(2) “Department” means the Department of Education.

(3) “Parent” means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(4) “Public school” means a school district or charter school.

(5) “Receiving local education agency” means as defined under § 402 of this title.

(6) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(83 Del. Laws, c. 252, § 1.)

### § 402A. Establishment of a uniform public school registration process.

(a) The Department shall establish a uniform public school registration process to be used by a parent to register a child for school in the public school system for the first time. The process must meet the requirements under §§ 403A and 404A of this title.

(b) Beginning the 2023 through 2024 school year, all public schools shall use the uniform public school registration process and shall enable registration access to that year, and each subsequent school year, before the application period for the school district enrollment choice program under § 403 of this title begins.

(c) The Department shall seek feedback from public schools and parents to guide ongoing improvements to the uniform public school registration process.

(83 Del. Laws, c. 252, § 1.)

### § 403A. Uniform public school registration process and information collection requirements.

(a) The uniform public school registration process established under § 402A of this title must meet both of the following:

(1) Be available through the Internet and in paper form.

(2) Be available in English and Spanish.

(b) The uniform public school registration process established under § 402A of this title may be made available in languages in addition to English and Spanish.

(c) The uniform public school registration process established under § 402A of this title must include all of the documents required to be completed by a parent who is registering a child for public school for the first time and must permit a public school to require additional information or documents. Additional information or documents required by a public school must be approved by the Secretary of the Department.

(d) If a child is entering pre-kindergarten or kindergarten, the uniform public school registration process established under § 402A of this title must collect information related to the types of early learning experiences the child has had before entering pre-kindergarten or kindergarten, including the duration and time attended for each experience.

(e) A public school must be certified by the Department as completing the training provided under § 405A(1) of this title before providing paper forms as part of the uniform public school registration process.

(f) The Department shall provide to each public school information about the uniform public school registration process that the public school must post on the public school’s website and include in other publications produced by the public school.

(g) After a parent has completed the registration process, the public school shall provide the parent with all of the following information, as applicable:

(1) The public school in which the parent’s child is enrolled.

(2) The specific school to which the parent’s child is assigned based on the child’s place of residence.

(3) Information about the school choice process under Chapter 4 of this title, including that the school choice process is a process separate from the uniform public school registration process.

(83 Del. Laws, c. 252, § 1.)

## § 404A. Internet-based uniform public school registration process requirements.

(a) The internet-based uniform public school registration process established under § 403A of this title must do all of the following:

(1) Require a parent to do the following:

a. Complete the online registration process.

b. Provide proof of immunizations.

c. For a registration of a child in prekindergarten or kindergarten, provide a completed common statewide physical exam form that includes all up-to-date American Academy of Pediatrics Bright Futures Schedule of Periodicity screening and preventative recommended measures. The common statewide physical exam form must include information to prove lead screening as required by Chapter 26 of Title 16.

d. Provide proof of age or date of birth.

e. Provide proof of residency documents.

f. For registration of a child in prekindergarten or kindergarten, provide a completed statewide, approved developmental screening that includes social and emotional components and is less than 12 months old at the time of submission or complete the developmental screening as part of the registration process.

(2) Record the date a parent registers a child for the first time.

(3) Report the number of children registered during a given month.

(4) Within 48 hours of a request to transfer information, enable information provided by a parent to be transferred, with parental approval and on verification of contact and residency information, to another public school when a child's school district of residence changes or a parent applies to enroll the parent's child in a receiving local education agency under Chapter 4 of this title.

(5) Permit any relevant personal document required by a public school to be uploaded using the internet-based uniform public school registration process.

(b) A public school shall provide computer access so that a parent may use the internet-based uniform public school registration process to register a child for school in the public school system for the first time.

(83 Del. Laws, c. 252, § 1; 85 Del. Laws, c. 390, § 1.)

## § 405A. Department duties.

The Department shall:

(1) Provide training on the uniform public school registration process established under this chapter to public school employees who are assigned to assist parents with the uniform public school registration process, including specific training related to the paper-based, in-person registration process.

(2) Issue guidelines for privacy of information submitted as part of the uniform public school registration process.

(83 Del. Laws, c. 252, § 1.)

## § 406A. Regulatory authority.

The Secretary of the Department may promulgate regulations necessary to implement this chapter.

(83 Del. Laws, c. 252, § 1.)

# Part I
# Free Public Schools
## Chapter 5
## Charter Schools

### § 501. Legislative intent.

The purpose of this chapter is to create an alternative to traditional public schools operated by school districts and improve public education overall by establishing a system of independent "charter" schools throughout the State.

To that end, this chapter offers members of the community a charter to organize and run independent public schools, free of most state and school district rules and regulations governing public education, as long as they meet the requirements of this chapter, and particularly the obligation to meet measurable standards of student performance. Schools established under this chapter shall be known as "charter schools."

This chapter is intended to improve student learning; encourage the use of different and innovative or proven school environments and teaching and learning methods; provide parents and students with measures of improved school and student performance and greater opportunities in choosing public schools within and outside their school districts; and to provide for a well-educated community.

There shall be no limit to the number of charter schools that may be established in the State; provided, however, that no more than 5 such schools may be established to operate in the 1996-1997 school year, and that no more than 5 additional charter schools may be established to operate in the 1997-1998 school year, and that no more than 5 additional charter schools may be established to operate in the 1998-1999 school years. If for any school year more charters are awarded than are permitted to operate by this section, the Department of Education shall hold a lottery to decide which charters are permitted to operate in such school year and charter applicants who lose such lottery shall be given a right of refusal for a charter for the subsequent school year.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 180, § 23; 73 Del. Laws, c. 164, § 23.)

### § 502. Potential charter organizers.

This legislation is intended to encourage any person, university, college, or nonreligious, non-home-based, nonsectarian entity that can meet the requirements of this chapter to form a charter school. No private or religiously affiliated school may apply to become a charter school.

(70 Del. Laws, c. 179, § 2.)

### § 503. Legal status.

A charter school is a public school including 2 or more of grade kindergarten through 12 managed by a board of directors, which operates independently of any school board, under a charter granted for an initial period of 4 school years of operation and renewable every 5 school years thereafter by a public school district or the State Department of Education (hereinafter in this chapter, "Department") with the approval of the State Board of Education (hereinafter in this chapter, "State Board"), pursuant to this chapter. For purposes of this chapter as it relates to the management of a charter school, the board of directors of a charter school shall be a public body subject to the requirements of Chapter 100 of Title 29 and shall have the same standing and authority as a Reorganized School District Board of Education, except the power to tax.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 180, § 24; 73 Del. Laws, c. 164, § 1; 74 Del. Laws, c. 360, § 1; 79 Del. Laws, c. 321, § 1.)

### § 504. Corporate status.

(a) A charter school shall be organized and managed under the Delaware General Corporation Law.

(b) The board of directors of a charter school shall be deemed public agents authorized by a public school district or the Department with the approval of the State Board to control the charter school. No person shall serve as a member of a charter school board of directors who is an elected member of a local school board of education.

(c) A charter school shall be considered a public school for all purposes.

(d) A charter school may sue or be sued to the same extent and on the same conditions as a public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of public school districts and other public schools. The approving authority of a charter school shall have no liability for the actions or inaction of a charter school.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 180, § 25; 72 Del. Laws, c. 118, § 4.)

### § 504A. Powers.

Consistent with its charter and the provisions of its certificate of incorporation, bylaws or membership agreements, the board of directors of a charter school or schools shall, as to each charter that the board holds, have the power to:

(1) Manage the implementation of its approved education program;

(2) Determine its own budget and operating procedures;

(3) Acquire and convey interests in real property, subject to rules and regulations established by the Department with the approval of the State Board with respect to real property acquired by charter schools using state funds;

(4) Incur debt;

(5) Accept gifts;

(6) Contract with any school district, or any other public school or private nonsectarian, nonreligious entity also empowered to enter into contracts, for any and all real property, equipment, goods, supplies and services; provided, that a school district must make unused buildings or space (defined as space no longer needed, permanently or temporarily, for non-charter school purposes) buildings or space in buildings available to a charter school, and shall bargain in good faith over the cost of rent, services and maintenance related to such space; provided further, that a charter school may, with the approval of the Secretary and the State Board for the sole purpose of determining compliance with this proviso, contract with a sectarian or religious college or university incorporated in the State and operating a program or programs for teacher education within the State empowered to enter into contracts for such property and services, so long as the property contracted for is used in a nonreligious and nonsectarian manner and the services contracted for are provided in a nonreligious and nonsectarian manner and are of a nonreligious and nonsectarian type. A charter school's continued use of school district space shall be subject to review at least on a 5-year basis, and may be terminated by the district with 1 year's notice, if the district's non-charter school capacity requirements warrant. Charter schools shall have preference over state agencies for purposes of § 1057(b) of this title except that nothing in this section shall require the displacement of any tenant either during the term of its current lease or any renewal thereof;

(7) Hire, manage, and terminate any school employee in accordance with the terms of its personnel policies or any collective bargaining agreement it negotiates with its employees;

(8) Establish reasonable academic and disciplinary standards specifically related to the missions, goals and educational objectives for the charter school as set forth in its charter for students to continue enrollment in the charter school; provided, however, that an expulsion from a charter school shall have the same effect for the purposes of § 4130 of this title as expulsion from a school district. Charter schools may refer students to the alternative programs operated pursuant to the provision of Chapter 16 of this title subject to the following conditions:

a. A student may only be referred to a program which serves that student's district of residence and only if there is space available in such program to serve the student;

b. The student otherwise meets eligibility criteria for students who may be enrolled in such program; and

c. The student's district of residence and the charter school in which the student is enrolled agree to a proration of student funding between or among the charter school and the school district in which the student resides, in which case the district of residence shall become liable for any cost associated with the placement of the student in the alternative program;

(9) Establish an application and admissions process which shall enable the charter school to provide the local districts in which its students reside with a preliminary roster of its students for the subsequent school year on or before May 1 of each year. Each charter school shall make the timetable for its application and admissions process identical to any such timetable set forth by this Code for the operation of a public school choice program.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 82, §§ 1, 2; 71 Del. Laws, c. 180, § 25; 73 Del. Laws, c. 164, § 2; 78 Del. Laws, c. 187, § 1; 79 Del. Laws, c. 321, § 1.)

## § 504B. Open meetings.

(a) For purposes of this section:

(1) "Agenda items" means major issues expected to be discussed at a public meeting, and excludes procedural items such as votes to approve minutes or enter into executive session.

(2) "School board" means the board of directors of a charter school.

(b) School board meetings must include time for public comment on agenda items that are subject to a vote. Public comment on agenda items must take place before a school board vote on agenda items. The school board may impose reasonable time, place, and manner restrictions on the length of the public comment period and the amount of time allotted for each public comment.

(c) A method for the public to remotely attend and provide public comment at school board meetings must be provided.

(84 Del. Laws, c. 14, § 2; 85 Del. Laws, c. 182, § 1.)

## § 505. Exemptions; rules and regulations.

(a) Except as otherwise specified in this chapter and title, a charter school is exempt from all provisions of this title except the provisions of Chapter 31 of this title, and all regulations of any board of education of a reorganized school district, although a charter school may elect to comply with 1 or more such provisions.

(b) The Department of Education shall have the authority to promulgate rules and regulations that would further define the application, approval criteria and processes.

(70 Del. Laws, c. 179, § 2; 72 Del. Laws, c. 118, § 1; 73 Del. Laws, c. 164, § 6; 73 Del. Laws, c. 313, § 3.)

## § 506. Restrictions [For application of this section, see 83 Del. Laws, c. 316, § 3].

(a) A charter school may not do any of the following:

(1) Charge tuition, except in accordance with Chapter 6 of this title, or collect fees not permitted to be assessed by other school districts.

(2) Be home-based nor engage in any sectarian or religious practices in its educational program, admissions policies, employment policies or operations.

(3) Restrict student admissions except:

a. By age and grade;

b. By lottery in the case of over-enrollment;

c. By gender in the case of a same-gender school, except that there may not be more than 1 same-gender school for each gender operating simultaneously, and any same-gender charter school authorized prior to June 30, 2014, may have their charter renewed and continue to operate. Any subsequent same-gender charter school that seeks to operate in the State shall make its application to the Department of Education and the State Board of Education.

d.–g. [Repealed.]

(4) a. Discriminate against any student in the admissions process because of race, creed, color, sex (except in the case of a same-gender school), disability, military status, or national origin, or because the student's school district of residence has a per student local expenditure lower than another student seeking admission.

b. For the purposes of this subsection:

1. "Military status" means status as any of the following:

A. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.

B. A "veteran" as defined in 38 U.S.C. § 101.

C. A "dependent" of a servicemember as defined in 50 U.S.C. § 3911.

2. "Protective hairstyle" includes braids, locks, and twists.

3. "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

(5) Be formed to circumvent a court-ordered desegregation plan.

(b) Preferences in student admissions may be given to:

(1) Siblings of students currently enrolled at the school;

(2) Students attending an existing public school converted to charter status. Parents of students at a school converted to charter status shall be provided with a plan the district will use to address the educational needs of students who will not be attending the charter school;

(3) Students enrolling in a new (nonconverted) charter school may be given preference under the following circumstances as long as the school has described its preferences in the school's charter:

a. Students residing within a 5-mile radius of the school;

b. Students residing within the regular school district in which the school is located;

c. Students who have a specific interest in the school's teaching methods, philosophy, or educational focus;

d. Students who are at risk of academic failure;

e. Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.

(4) Children of a school's founders, so long as they constitute no more than 5% of the school's total student population. For the purposes of this paragraph "founder" shall not include anyone whose sole significant contribution to the school was monetary, but otherwise shall be determined by the founding Board of Directors subject to Department of Education regulations.

(5) Military-connected students who are the dependents of an active service member of any of the following:

a. The United States military.

b. The Delaware National Guard.

c. A reserve component of the United States military.

(c) (1) On or before April 1 of each school year, a charter school shall have enrolled, at a minimum, 80% of its total authorized number of students, and the administrator of each charter school shall, pursuant to the requirements below, provide a written certification of that enrollment to the Department of Education and to the superintendent of each public school district in which 1 or more of the charter school's students reside.

(2) The certification from the charter school's administrator shall contain an updated roster of students who are enrolled at the charter school, together with their home address and district of residence.

(3) A charter school shall obtain a written confirmation, signed by a parent or guardian of each student in that student's initial year of attendance at the charter school, that the student will remain in the charter school for at least 1 school year. That confirmation shall include a statement reading:

"I understand that my child is required to remain in this charter school, in the absence of any condition constituting good cause, for at least 1 school year"

and shall be kept on file at the school and made available for inspection to Department of Education officials or representatives from the public school district in which the student resides. After a student's initial year of enrollment, it shall be presumed for school district planning purposes only that the student will continue to attend the charter school until completion of the school's highest grade level and no further written confirmation need be obtained by the charter school.

(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement. For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, or a change in the state in which the family residence is located within 60 days of obtaining a new lease or mortgage, a change in a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, a change in a waitlist offer as defined in § 405(c) and (d) of this title, participation by a child in a foreign exchange program, participation by a child in a substance abuse or mental health inpatient or day treatment program, a reported, recorded and substantiated instance of "bullying" against their child as defined in § 4161 of this title, mutual agreement by the board of directors of the charter school, the board of the receiving district and the parent or parents or guardian of such child to the termination of such enrollment, or a set of circumstances consistent with this definition of "good cause."

(e) If at any time during any fiscal year of its existence, a charter school knows or reasonably should know that it has or will become unable to pay in full its projected expenses as they fall due, the school shall immediately so advise the Department of Education and its authorizer, and shall provide the Department with all financial information relating to revenues and expenses of the school necessary for the Department to determine the extent and cause of any potential operating deficit. If a charter school should fail to provide the notice to the Department of Education and authorizer required by this subsection or shall fail to cooperate with the Department in the production of financial information pursuant to this subsection, the authorizer shall subject the school's charter to formal review pursuant to the provisions of § 515 of this title in order to determine whether grounds exist to take remedial measures.

(f) If a child would qualify for a no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program, beginning in the 2014-2015 school year, the charter school shall provide breakfast and lunch to the child at no or low cost to the child's family. Charter schools shall not consider whether a child would qualify for no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program when making enrollment decisions.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 367, § 1; 72 Del. Laws, c. 118, § 2; 72 Del. Laws, c. 312, § 1; 72 Del. Laws, c. 316, §§ 1, 2; 73 Del. Laws, c. 164, § 24; 73 Del. Laws, c. 313, §§ 2, 7, 11; 74 Del. Laws, c. 327, § 1; 76 Del. Laws, c. 202, §§ 1-6; 79 Del. Laws, c. 51, §§ 1, 2; 79 Del. Laws, c. 321, § 1; 79 Del. Laws, c. 323, § 2; 80 Del. Laws, c. 383, § 2; 81 Del. Laws, c. 122, § 11; 83 Del. Laws, c. 13, § 9; 83 Del. Laws, c. 316, § 2; 84 Del. Laws, c. 322, § 2; 85 Del. Laws, c. 104, § 3.)

## § 507. Labor relations.

(a) A public school may only be converted to a charter school by approval of the board of the school district in which it is located and that the charter application received the approval of over 50% of the teachers and over 50% of the parents residing in the attendance area of the school with a child or children under the age of 18 years, who, after 30 days prior written notice to all teachers and parents eligible to vote, attend a public meeting held for the specific purpose of voting on the proposed conversion; provided, however, that such approval shall not be required where a district school board converts a choice school or program with a specific career or academic subject matter focus already approved as of the effective date of this chapter to a charter school with the same focus. The employees of a school converted to a charter school who are not employed by the charter school shall be accorded the rights available to them under the provisions of their collective bargaining agreement and shall, to the extent permissible under their collective bargaining agreement, be given preference in filling positions in the school district.

(b) The employees of a school converted to charter status and who are employed by the charter school shall not be part of any bargaining unit which represented employees of the school while it was still part of the school district. Employees of charter schools shall have the same right to organize and bargain collectively as employees of other public schools. A bargaining unit shall not be deemed inappropriate under Chapter 40 of this title, simply because said unit is comprised of professional and nonprofessional positions within a charter school. A teacher may be a member of a bargaining unit and serve as a director of a charter school provided; however, that any teacher who is a director of a charter school shall recuse oneself from any board meeting, discussion or decision relating to the bargaining unit of which such teacher is a member.

(c) (1) Labor relations between the charter school and its employees shall be governed by Chapter 40 of this title, and a charter school and its employees may agree through the collective bargaining process to abide by other provisions of this title or Code.

(2) For the purposes of this section:

a. "Instructional administrator" means a charter school administrator who supervises and evaluates educators, instructs students by means of designing and implementing curriculum or who instructs, trains, mentors, or coaches teachers.

b. "Noninstructional administrator" means a charter school administrator whose role is to oversee and manage operational aspects of the school that focus on supporting the logistical and functional aspects of the school environment, and ensure that essential services and resources are effectively coordinated and utilized. A noninstructional administrator's responsibilities may include finance, transportation, nutrition, facilities management, safety and security, human resources, and technology infrastructure.

c. “Qualified alternative certification program” means one which aligns with all requirements as specified in Chapter 12 of this title and its implementing regulations.

(3) Except as otherwise provided in this section, all educators, as the term is defined in Chapter 12 of this title, working in charter schools must be licensed and certified pursuant to Chapter 12.

a. Teachers. —

For any school year in which there is no qualified alternative certification for a specific content area, a charter school may, where it deems it beneficial to the success of its educational program, hire teachers that are not fully certified and licensed so long as such teachers have at least a bachelor’s degree in the content area in which they are teaching and comprise no more than 35% of the teachers at the school.

b. Administrators. —

Instructional administrators working in a charter school must be licensed and certified as administrators. Noninstructional administrators are not required to be licensed and certified as administrators pursuant to Chapter 12.

c. Specialists. —

Specialists working in a charter school must be licensed and certified as specialists pursuant to Chapter 12 of this title.

(4) Notwithstanding any provision to the contrary, the charter school administrator who reports directly to the charter board of directors shall not be required to be licensed or certified. A charter school may, where it deems it beneficial to the success of its educational program, request permission from the authorizer to hire more than 1 administrator who reports directly to the charter board of directors who is not licensed or certified. If the authorizer does not approve the request, the authorizer shall provide the rationale for the denial in writing explaining why granting the request is not in the best interest of the charter school’s educational program. In the case where the charter school administrator who reports directly to the charter board of directors is not licensed or certified, the charter school shall ensure there is at least 1 instructional administrator who is licensed and certified as an administrator to oversee instructional activities.

(d) At their request, teachers employed by any school district in the State, but not teachers employed by another charter school, shall be granted a 1-year leave of absence to teach in a charter school during the charter school’s first year of operation only or such leave as is provided in the collective bargaining agreement of the school district. At the end of that period, they shall be allowed to return to the school district with the same level of seniority as when they left to take the leave of absence, provided that they have not been terminated for cause while at the charter school, that they have given the school district notice of their intent to return on or before the April 15 preceding the school year in which they intend to return, and according to the provisions of their collective bargaining agreement in effect in the school district. This level of seniority shall also be used for determination of their tenure in accordance with Chapter 14 of this title. Notwithstanding any of the foregoing to the contrary, teachers who, prior to June 20, 2002, were granted a leave of absence to teach in a charter school shall be permitted to complete the full period of leave then granted. Effective March 15, 2002, and each succeeding year thereafter, teachers desiring to return to the local school district on a valid leave of absence shall notify such district of that teacher’s own intent in writing no later than March 15 of any year for the succeeding school year.

(e) A charter school may choose to be covered by the state retirement system established by Chapter 55 of Title 29 or choose another retirement system in lieu of the state retirement system. If the charter school chooses a retirement system other than the state retirement system, a memorandum of understanding must be executed as required by § 512(9) of this title.

(f) Effective March 1, 2002, and each succeeding year thereafter, charter school boards that desire to dispense with the services of any teacher on leave from a Delaware public school district shall give notice in writing to such teacher on or before March 1 of any year of its intent to terminate said teacher’s services at the end of such school year.

(70 Del. Laws, c. 179, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 354, § 385; 73 Del. Laws, c. 164, §§ 7, 8, 25; 73 Del. Laws, c. 292, §§ 1-3; 79 Del. Laws, c. 321, § 1; 81 Del. Laws, c. 282, § 6; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 417, § 1.)

## § 508. Responsibility for student transportation.

(a) (1) A charter school may do 1 of the following:

a. Request to have the school district where the charter school is located transport students residing in that district, at fair cost, to and from the charter school on the same basis offered to other students attending schools operated by the district.

b. Receive from the State a payment equal to 70% of the average cost per student of transportation within the vocational district in which the charter school is located and become responsible for the transportation of those students to and from the charter school.

(2) A school district receiving a request under paragraph (a)(1)a. of this section from a charter school may deny the request.

(3) If a school district denies a request under paragraph (a)(2) of this section, the charter school is to receive the payment under paragraph (a)(1)b. of this section.

(b) If a charter school utilizes a contractor for student transportation, the charter school may do any of the following:

(1) Publically bid the transportation routes, either alone or with other local education agencies.

(2) Negotiate a contract for 1 or more years for contractor payment for school transportation up to the maximum rate under subsection (a) of this section.

a. If a transportation contract includes a fuel adjustment provision, the charter school is responsible for increased payments to the contractor.

b. If a transportation contract is for multiple years, all of the following apply:

1. Funding for the contract is guaranteed by state funds for the first year of the contract.

2. Funding for each year after the first year of the contract is a local commitment until the allocation under subsection (a) of this section is determined for that year.

(c) A charter school may choose to offer annual student bus passes under § 2901(c) of this title.

(d) Notwithstanding any provisions under this section, a student at a charter school shall receive such transportation assistance as is made available to students pursuant to a public school choice program established by this Code provided that such student otherwise meets the eligibility requirements for such assistance.

(e) If a charter school chooses to transport students itself, the charter school shall do so in accordance with all public school transportation safety regulations.

(f) Local school districts and charter schools shall cooperate to ensure that the implementation of this chapter does not result in inefficient use of state appropriations for public school transportation and the State Board shall exercise its authority to approve bus routes so as to avoid such waste.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 132, § 373; 73 Del. Laws, c. 312, § 314; 75 Del. Laws, c. 89, § 407; 76 Del. Laws, c. 280, § 405; 78 Del. Laws, c. 290, § 334; 82 Del. Laws, c. 188, § 2; 84 Del. Laws, c. 29, § 1.)

## § 509. School financing.

(a) Charter schools shall be eligible for public funds under procedures established by this section. Notwithstanding that this Code may establish procedures for the funding of a public school choice program and that such program may include charter schools among those schools which students may choose, funding for charter schools shall be as provided in this section.

(b) A charter school shall receive a payment with respect to each of its students equal to:

(1) From the State on or before December 31, the funding equivalent to the Division I staffing, including fractional funding of partial units, excluding funding for a Superintendent, Division II — All Other Costs and Energy funding, minor capital improvements and school building maintenance funded generated by the annual student unit count conducted on September 30 of each year in accordance with Department of Education regulations. Minor capital improvements shall be funded in the same manner as the Vocational Technical School Districts. In the case of Division III — Equalization, a charter school shall receive from the State an amount that is determined by weighting the Division III per unit values that would have been generated by its students had they been counted in their district of residence. In addition, a charter school shall receive a prorated portion of any other funds appropriated to the Department of Education that are intended to be allocated on a student, employee or school state share. For the purposes of calculating such funding, each charter school student shall be counted in a separately reported unit count of the charter school, and not counted for any purposes in the student's district of residence. For any partially funded unit generated at a charter school, the charter school is free to negotiate the use of such unit with the chartering district, and other public school districts, in order to purchase central custodial, administrative, clerical, direct teaching or educationally related services. If such an agreement is not negotiated, a payment based on the average State cost per unit shall be payable to both the charter school and the district issuing the charter, provided that the sum of both fractions justifies an additional unit. The State shall advance 75% of the anticipated funding pursuant to this subsection at the beginning of each fiscal year, provided that the charter school has provided the Department of Education with a preliminary roster of its students on or before May 1 of such year, and does not maintain the status of formal review or probation. The status of formal review or probation shall prompt the Department of Education to advance a level of funding appropriate to pending administrative action. A final roster shall be due September 30. Notwithstanding the above, a charter school in its first year of operation shall receive 50% of the anticipated funding pursuant to this subsection at the beginning of the fiscal year, provided that the charter school has provided the Department of Education with a preliminary roster of its students on or before May 1 of such year. The charter school shall receive an additional 25% of the funding due pursuant to this subsection on October 1 of its first year in operation and shall receive the remaining 25% on February 1 of its first year in operation, provided that the school has completed and posted the required standardized financial report forms and the Department has reviewed those forms and determined that the school's finances will not at that time lead the Department to submit the school for formal review pursuant to § 515 of this title. A determination that the school will be submitted for formal review shall prompt the Department of Education to advance a level of funding appropriate to pending administrative action. The percentage of funding to be provided to charter schools on July 1 and October 1 pursuant to the above may be increased in the Secretary's discretion.

(2) From the school districts in which its students reside on or before December 31 of each year, the local cost per student (regular or special education, as the case may be), net of transportation expenses provided for pursuant to § 508 of this title. The school districts in which its students reside shall advance at least 35% of the anticipated funding pursuant to this subsection at the beginning of each fiscal year provided that the charter school has provided the school districts of residence with a preliminary roster of its students on or before May 1 of such year. This advance may be paid from Division III — Equalization funds if the district's prior fiscal year current expense local funds balance was 20% or less pursuant to § 1507 of this title. A final roster shall be due September 30. In the event of the failure of a school district to make timely payments to a charter school as required in this paragraph, the Department of Education

shall have the authority to direct transfer of such funds from future State funding allocations after the school district receives reasonable notice and an opportunity to be heard, as set forth in the rules and regulations established by the Department.

(c) If a parent or legal guardian of a student enrolled outside the district pursuant to this chapter moves during the school year to a district different from the district in which that parent's or legal guardian's child resided at the time of the annual unit count, the child's first district of residence shall continue to be responsible for payments to the charter school for the balance of the school year pursuant to paragraph (b)(2) of this section. The child's new district of residence shall be responsible for all such payments during succeeding years.

(d) The Department of Education shall annually calculate the local cost per student expended by each school district for each type of student for the year immediately preceding based on the formula set forth in subsection (e) of this section, adjusted by a factor necessary to fund the charter school on a basis reasonably equivalent to the current year local cost per student, which factor shall be established in the annual Appropriations Act. The Department shall annually certify each local district's local cost per student expenditure by September 1 of each year.

(e) Local cost per student as used in this section shall be calculated as follows:

$$\frac{\text{Total Local Operating Expenditure in Preceding Fiscal Year}}{\text{Total Division I Units minus Spec School Units}}$$

Number of Pupils per Unit

Where:

| | | |
|---|---|---|
| Total local Operating Expenditure in Preceding FY | = | Sum of all expenditures from local sources minus local expenditures for tuition minus local expenditures for debt service minus local expenditures for Minor Capital Improvement minus local cafeteria expenditures minus any other local expenditures deemed by the Secretary of Education to be inappropriate for inclusion for the purpose of this chapter. |
| Division I Units For each Districtor Special School | = | Division I Units certifiedby the Department of Educationas of September 30 of eachyear |
| Pupils per Unit | = | Number of Pupils required for one particular unit of funding asspecified in § 1703 of this title. |

(f) For any student, who because of educational need requires services that are appropriately financed pursuant to the provisions of Chapter 6 of this title, either at the outset or subsequent to a decision to enroll in a charter school, the student's district of residence shall remain financially responsible for such student and the charter school shall receive from such district a payment determined in accordance with the provisions of Chapter 6 of this title.

(g) Any payment received by a charter school pursuant to this section may be used for current operations, minor capital improvements, debt service payments or tuition payments. Charter schools shall submit a centralized annual report to include a staff salary section that details pay, increases, and benefits provided for each fiscal year. Reported pay increases must demonstrate how the charter school used all additional appropriated funds from the General Assembly. The report shall be submitted to the Chief Clerk of the House of Representatives, the Secretary of the Senate, the Office of the Controller General, and the Office of Management and Budget. The report shall be due no later than December 31 of each year.

(h) The Department of Education, in consultation with the Office of Management and Budget, shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by this State or by school districts in this State and that may be suitable for the operation of a charter school. The Department of Education, in consultation with the Office of Management and Budget, shall make the list available to applicants for charter schools and to existing charter schools. The list shall include the address of each building, a short description of the building and the name of the owner of the building.

(i) In return for the receipt by a charter school of state funds allocated directly to the school for extra time, professional development, driver education or disciplinary programs, the school shall provide such programs.

(j) If after September 30, a pupil ceases to be enrolled in a charter school and is thereafter enrolled in a reorganized school district for the balance of the fiscal year, nothing contained in this section shall prevent a charter school which has received any funding for the student and the school district in which the student is subsequently enrolled from entering into an agreement providing for the proration of student funding between or among the charter school and the school district in which the student is subsequently enrolled. Funding in any subsequent fiscal year shall be as otherwise provided in this Code.

(k) A charter school shall display on its website all financial reporting documents as specified in § 513 of this title.

(*l*) Charter schools shall have the same access to conduit bond financing as any other nonprofit organization, and no state or local government unit may impose any condition or restriction on a charter school's approval solely because the applicant is a public charter school. It is the further intent that a charter school shall apply for conduit funding to issuers within the State unless more favorable terms may be found elsewhere.

(m) The Department of Education shall administer a performance fund for charter schools, to be known as the "Charter School Performance Fund." The Department of Education shall establish threshold eligibility requirements for applicants desiring to apply for funding, which shall include but not be limited to a proven track record of success, as measured by a performance framework established by the charter school's authorizer or comparable measures as defined by the Department. The Department of Education shall also establish criteria to evaluate applications for funding, which shall include but not be limited to the availability of supplemental funding from nonstate sources at a ratio to be determined by the Department. The Department of Education shall prioritize those applications from applicants that have:

(1) Developed high-quality plans for start-up or expansion; or

(2) Serve high-need students, as defined by the Department.

The Fund shall be subject to appropriation and shall not exceed $5 million annually.

(70 Del. Laws, c. 179, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 132, §§ 360, 361; 71 Del. Laws, c. 180, § 26; 71 Del. Laws, c. 354, § 383; 72 Del. Laws, c. 395, § 351; 73 Del. Laws, c. 164, §§ 9, 10; 75 Del. Laws, c. 88, § 16(2); 75 Del. Laws, c. 89, § 425; 78 Del. Laws, c. 77, § 33(b); 78 Del. Laws, c. 187, §§ 2, 3; 79 Del. Laws, c. 51, §§ 3, 4; 79 Del. Laws, c. 321, § 1; 84 Del. Laws, c. 295, § 382.)

## § 510. State assistance.

(a) The Department of Education shall distribute information announcing the availability of the charter school program, explaining the powers and responsibilities of a charter school contained in this chapter, and describing the application process to each school district and public post-secondary educational institution, and through press releases to each major newspaper in the State.

(b) The Department of Education shall provide technical assistance to potential charter school applicants upon request.

(c) The Department of Education shall provide technical and other forms of assistance to charter schools on the same basis as to school districts.

(d) The Department of Education shall, in concert with the approving authority and the applicant, apply for available federal or foundation grants providing funding for the planning and start-up of charter schools and the Department of Education shall administer such funds as may be appropriated by the General Assembly for the purpose of assisting in the planning and start-up of charter schools.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 180, § 27.)

## § 511. Approval procedure [For application of this section to the City of Wilmington, see 80 Del. Laws, c. 17, § 2].

(a) An approved charter school application, together with such conditions imposed pursuant to subsection (*l*) of this section, shall be the basis for a charter granted to the charter school by the approving authority pursuant to this chapter and shall be governed by the terms of this chapter. Upon approval of a charter school application, the Department of Education shall present applicants seeking a charter from the state with a charter contract ("Charter Contract") that clearly defines the respective roles, powers, and responsibilities of the school and the approving authority and incorporates the provisions of the performance agreement entered into between the charter school and its approving authority pursuant to 14 DE Admin. Code 275. Other approving authorities may choose to present applications they approve with such a Charter Contract. Where a Charter Contract is utilized, both the school and the approving authority shall execute the Charter Contract. Notwithstanding anything in this chapter to the contrary, the initial term of a newly approved charter shall expire at the end of the fifth fiscal year following the fiscal year in which the charter was initially approved, and any subsequent charter renewal term shall expire at the end of each successive fifth fiscal year thereafter unless extended pursuant to § 514A(b) of this title. If an approved charter is modified to delay the initial opening of the school, then the expiration date of the initial term of the charter shall be adjusted accordingly, to ensure that the charter has 4 years of instructional operation prior to its charter expiration.

(b) (1) Charters shall be modified by the same procedure and based on the same criteria as they are approved. When the approving authority is the Department of Education, minor modifications to a charter that are requested by the charter school only may be approved by the Secretary, subject to rules and regulations established by the Department with the approval of the State Board. Modifications associated with the provision of student transportation services as a result of changes to the Annual Appropriations Act to § 508 of this title shall be considered a minor modification.

(2) A request for modification to increase a charter school's total authorized enrollment by more than 15% shall be considered a major modification, regardless of whether the additional students will attend school at the current location or at a separate location.

(3) In addition to meeting the approval criteria established in § 512 of this title, an authorizer considering an application for a new charter school or for a modification as described in paragraph (b)(2) of this section in which the increased enrollment will occur less than 18 months from the date of application (an "expansion"), shall also consider the potential positive and negative impact of the proposed new school or expansion on the schools and the community from which the charter school's new students will likely be drawn. In reviewing the impact, the authorizer shall consider all information furnished to it during the application process and may

exercise its reasonable discretion in determining whether the proposed new school or expansion is contrary to the best interests of the community to be served, including both those students likely to attend the charter school and those students likely to attend traditional public schools in the community.

(4) Information regarding impact, as defined by regulations established by the Department with the approval of the State Board no later than October 31, 2014, shall be considered in conjunction with the factors in § 512 of this title but shall not alone provide the basis for disapproval of an application for a new charter application or an expansion. The information regarding impact may, however, be among the bases for disapproval of an application or expansion if at least 1 criteria in § 512 of this title is also deemed not satisfied by the authorizer. The information regarding impact may, by itself or in combination with other factors, form the basis for conditions being placed on the approval. Those conditions may include but shall not be limited to restrictions or prohibitions on geographic location, programmatic offerings, academic focus or emphasis, and grade levels served. In no event shall the placement of conditions on approval, based solely or in part on considerations of impact, be considered disapproval of an application.

(c) Charter school applications shall be submitted to a local school board or the Department for approval as an approving authority. Whenever a charter school seeks a charter from the Department as approving authority, such approval shall require the assent of both the Secretary and the State Board, as shall any action pursuant to §§ 515 and 516 of this title. The approving authority shall be responsible for approval of the charter school pursuant to this section and for continuing oversight of each charter school it approves. In addition, for a charter school applicant seeking to locate in the City of Wilmington, prior to the approving authority authorizing the school to open, the Mayor and the City Council of the City of Wilmington may review and provide comment regarding the likely impact of the proposed charter school on students in the City of Wilmington as outlined in this chapter and further defined in regulations.

(d) The Department shall make an initial review of all new charter school and charter school modification applications it receives in order to assess the completeness and quality of each such application based on the application submission criteria established in this title. Upon a finding that an application does not warrant a full review, the Department shall notify the applicant in writing of the deficiency or deficiencies and the application shall receive no further consideration. Each district that is asked by an applicant to serve as an approving authority may, in its discretion, undertake such an initial sufficiency review and make such an initial sufficiency determination.

(e) Applicants seeking a charter from the Department that have submitted an application deemed by the Department sufficient to receive a full review shall be offered an opportunity for an interview in support of the application. Such interviews will allow the Department to assess applicant capacity, allow it to clarify information provided in the application, and gather additional information. The information gained in the interview process may be among the factors considered by the approving authority in approving or denying an application.

(f) Potential charter school applicants may engage in discussions with a potential approving authority before submitting an application for approval to establish a charter school.

(g) (1) Except as noted in paragraph (g)(2) of this section, new charter school applications shall be submitted to an approving authority between November 1 and December 31 for schools to be established and prepared to admit students on or after the second August 1 thereafter.

(2) Applications by a highly successful charter school operator as described in subsection (p) of this section shall be submitted to an approving authority between November 1 and December 31 for schools to be established and prepared to admit students on or after the August 1 thereafter. The application submission dates in this subsection may be amended by agreement of the authorizer and the applicant if necessary to allow the applicant to serve students who would otherwise be displaced due to the closure of an existing charter school.

(3) Applications to renew a charter shall be submitted to the approving authority on or before September 30 of the year immediately preceding the calendar year in which the school's current charter term will expire.

(4) Charter school applications which propose the conversion of an existing public school, or a part thereof to charter school status must be submitted to an approving authority on or before October 30 if the application proposes that the newly converted charter school is to be established and prepared to admit students for the next ensuing school year.

(5) If the date for submitting an application or commencing the school's instructional program shall fall on a weekend or state holiday, the time for such shall be continued to the first working day thereafter.

(h) Any local school board may limit the number of new charter school applications it will consider in any year or the number of charters it will grant, but within 20 working days after December 31 must hold a public meeting to decide whether or not to consider it. A local school board shall not be required to accept any new charter school applications for a charter school unless, by September 1 of each year the school board shall affirmatively vote to accept such applications.

(i) If an approving authority decides to consider a charter application, the approving authority must rule on whether to approve the application at a public meeting within 90 working days after December 31.

(j) Within 5 days of deciding to consider an application, the approving authority shall form an accountability committee to review the charter school application. The accountability committee's report to the local school board shall address the approval criteria set forth in § 512 of this title. The committee shall meet with the applicant in the course of its investigation and provide the applicant the opportunity to review and comment on the committee's report 15 days before it is issued to the approving authority. The committee's final report shall be provided to the applicant and be made available to the public.

(k) After giving 15 days' public notice, the approving authority shall hold public hearings to assist in its decision whether to approve a charter application. At least 1 such hearing shall be held prior to the issuance of the accountability committee's final report on each new application. The approving authority shall, in advance of the 15-day public notice period, post any and all charter applications under consideration on a public website maintained by the approving authority, and during this public notice period shall accept electronically submitted and written comments from the public.

(*l*) Subject to any limitations imposed by the approving authority pursuant to subsection (h) of this section, if the application is found by the approving authority to meet the criteria set forth in § 512 of this title and complying with the approval process in this section, it may approve the application subject to such conditions as the approving authority, in its sole discretion, may deem appropriate to ensure the applicant's continuing compliance with the approval criteria. Whenever approval of a charter school requires the assent of the State Board, as set forth in subsection (c) of this section, the State Board may, in addition to approving or disapproving the decision of the Secretary, place or modify conditions on the approval to address considerations of impact, consistent with the requirements of paragraph (b)(4) of this section.

(m) If an application is made to the Department or a local board as an approving authority and the charter application is not approved, such decision shall be final and not subject to judicial review.

(n) All applications for a charter shall contain an affirmative representation by the applicant that no later than June 15 immediately preceding the authorized opening date of the school, the applicant shall secure a certificate of occupancy, either temporary or final, for the premises in which the school is to be located, provided that any temporary certificate of occupancy must permit occupancy at the premises by school staff and students for school purposes. If the charter is approved and the charter holder shall subsequently fail to obtain the necessary certificate of occupancy as required by this section, the opening of the school shall be delayed by 1 year from the date previously authorized by the approving authority and the charter shall be placed on probation subject to the terms and conditions imposed by the Department of Education with the consent of the State Board of Education. No waivers are available for this requirement.

(o) A local school board that approves an application for a charter school may do so only on the condition that the charter school is located in and provides all educational and related services, with the exception of transportation services and other K-12 noninstructional services and activities, within the boundaries of the approving local school board's district lines. Once approved, the charter school may not subsequently change its location from the school district specified in its originally approved charter.

(p) "Highly successful charter school operator" means an entity that currently operates or whose principals currently operate 1 or more highly successful charter schools showing sustained high levels of student growth and achievement and sustained fiscal stewardship, as further defined by Department regulation. Notwithstanding the provisions of this chapter, for purposes of this definition the phrase "charter school" shall include public schools operated under a charter regardless of whether the schools are located or organized in Delaware. A highly successful charter school operator may be authorized to operate a charter school in the timeframe provided by paragraph (g)(2) of this section including when an application is submitted for the purpose of operating a charter school at the site of and serving students currently attending a charter school whose charter has been revoked, has not been renewed, or whose charter is on formal review and whose board has agreed to abandon their charter.

(q) The charter school application shall include a disclosure of any ownership or financial interest in the charter school, including but not limited to the building and real property to be used in the operation of the charter school, by the charter school founders and the board of directors of the proposed charter school. If the building and real property to be used in operation of the charter school are not known at the time of application, disclosures pertaining to those interests shall be made once the building and real property to be used in operation of the charter school become known. In addition, the board of directors of the charter school shall have a continuing duty to disclose such interests to the approving authority pursuant to this chapter during the terms of any charter. The charter school and the Department shall promptly disclose the information required by this subsection to any member of the public upon request.

(r) (1) Charter school board members and founders shall complete the criminal background checks in the same manner as persons seeking employment with a public school under § 309 of Title 31. In addition, the authorizer shall complete a check of the Child Protection Registry established by § 921 of Title 16 for charter school founders and board members. The results of the background and Child Protection Registry checks must be provided to the authorizer for review as part of the application process and on an ongoing basis if new board members are seated or current board members are convicted of a crime or placed on the Child Protection Registry. Any person convicted of a felony offense or of any crime against a child in this State or any other jurisdiction is not permitted to serve as a founder or member of a charter school board of directors. An individual may not serve as a charter school founder or board member if the individual would not be permitted to be employed in a public school under § 309 of Title 31 regarding the Child Protection Registry. Other crimes may be considered disqualifying, in the discretion of the authorizer. The State Bureau of Identification may release any subsequent criminal history to the authorizer, in addition to the board of the charter under § 309 of Title 31.

(2) If a charter school board member is charged with a crime that would disqualify the individual under paragraph (r)(1) of this section, the board member must inform the other members of the charter school board of the charges and is automatically suspended until 1 of the following occur:

a. The charter school board member resigns.

b. The suspended charter school board member's term expires.

c. The charges are resolved in favor of the charter school board member.

d. The charter school board member is convicted or pleads guilty or nolo contendere to a disqualifying crime and is removed from the charter school board under paragraph (r)(1) of this section.

(3) If a charter school board member is charged with a crime that would disqualify the individual under paragraph (r)(1) of this section, the charter school must provide all of the following to the authorizer:

a. The name of the charter school board member.

b. The charges against the charter school board member and the date the charges were filed.

c. The status of the charter school board member under paragraph (r)(2) of this section.

(s) The founder or board member shall be provided with a copy of all information forwarded to the authorizer pursuant to subsection (r) of this section. Information obtained under subsection (r) of this section is confidential and may only be disclosed to the chief officer and 1 additional person in each authorizing body.

(t) Costs associated with obtaining criminal history information and child protection registry checks shall be paid by the applicant.

(70 Del. Laws, c. 179, § 2; 70 Del. Laws, c. 425, § 346; 71 Del. Laws, c. 132, §§ 357-359, 371, 372; 71 Del. Laws, c. 180, § 28; 72 Del. Laws, c. 118, § 3; 72 Del. Laws, c. 473, § 1; 73 Del. Laws, c. 164, §§ 11-14; 73 Del. Laws, c. 313, §§ 1, 8; 74 Del. Laws, c. 360, §§ 2, 3, 6; 75 Del. Laws, c. 112, § 1; 76 Del. Laws, c. 79, § 140; 76 Del. Laws, c. 280, § 395; 78 Del. Laws, c. 187, §§ 4-7; 79 Del. Laws, c. 51, § 5; 79 Del. Laws, c. 268, § 1; 79 Del. Laws, c. 321, § 1; 80 Del. Laws, c. 17, § 1; 80 Del. Laws, c. 154, § 2; 81 Del. Laws, c. 79, § 17; 83 Del. Laws, c. 187, § 3.)

## § 512. Approval criteria.

Subject to the process prescribed in § 511 of this title, charter school applications shall be in the form established by the approving authority and shall be approved if, after the exercise of due diligence and good faith, the approving authority finds that the proposed charter demonstrates that:

(1) The individuals and entities submitting the application are experienced and qualified to start and operate a charter school, and to implement the school's proposed educational program. Certified teachers, parents and members of the community in which the school is to be located must be involved in the development of the proposed charter school. At the time at which the school commences its instructional program and at all times thereafter, the board of directors must include a teacher from at least 1 of the charter schools operated by the board and at least 1 parent of a student enrolled in a charter school operated by the board;

(2) The chosen form of organization, identified in the articles of incorporation and by-laws, or the membership agreement, conforms with the Delaware General Corporation Law;

(3) The mission statement, goals and educational objectives are consistent with the description of legislative intent set forth in § 501 of this title and the restrictions on charter school operations set forth in § 506 in this title;

(4) The school has set goals for student performance and will utilize satisfactory indicators to determine whether its students meet or exceed such goals and the academic standards set by the State. The indicators shall include the assessments required for students in other public schools, although the charter school may adopt additional performance standards or assessment requirements, and shall include timelines for the achievement of student performance goals and the assessment of such performance;

(5) The school proposes a satisfactory plan for evaluating student performance and procedures for taking corrective action in the event that student performance at the charter school falls below such standards which are reasonably likely to succeed;

(6) The school's educational program, including curriculum and instructional strategies, has the potential to improve student performance; and must be aligned to meet the Delaware Content Standards and state program requirements, and in the case of a charter high school, state graduation requirements. High school programs must provide driver education. The educational program at all charter schools must include the provision by the school of extra instructional time for at-risk students, summer school and other services required to be provided by school districts pursuant to the provisions of § 153 of this title. A previously approved charter school may continue to operate in compliance with the terms of its current approval, but its charter shall not be renewed unless the school shall submit an application for renewal in full compliance with the requirements of this subsection;

(7) The school's educational program sets forth appropriate strategies to be employed to accommodate the needs of at-risk students and those needing special education services;

(8) The plan for the school is economically viable, based on a review of the school's proposed budget of projected revenues and expenditures for the first 3 years, the plan for starting the school, and the major contracts planned for equipment and services, leases, improvements, purchases of real property and insurance, and enrollment of no less than 200 students at full enrollment and no less than 100 students during the first 2 years of operation or for a school with an enrollment preference to primarily serve special needs students;

(9) The school's financial and administrative operations meet or exceed the same standards, procedures and requirements as a school district. If a charter school proposes to operate outside the State's pension and/or benefits systems, a specific memorandum of understanding shall be developed and executed by the charter school, the approving authority, the Director of the Office of Management and Budget, the Controller General and the Secretary of Finance to assure that the State's fiduciary duties and interests in the proper use of appropriated funds and as a benefits and pension trustee are fulfilled and protected, the State's financial reporting requirements are satisfied, and the interests of charter school employees are protected. All charter schools shall operate within the State's official

financial management system and be subject to all of the same policies and procedures which govern other agencies operating within such system;

(10) The assessment of the school's potential legal liability, and the types and limits of insurance coverage the school plans to obtain, are adequate;

(11) The procedures the school plans to follow to discipline students and ensure its students' adherence to school attendance requirements comply with state and federal law;

(12) The procedures the school plans to follow to assure the health and safety of students, employees and guests of the school while they are on school property are adequate and that the charter school will comply with applicable provisions of local, state and federal law, including the provisions of Chapter 85 of Title 11;

(13) The school shall have a satisfactory plan for timely transferring student data and records to the Department of Education;

(14) The school's board of directors shall annually certify to the Department, on a form to be provided by the Department, that prior to the payment of any fees or other sums to any management company employed by the board, the board will insure that sufficient revenues of the school are devoted to adequately support the school's proposed educational program. Such form of certification may require documentation of all actual or proposed expenditures by the school. Failure to provide sufficient funds to adequately support the school's proposed education program shall be grounds for revocation of the school's charter;

(15) The school shall have a satisfactory plan to ensure the effectiveness of its board of trustees, including governance trainings conducted for any new board members and at a minimum of once every 3 years; and

(16) The school shall have a satisfactory plan for procedures it will follow in the case of the closure or dissolution of the school, including a plan to set aside sufficient funds to cover the salaries owed to those employees who are paid over a 12-month period. For a new applicant granted under this chapter, the application shall include a reasonable plan to establish sufficient available balances pursuant to § 516(1) of this title.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 180, § 29; 71 Del. Laws, c. 354, § 386; 73 Del. Laws, c. 164, §§ 15-21; 73 Del. Laws, c. 313, §§ 9, 10; 75 Del. Laws, c. 88, § 21(7); 78 Del. Laws, c. 187, § 8; 79 Del. Laws, c. 51, § 6; 79 Del. Laws, c. 321, § 1.)

## § 513. Reporting and oversight.

(a) On or before January 15, each charter school shall produce an annual report for the school year ending the previous June, which shall include all of the following:

(1) An explanation of the school's progress in meeting overall student performance goals and standards.

(2) An explanation of the innovation occurring at the charter school, including but not limited to the areas of curriculum development, instruction, student culture and discipline, community and parental involvement, teacher and staff development, school operations and management, and extracurricular and after-school programming.

(3) A copy of the school's annual financial audit report, as required under subsection (d) of this section, and a copy of the school's standardized financial report setting forth by appropriate categories the school's revenues and expenditures and assets and liabilities.

(4) In the case of a single gender school, an explanation of the efforts made by the school to further advance its students' education and a quantitative analysis of its efforts and results in recruiting and retaining economically-disadvantaged students, regardless of race.

(b) Notwithstanding subsection (a) of this section, each charter school seeking renewal of its charter shall produce the annual report described in subsection (a) of this section on or before October 1 of the final year of its current charter term. The approving authority may, in its discretion and for good cause shown, elect to accept an annual report submitted subsequent to this deadline.

(c) To ensure that annual reports under this section provide parents and approving authorities with clear and comparable information about the performance of charter schools, the Department of Education shall prescribe a uniform format for such reports, and the standardized financial report required to be included in such reports, which may be supplemented by requirements set by the approving authority for schools it has chartered.

(d) (1) Unless subject to an audit by the Auditor of Accounts under paragraph (d)(2) of this section, the board of directors of each charter school shall contract to have an audit of the business and financial transactions, records, and accounts after July 1 for the prior fiscal year. The results of the audit shall be shared by October 1 with the Department of Education, the Auditor of Accounts, the Division of Accounting, and the citizen budget oversight committee established under § 1508 of this title.

(2) The Auditor of Accounts shall conduct or contract for an audit of the charter school's business and financial transactions, records, and accounts after July 1 for the prior fiscal year in the event the charter school has any of the following:

a. A financial audit opinion with any of the following in any of the prior fiscal years under the current charter term:

1. Material exceptions.

2. A going concern disclosure in the notes or in an explanatory paragraph related thereto.

3. A finding of material weakness on either internal control or compliance. For purposes of this paragraph, "material weakness" means a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis.

b. Has failed to maintain a current status with Internal Revenue Service Form 990 filings, if said filings are required of that charter school.

c. Has existed for a total of fewer than 5 years under its current and prior charter terms.

(3) If, however, a financial audit opinion of paragraph (d)(2)a. of this section is not the required annual audit and is, instead, performed at the request of the board of directors of its own volition and then provided to the Auditor of Accounts, then that financial audit opinion shall not form the basis for the Auditor of Accounts conducting or contracting the audit under paragraph (d)(2) of this section.

(e) The contract required by paragraph (d)(1) of this section must be publicly bid no less than every 5 years and must provide for all of the following:

(1) That the auditor shall, at all times during the term of the contract, hold a valid certified public accountant permit to practice license in Delaware.

(2) That the auditor shall be peer-reviewed by the American Institute of Certified Public Accountants (AICPA) at least every 3 years, and the most recent review shall have been completed with an unqualified opinion.

(3) That the audit shall meet the requirements and standards of generally-accepted government auditing standards.

(4) That the audit required by subsection (d) of this section shall include any additional specific audit procedures which have been established in advance by the charter school or the State Auditor, or both, and which apply to the specific charter school or which the State Auditor has established for all school districts and charter schools.

(f) A charter school shall display on its website the annual report including financial statement and audit required by this subsection. A charter school shall also display on its website all standardized financial report forms for the current fiscal year and the final monthly standardized financial report forms for the 5 prior fiscal years of operation. Charter schools that are required to file Internal Revenue Service Form 990 shall post the current and prior year Form 990 on the website as well.

(g) The annual report shall be submitted to the approving authority, the Department and the State Board. Employees of the school and parents of students attending the school shall receive a copy free of charge, upon request. The reports shall be public records pursuant to Chapter 100 of Title 29.

(h) The Department of Education, the State Board, and the approving authority may conduct financial, programmatic, or compliance reviews of a charter school. In cooperation with the Department, the approving authority shall conduct such reviews no less often than every 3 years.

(i) The Department of Education shall notify the superintendents of all reorganized and vocational-technical school districts of receipt of new charter school applications within 30 days of the close of the application deadline. The Department of Education shall also notify the superintendent of a reorganized school district of any applications for a major charter modification submitted by a charter school with a facility located within their district.

(j) Local school boards shall notify the superintendents of all reorganized and vocational-technical school districts of receipt of new charter school applications within 30 days of the close of the application deadline.

(k) Audit or formal investigation findings that funds have been expended in a manner that is not consistent with Delaware Code, Administrative Code and/or the State Budget and Accounting Manual shall be promptly reported to the charter school's authorizer, the Director of the Office of Management and Budget, the Controller General and the Secretary of Education. Upon review and determination as to the status of the questioned expenditure, the Board of the Charter School and the Department of Education shall develop and certify a written repayment plan. The charter school shall repay funds through local, discretionary funds. State and federal funds may not be used to make repayment. If the charter school is unable to make repayment through available funds, the Department of Education is authorized to withhold an equivalent amount from any state or federal funds owed to the charter school, as applicable. Repayment required by this section shall be transacted during the fiscal year in which the discrepancy is discovered, unless the Department of Education finds that the potential impact on the affected charter school is such that satisfying the obligation in part or in its entirety should be deferred until the next ensuing fiscal year.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 180, § 30; 73 Del. Laws, c. 313, §§ 4, 12; 78 Del. Laws, c. 187, § 9; 79 Del. Laws, c. 51, § 7; 79 Del. Laws, c. 128, § 2; 79 Del. Laws, c. 321, § 1; 80 Del. Laws, c. 397, § 2; 83 Del. Laws, c. 325, §§ 379, 382.)

## § 514. State reports on the charter school program.

Annually, the Department shall prepare a report for the Governor, the General Assembly, and the State Board of Education on the success or failure of charter schools and propose changes in state law necessary to improve or change the charter school program. Such report shall contain a section comparing the per student expenditures of charter schools, considering all sources of such expenditures, with those of other public schools. Such report shall also contain:

(1) The Secretary of Education's analysis of, recommendations relating to, and proposed changes relating to Delaware education laws, in light of the content of annual reports submitted pursuant to § 513 of this title; and

(2) The Secretary's assessment of specific opportunities and barriers relating to the implementation of charter schools' innovations in the broader Delaware public education school system.

(70 Del. Laws, c. 179, § 2; 71 Del. Laws, c. 180, § 31; 79 Del. Laws, c. 128, § 2.)

## § 514A. Renewals and nonrenewals.

(a) Four years after a charter school has commenced its instructional program pursuant to this chapter and not later than every 5 years thereafter, the approving authority shall, upon notice to the charter school, review the performance of the charter school to determine its compliance with its charter and its satisfaction of the criteria set forth in this title for the purposes of renewal or nonrenewal.

(b) A charter school may be renewed for successive 5-year terms of duration. An approving authority may grant renewal with specific conditions for necessary improvements to a charter school. Where a charter school has demonstrated an outstanding record of performance, an approving authority may grant it a renewal term of 10 years. Any charter school receiving such an extended renewal term shall, at the midpoint of the 10-year charter, be subject to an annual performance and program evaluation that includes academic, financial and operations data that looks back to all of the years of the charter up to that point. If, upon this evaluation, the approving authority determines that the charter school's level of performance is deficient by renewal standards, the approving authority may initiate the formal renewal and nonrenewal process set forth below.

(c) No later than April 30, the approving authority shall issue a charter school renewal report and charter renewal application guidance to any charter school whose charter will expire the following year. The renewal report shall summarize the charter school's performance record to date, based on the data required by 79 Del. Laws, c. 51 and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the approving authority concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school shall have 10 working days to respond to the renewal report and submit any corrections or clarifications for the report.

(d) The renewal process shall, at a minimum, provide an opportunity for the charter school to:

(1) Present additional evidence, beyond the data contained in the renewal report, supporting its case for charter renewal;

(2) Describe improvements undertaken or planned for the school; and

(3) Detail the school's plans for the next charter term.

(e) The renewal application guidance shall include the criteria that will guide the approving authority's renewal decisions. Renewal determinations by the Department of Education shall be based on its performance framework, the terms set forth in the Charter Contract, and shall take account of the school's performance agreement with the approving authority, consistent with 14 DE Admin. Code 275, and with 79 Del. Laws, c. 51. Other approving authorities may choose to adopt the criteria utilized by the Department of Education. Each approving authority shall develop a rubric based on its criteria for evaluating renewal applications and shall provide this rubric to applicants as part of the renewal application guidance. The approving authority shall publish the renewal application guidance on its website and make it available in written form upon request.

(f) No later than September 30, the governing board of a charter school seeking renewal shall submit a renewal application to the approving authority pursuant to the renewal application guidance issued by the approving authority. The approving authority shall decide upon the renewal application no later than 60 working days after the filing of the renewal application.

(g) In making charter renewal decisions, every approving authority shall:

(1) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance agreement set forth in the charter contract;

(2) Ensure that data used in making renewal decisions are available to the school and the public; and

(3) Provide a public report summarizing the evidence basis for each decision.

(79 Del. Laws, c. 51, § 8; 79 Del. Laws, c. 321, § 1.)

## § 515. Oversight and revocation process.

(a) The approving authority shall be responsible for oversight of the charter schools it approves.

(b) In addition to the review required by § 514A(a) of this title, the approving authority may notify a charter school of potential violations of its charter and submit the charter to formal review to determine whether the charter school is violating the terms of its charter and whether to order remedial measures pursuant to subsection (f) of this section.

(c) The approving authority shall issue its decision within 60 working days of giving the charter school notice. An accountability committee appointed by the approving authority shall conduct the initial review pursuant to subsection (b) of this section. The accountability committee's reports to the approving authority shall address the relevant criteria set forth in §§ 512 and 516 of this title. The committee shall meet with the applicant in the course of its investigation and provide the applicant the opportunity to review and comment on the committee's initial report 15 days before it is issued to the approving authority. The committee's final report shall be provided to the applicant, the approving authority, and made available to the public.

(d) If the accountability committee's report presents probable grounds for remedial measures, the approving authority shall hold public hearings to assist in its decision whether the criteria set forth for remedial action in § 516 of this title have been satisfied, after giving the charter school 15 days' notice. The school shall be given the opportunity to respond to the accountability committee's final report at the hearing. Members of the public shall be given the opportunity to comment at the hearing.

(e) If the accountability committee's report asserts that the school has complied with its charter and the criteria set forth in § 512 of this title, the approving authority shall approve or disapprove the final report's conclusion at a public meeting after giving the charter school 15 days' notice. If the approving authority disapproves the report, it shall identify the reasons for that decision with particularity.

Thereafter, the approving authority shall hold a hearing, within 30 days, to assist in its decision of the appropriate remedy pursuant to subsection (f) of this section.

(f) If the approving authority determines that the criteria for remedial action set forth in § 516 of this title have been satisfied, it may revoke the charter and manage the school directly until alternative arrangements can be made for students at the school or place the school on a probationary status subject to terms determined by the approving authority which are directly relevant to the violation or violations.

(g) If a local school district which is an approving authority decides to revoke the school's charter or place the school on probationary status, the applicant may file for arbitration in writing with the American Arbitration Association in Philadelphia within 20 days of the local board's decision stating the reasons why it believes the local board decision was in error. A copy of said filing shall be provided simultaneously with the approving authority. The parties shall select an arbitrator in accordance with the American Arbitration Association's procedure for voluntary labor disputes, provided, however, that such arbitration shall occur in this State. The arbitrator's fees and costs shall be borne equally by the parties. The arbitrator shall convene a hearing and determine whether the local board's decision was in error. The arbitrator shall have 30 days to render a decision following the close of the hearing. The arbitrator's decision shall be final and binding upon the parties.

(h) If the approving authority is the Department and it decides to revoke the school's charter or place the school on probationary status, its decision shall be final and not subject to arbitration or judicial review.

(i) Prior to any charter school closure decision, an approving authority shall have developed and shall utilize a charter school closure protocol to ensure timely notification to parents and employees, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of 79 Del. Laws, c. 51 and other applicable laws. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the approving authority. In the event of a charter school closure for any reason, the approving authority shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students, parents and employees, as guided by the closure protocol.

(j) In the event of a charter school closure for any reason, all cash and cash equivalents held by or available to the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to the remaining creditors of the school. Remaining State General Fund appropriations for that school year shall be returned to each district in an amount proportionate to the number of students received by each district. Additional remaining State General Fund appropriations shall be returned to the general revenue fund through the State Treasury. Remaining funds received from local school districts shall be returned to each of the districts in an amount proportionate to the number of students from each district. Any remaining funds and assets will be managed by the charter, as appropriate. In the event that a charter school files for bankruptcy, the distribution of all assets will be managed by the Bankruptcy Court or otherwise in accordance with bankruptcy laws. Nothing herein shall be construed in any way to impair or preempt a lien or security interest on any asset owned by a charter school or to prevent the school from paying the costs required to close or dissolve.

(k) In the event that all state and local funds due to a charter school are paid timely as required by § 509 of this title, a charter school authorized to operate in the State must by December 31 of that fiscal year maintain an available balance sufficient to pay the minimum costs necessary to provide students with the minimum annual instructional hours required by the Department of Education during the remainder of that fiscal year as reasonably projected by the charter school. Such costs include, but are not limited to, all employee compensation required to attain the minimum annual instructional hours during the remainder of that fiscal year. Such costs also include all fixed and variable nonpayroll expenditures incurred through the final month of that school year. A school's failure to maintain sufficient available funds by December 31 of its third year of operation shall be deemed a material violation of its charter.

(70 Del. Laws, c. 179, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 31; 73 Del. Laws, c. 164, §§ 22, 26; 74 Del. Laws, c. 360, § 4; 79 Del. Laws, c. 51, § 9; 79 Del. Laws, c. 321, § 1.)

## § 516. Revocation criteria.

Approved charters shall be subject to revocation or probation, after the exercise of due diligence and good faith, only for the following reasons:

(1) The school, or its representatives, has committed a material fraud on the approving authority or misappropriated federal, state or local funds; or

(2) The school fails to comply with its charter or to satisfy, in its operation of the school, the criteria set forth in § 512 of this title.

(70 Del. Laws, c. 179, § 2.)

## § 517. Charter transfer to different authorizer.

Transfer of a charter, and of oversight of that public charter school, from 1 authorizer to another before the expiration of the charter term shall require a petition by the public charter school or its authorizer to the new authorizer. A petition to transfer is considered a major modification and will follow the same timelines and hearing process as a major modification.

(78 Del. Laws, c. 187, § 10.)

## § 518. Oversight and revocation for multiple charter holders.

For purposes of §§ 515 and 516 of this title, each charter held by a common board of directors shall be treated separately and individually.

(78 Del. Laws, c. 187, § 11.)

## § 519. Charter school board training.

(a) (1) In order to best understand the educational and legal issues involved in special education due process hearings, each member of a charter school board of directors must complete training at the beginning of that member's term on a charter school board concerning special education due process hearings.

(2) In order to understand and fulfill the requirements of office, each charter school board member must complete training on all of the following at the beginning of that member's term on a charter school board:

a. Requirements for charter school board meetings under this title and the Freedom of Information Act, Chapter 100 of Title 29.

b. Best practices regarding the conduct of meetings, including the use of rules of order.

c. The State Employees', Officers' and Officials' Code of Conduct, subchapter I. of Chapter 58 of Title 29.

(b) (1) The Department of Education (Department) shall establish through regulations, the criteria, material, and method of the training required under paragraph (a)(1) of this section. The delivery of the training may be delegated to or purchased from another entity.

(2) a. The Department must identify trainings on the topics required under paragraph (a)(2) of this section.

b. Each charter school is responsible for offering the trainings required under paragraph (a)(2) of this section to members of the charter school board of directors. The delivery of the training may be delegated to or purchased from another entity.

(3) The training required under subsection (a) of this section must be offered virtually at least twice a year.

(c) The president of a charter school board of directors shall inform each newly-elected or appointed member of the board of directors of the obligation to complete training under subsection (a) of this section. By January 15 each year, the president of a charter school board of directors shall send a letter to any board member who has not completed the training required under subsection (a) of this section by January 1 following the board member's election or appointment.

(d) The training and notices required under this section may be combined with the training and notices required for financial responsibility training under § 1803 of this title.

(84 Del. Laws, c. 522, § 3; 85 Del. Laws, c. 183, § 2.)

# Part I
# Free Public Schools
## Chapter 6
## Tuition Charges

### § 601. Definitions.

For the purpose of this chapter the following terms shall have the following meanings:

(1) "Receiving district" shall mean any reorganized school district which enrolls in its schools any pupil who is not a resident of such "receiving district."

(2) "*Residence*". — A pupil shall be considered a resident of the reorganized school district based on meeting the residency qualifications established by § 202 of this title.

(3) "Sending district" shall mean any reorganized school district which sends to the schools of a "receiving district" any pupil who is not a resident of such "receiving district."

(14 Del. C. 1953, § 601; 52 Del. Laws, c. 134, § 1; 57 Del. Laws, c. 113; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 299, § 3; 78 Del. Laws, c. 5, § 4.)

### § 602. Method of computation and payment of tuition charges for nonresident pupils.

(a) Except in the cases provided for in § 603(c) of this title, no pupil shall be transferred from 1 school district to another school district without the written approval of the school board of both the sending and receiving districts. A reorganized school district receiving any pupil who is a resident of another reorganized school district shall collect a tuition charge for the nonresident pupil; provided however, that the tuition charge may be waived if such waiver is granted by the board of education of both the sending and receiving districts. Such tuition charge shall be paid by the school board of the reorganized school district in which the pupil is a resident from the proceeds of a local tax which shall be levied for this specific purpose.

(b) In determining the tuition to be charged, the receiving district shall compute the tuition by adding such receiving district's share of educational related expenses as allowed by Department of Education regulations. The sum so obtained shall be divided by the total number of pupils in the authorized program and grades and attending all public schools in the receiving district as of September 30 of the current school year. The cost for the current year may be estimated cost and shall include an amount, added or subtracted from the estimate, which amount will represent the difference between the estimated and the actual costs of the tuition charges for the same purpose in the previous year. The resulting figure shall represent the amount of tuition charge per pupil in the current year. In Fiscal Year 1970 or later, the receiving district may include tuition charges for the previous year and the current year.

(c) The bill for tuition charges shall be verified by the Secretary of Education within 20 days after receipt of such bill. No bill for tuition charges shall be paid until such time as it has been certified by the Secretary of Education as being true and correct.

(d) For each pupil attending a public school of another district as of September 30, the receiving district shall bill the sending district and the sending district shall pay the tuition charges per pupil on or before January 1 of the fiscal year in which the bill is submitted to the sending district for payment. In the case of pupils attending the public schools of the receiving district for less than a full term, the tuition charge shall be prorated by reference to the period of time during which such pupils actually attended the receiving district's schools, provided that attendance for part of any month shall be counted as a full month of attendance.

(e) Any reorganized school district sending pupils to the schools of another district shall levy and collect a tax to pay any tuition charges to the receiving district, and such tuition shall be collected by local taxation within the sending district according to the provisions of taxation as set forth in Chapter 19 of this title, except that no referendum shall be required. The sending district shall estimate the amount of, determine the rate for and levy the tax upon the estimate at the time that regular tax levies are announced to the appropriate taxing authorities, and the levy shall be adjusted annually to correct errors in the estimate as provided for in subsection (b) of this section.

(14 Del. C. 1953, § 602; 52 Del. Laws, c. 134, § 1; 54 Del. Laws, c. 164; 54 Del. Laws, c. 392; 57 Del. Laws, c. 113; 57 Del. Laws, c. 206, §§ 1-3; 60 Del. Laws, c. 486, § 1; 67 Del. Laws, c. 47, § 236; 67 Del. Laws, c. 233, § 1; 71 Del. Laws, c. 180, § 32; 72 Del. Laws, c. 395, §§ 374, 375.)

### § 603. Exceptions and claims.

(a) This chapter shall not apply when the payment or acceptance of such tuition charge is contrary to any educational program involving the use of federal matching funds which prohibits the payment or acceptance of such tuition.

(b) Section 602(a) and (b) of this title shall not apply to children with disabilities as defined in Chapter 31 of this title. Such children shall be subject to § 604(a) and (b) of this title.

(c) When a student has transferred to a new district pursuant to the voluntary transfer provisions, the sending district shall immediately upon request of the receiving district transfer the student's records to the receiving district.

(14 Del. C. 1953, § 603; 52 Del. Laws, c. 134, § 1; 53 Del. Laws, c. 95; 53 Del. Laws, c. 142, § 3; 53 Del. Laws, c. 433; 57 Del. Laws, c. 113; 60 Del. Laws, c. 486, § 2; 61 Del. Laws, c. 32, § 6; 61 Del. Laws, c. 260, §§ 5, 6; 71 Del. Laws, c. 180, § 33; 78 Del. Laws, c. 5, § 5.)

## § 604. Special programs.

(a) If any pupil is counted in the preschool, intensive or complex unit and attends school in a program operated by a district other than that in which the pupil resides, by an agency of the Department of Education or is in an approved private placement pursuant to § 3124 of this title, the receiving district or the Department of Education shall collect a tuition charge for the nonresident pupil, provided approval for attendance has been granted by the sending district. Such tuition charge shall be paid by the school board of the reorganized school district in which the pupil is a resident from the proceeds of a local tax levied for this specific purpose, except that in the case of a district assigned by the Department with the approval of the State Board of Education to administer a school or program for children with disabilities, or special programs approved by the Department of Education for persons without disabilities such as programs for bilingual students or programs for pregnant students, the district so assigned shall be both the sending and receiving district in regard to that school or program and is authorized to collect tuition charges accordingly.

(b) In determining the tuition to be charged for a pupil counted in the preschool, intensive or complex units or for a person without disabilities attending approved special programs, such as bilingual programs or programs for pregnant students operated by a district other than that in which the student resides or by an agency of the State Department of Education, the receiving district or the State Department of Education shall compute the tuition by adding such receiving district's share of educational related expenses as allowed by the Department of Education regulations. The sum so obtained shall be divided by the total number of pupils in the special program as of September 30 of the current school year. The resulting figure shall represent the amount of the "tuition charge" per pupil.

(c) In determining the tuition charged to the sending district in the case of private placement for children with disabilities, tuition will be defined as in § 3124 of this title and the sending district will be charged 30 percent of the total tuition cost. The remaining 70 percent will be covered through funding provided by the State Department of Education from the annual appropriation for this purpose.

(d) Section 602(c)-(e) of this title shall apply to this section.

(14 Del. C. 1953, § 604; 53 Del. Laws, c. 142, § 4; 57 Del. Laws, c. 113; 57 Del. Laws, c. 206, § 4; 62 Del. Laws, c. 191, § 1; 68 Del. Laws, c. 84, § 219; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 34-36; 72 Del. Laws, 1st Sp. Sess., c. 257, § 1; 72 Del. Laws, c. 395, §§ 373, 376, 377; 73 Del. Laws, c. 312, §§ 301, 302; 73 Del. Laws, c. 321, §§ 6, 7; 78 Del. Laws, c. 5, §§ 6-10.)

## § 605. Inmates of children's homes or institutions.

(a) The school board of any reorganized school district in which there is located any orphans' home, home for the friendless, children's home, other institutions for the care of orphans or other children or any institution to which children are assigned by any court for any reason, may at the discretion of such board permit any children who are inmates of such homes or institutions but not legal residents in such district to attend the public schools in said district; and the district of residence shall be liable for the tuition of such pupils.

(b) If a charge is made by any reorganized school district for tuition for the inmates of any homes or institutions who are in attendance in such district's schools, the officers of the homes or institutions shall submit to the school board a sworn statement setting forth the names, ages and school district liable for tuition of all children who desire to attend public schools in the district, and who are inmates thereof as of September 30 of each year, together with a blank acknowledging or disclaiming residence signed by the secretary of the reorganized school district in which the home or institution declares the legal residence of the children to be. If the sending district does not return the said blank with an acknowledgment or disclaimer within 30 days from the time it was mailed, the Secretary of Education shall withhold from Division III entitlement the tuition for such inmates from the district of residence upon receipt of a sworn statement setting forth the names, ages, tuition charges and district of legal residence, such sworn statement to be furnished by the receiving district.

(14 Del. C. 1953, § 605; 58 Del. Laws, c. 33; 71 Del. Laws, c. 180, § 37.)

## § 606. Out-of-state students.

A child with a disability who is a resident of a state or country other than Delaware or the United States of America may be accepted, at the discretion of the receiving district, to attend a Delaware school under the following restrictions:

(1) Children with disabilities, only, as defined in § 3101 of this title, or for whom units are specified in § 1703 of this title, may be accepted for admission to a district to receive special education and related services after the receipt of certification from the Secretary of Education that provisions have been made for all eligible state students;

(2) Full tuition costs as determined annually by the Secretary of Education shall be paid in advance by semester by the out-of-state or out-of-country school district, state or national agency or parent. The tuition cost shall reflect all state, local district and federal expenditures for the education of children with disabilities counted in preschool, intensive or complex units, excluding pupil transportation costs which shall not be the responsibility of the receiving Delaware school district or the State. State costs shall be reimbursed to the General Fund of the State and local district costs shall be retained by the receiving district.

(60 Del. Laws, c. 212, § 1; 71 Del. Laws, c. 180, § 37; 78 Del. Laws, c. 5, §§ 11-13.)

## § 607. Children of district employees who reside out-of-state.

(a) Out-of-State children whose parent or legal guardian is employed on a full-time basis by any reorganized school district may attend school in the district where the parent or guardian is employed during the period of the parent or guardian's employment upon written approval of the receiving district and payment of tuition if charged by the district. Such children may not be included in the annual unit count for state funding purposes.

(b) Tuition charges, if imposed, shall be computed and certified by the Secretary of Education in accordance with § 602(b) and (c) of this title.

(70 Del. Laws, c. 118, § 320; 71 Del. Laws, c. 180, § 37.)

## § 608. Applicability of chapter.

The provisions of this chapter shall not apply to any transfers, re-assignments, or enrollment changes made with respect to any student under the provisions of Chapter 4 of this title, nor to any transfers, re-assignments, or enrollment changes made with respect to any vocational-technical centers or schools established pursuant to § 205 of this title.

(70 Del. Laws, c. 180, § 2.)

# Part I
# Free Public Schools

## Chapter 7
## Lawful Authority of Teachers Over Pupils

### § 701. Authority of teachers and administrators to control the disruptive behavior of students.

(a) As used in this chapter:

(1) "Department" means the Department of Education.

(2) "Disruptive behavior" means conduct that is so unruly, disruptive, or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

(3) "Racial subgroup" means the racial and ethnic subgroups of students as defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes African American or Black, American Indian or Alaska Native, Asian American, Native Hawaiian or other Pacific Islander, Hispanic or Latino, White or Caucasian, and Multi-Racial.

(4) "School" means a traditional public school, vocational technical school, or charter school.

(5) "Subgroup" means as subgroup is defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes racial subgroups, economically disadvantaged students, children with disabilities, and English learners.

(b) While a student is entrusted in their care or supervision, public school teachers, and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian, or other person similarly responsible for the care and supervision of the student except as provided in §§ 702 and 4112F of this title. The authority includes removing a student from a classroom or school-sponsored activity.

(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to control the student's disruptive behavior, an on-site school administrator may, upon a written showing of good cause, override the teacher's decision to remove the student from the classroom or school-sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that the teacher's decision to remove the student was reasonable and necessary under the circumstances.

(d) When a student is removed from a classroom or school-sponsored activity or is disciplined or punished pursuant to this section, the principal or the principal's designee shall afford the student appropriate due process as required by the federal and State constitutions.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

(f) When a teacher or school administrator removes a student from a classroom or school-sponsored activity or disciplines or punishes a student, a rebuttable presumption exists that the teacher or administrator acted reasonably, in good faith, and in accordance with State or local board of education policy. The burden of overcoming the presumption shall be upon the student.

(g) Each local board of education shall establish, adopt, publish, and distribute to students in the district and their parents or guardians policy or standards that are consistent with the regulations developed under § 122(b)(26) of this title and include all of the following:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's and administrator's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity.

(2) Provide an explanation or examples of "disruptive behavior" set forth in paragraph (a)(2) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.

(14 Del. C. 1953, § 701; 57 Del. Laws, c. 383; 60 Del. Laws, c. 662, § 1; 72 Del. Laws, c. 236, § 1; 73 Del. Laws, c. 75, § 1; 74 Del. Laws, c. 17, §§ 1-3; 75 Del. Laws, c. 158, § 1; 79 Del. Laws, c. 54, § 1; 81 Del. Laws, c. 324, § 1.)

### § 702. Corporal punishment.

(a) "Corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling and slapping, when used as a means of discipline.

(b) No public school teacher, administrator, official employee or agent of the School Board may subject a student enrolled in the school district to corporal punishment.

(c) Subsection (b) of this section does not prohibit a public school teacher, administrator, official employee or agent of a school board from:

(1) Using reasonable and necessary force to quell a disturbance, including but not limited to a physical altercation, or prevent an act that threatens imminent bodily harm to any person;

(2) Using reasonable and necessary force to obtain possession of a weapon, or other dangerous object within a student's control;

(3) Using reasonable and necessary force for the purpose of self-defense or the defense of others under §§ 464 and 465 of Title 11;

(4) Using reasonable and necessary force for the protection of property under § 466 of Title 11;

(5) Using reasonable and necessary force to prevent a student from imminently inflicting bodily harm on that student's own self;

(6) Using reasonable and necessary force to protect the bodily safety of others; or

(7) Using incidental or minor physical contact necessary to maintain order and control.

(d) In determining whether or not a person was acting within the exceptions in subsection (c) of this section, deference shall be given to reasonable, good faith judgments made by the teacher, administrator, official employee or agent.

(e) Nothing in this section shall prohibit, permit or otherwise affect any action taken by the teacher, administrator, official employee or agent of the School Board with regard to a person who is not a student enrolled in the school district.

(f) For purposes of this section, the term "reasonable and necessary" shall be interpreted in conformity with applicable limitations established by § 4112F of this title.

(74 Del. Laws, c. 17, § 4; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 54, § 1.)

## § 703. Student discipline report; school discipline improvement plan.

(a) The Department shall compile and release an annual report on student discipline in all schools as follows:

(1) The analysis must be based on data, as permitted under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, collected over the 3 most recent consecutive school years.

(2) The report must be posted on the Department's website no later than October 30.

(3) The report shall include both statewide totals and individual school data, for each of the school years in the report, on the issuance of out-of-school suspensions, expulsions, alternative school assignments, and in-school suspensions, disaggregated by race, ethnicity, gender, grade level, limited English proficiency, incident type, discipline duration, and if the student is identified as having a disability.

(4) The report must identify, for each school year in the report, schools that meet any of the following thresholds:

a. Calculations under this subsection should exclude subgroups that contain fewer than 15 students.

b. A school with an out-of-school suspension rate for all students or any 1 subgroup that exceeds any of the following:

1. A rate of 20 suspensions per 100 students for the 2018 through 2019 school year.

2. A rate of 15 suspensions per 100 students for the 2019 through 2020 school year and each school year thereafter.

c. A school for which the out-of-school suspension gap between the lowest-suspended racial subgroup and the highest suspended racial subgroup, or the suspension gap between students with disabilities and students without disabilities, exceeds any of the following:

1. Twenty percent for the 2018 through 2019 school year.

2. Fifteen percent for the 2019 through 2020 school year.

3. Ten percent for the 2020 through 2021 school year and each school year thereafter.

(b) If a school is identified as meeting a threshold under paragraph (a)(4) of this section for 3 consecutive school years, the Department shall notify the school of this status by December 1 and the school must do all of the following:

(1) Review its discipline policies, practices, and data.

(2) If a school has already implemented restorative justice practices, the school must review the interventions being used to assure research-based quality, scope of training provided, and follow-up support to assure proper implementation. Restorative justice practices program improvements should be made based on this review.

(3) Submit a plan to the Department that identifies the strategies the school will implement beginning in the following school year to reduce the use of exclusionary disciplinary practices or disproportionate use of exclusionary disciplinary practices with racial subgroups or students with disabilities, or both.

a. The plan may be part of their school improvement plan.

b. The plan must be developed with input from students, parents, educators, administrators, and community stakeholders to incorporate strategies to promote fairness and equity in discipline.

c. The plan may increase or improve professional development opportunities for educators, administrators, and staff. Components of such professional development may include 1 or more of the following:

1. Restorative practices.

2. Trauma informed care.

3. Implicit bias awareness.

4. Cultural competency.

5. Classroom management.

6. Other appropriate programming.

d. The plan must be approved at either a public local school board meeting or a charter school's public board of directors meeting.

e. The school must submit the plan to the Department and post the plan on the school's internet website no later than the beginning of the following school year.

f. The school shall submit to the Department an annual progress report describing the implementation of the plan and post the progress report on the school's internet website no later than October 30. The school may cease submitting a progress report when the school does not meet a threshold under paragraph (a)(4) of this section for 3 consecutive years.

(c) The Department may promulgate regulations necessary to implement and enforce this section. The Department must consult with school administrators, parents, educators, and other stakeholders in developing regulations under this section.

(81 Del. Laws, c. 324, § 2.)

# Part I
# Free Public Schools
## Chapter 8
## School Shared Decision-Making

### § 801. Definitions.

As used in this chapter,

(1) "School community" shall mean a community comprised of the stakeholders responsible for providing and structuring a child's education; specifically, the board of education at the district level, certified and noncertified school employees, parents, community members and, as appropriate, students.

(2) "Shared decision-making" shall mean an inclusive, representative decision-making process in which members of the school community at the school and district levels participate as equals. Shared decision-making may occur at all levels of a school system.

(3) "Structured conversations and activities" shall mean ongoing opportunities for representatives of the entire school community, as defined herein, to collectively and collaboratively explore and become knowledgeable about the processes, systems and governance structures commonly associated with shared decision-making; to identify the skills, knowledge and attitudes which promote successful shared decision-making; to review the research related to the successes and shortcomings of shared decision-making in educational settings; and to determine the readiness and commitment of the various groups within the school community to proceed with shared decision-making as a means to achieve the goal of improved teaching and student learning and improved school safety and discipline. The use of professional facilitators to conduct such conversations is advisable and the Department of Education and local districts shall collaborate with other educational stakeholder groups to make such facilitators available at reasonable costs to districts and schools for such purposes.

(70 Del. Laws, c. 457, § 1; 71 Del. Laws, c. 180, § 38.)

### § 802. Shared decision-making at the school district level.

(a) Each board of education shall initiate with other representatives of the school community initial structured conversations and activities concerning the utilization of shared decision-making by April 1, 1998, using such funds as are appropriated for this specific purpose in the annual appropriations act and as specified under § 807(a) of this title.

(b) The local board of education shall facilitate the selection of a district shared decision-making advisory committee ("District Advisory Committee") through an inclusive process that reflects the diversity within the school community.

Representatives of employee groups recognized under Chapter 40 of this title shall be selected by the relevant exclusive representative in a manner of the exclusive representative's choosing. Employees not organized under Chapter 40 of this title shall select their representatives from the membership of their employee groups. For student (where appropriate), parent and community groups, the local board of education shall coordinate the selection of representatives with organizations for each of these groups where they exist.

(c) The structured conversations and activities of the District Advisory Committee shall result in a Report and Recommendation to the local board, through a decision-making process it developed to produce as much agreement as practicable, that:

(1) They wish to pursue shared decision-making further by developing a district transition plan to implement shared decision-making as a means of pursuing school improvement in the district, identifying the process they recommend for establishing a district transition plan, and determining the composition and roles and responsibilities of the "District Transition Team" to develop the district transition plan; or

(2) They recommend that the district not explore shared decision-making further.

(d) Each representative of a stakeholder group who participates in the structured conversations and activities of the District Advisory Committee pursuant to subsection (b) of this section shall sign the Report and Recommendation pursuant to subsection (c) of this section. Each such representative shall also indicate that they have made a good faith effort to communicate with their stakeholder group so as to ensure that the views of the membership of their stakeholder group were reflected in the Report and Recommendation.

(e) If the school community agrees to pursue shared decision-making further, the school board shall, after due consideration of the Report and Recommendation of the District Advisory Committee, officially vote to endorse the concept of shared decision-making, the process for establishing a district transition plan, the composition of the District Transition Team (whose membership shall be selected in accordance with the procedures set forth in subsection (b) of this section); and the roles and responsibilities delegated to the District Transition Team. If the board has concerns with a recommendation by the District Advisory Committee, it shall remand that recommendation to the District Advisory Committee for its proposed resolution of the concerns. The resolution shall be presented to and endorsed by the board before the board applies for a district transition planning grant.

(f) The Department of Education shall provide local school boards with assistance, guidance and strategies to initiate and plan the implementation of these structured conversations and activities.

(70 Del. Laws, c. 457, § 1; 71 Del. Laws, c. 180, § 38.)

## § 803. District transition plans and grants.

(a) After the local board has endorsed the district transition planning process pursuant to § 802(e) of this title, the board shall initiate the district transition plan by applying for a transition planning grant as authorized in the annual state appropriations act or through the Department of Education's allocation of federal funds.

(b) The Department of Education with the approval of the State Board of Education shall adopt guidelines for the approval of district transition grants, based upon the recommendations of a State Board advisory committee comprised of representatives of the school community, and shall promulgate such guidelines by January 1, 1997, so that districts may consider them during their activities pursuant to § 802 of this title and this section. The guidelines shall require, but not be limited to specifying, that the district demonstrate that the district has:

(1) Conducted structured conversations and activities to make the transition to shared decision-making as evidenced by local board action and the Report and Recommendation of the District Advisory Committee signed by representatives of school community as specified in § 802(d) of this title;

(2) Established a District Transition Team;

(3) Established a working procedure for the District Transition Team to reach decisions and resolve conflicts;

(4) Validated significant support from members of the school community;

(5) Established plans for communicating the results of the district transition plan to the broader school community for information and critical review;

(6) Specified within its district transition plan its policy for supporting such activities from its local budget, including the school improvement planning process set forth in § 806 of this title, and specifically identified funds to be made available to school committees for their use, such as funds for professional development and classroom materials; and

(7) Described how the various stakeholder groups will formally express their opinion regarding the district transition plan prior to its adoption by the local board of education.

(c) The Department of Education shall provide local school boards and District Transition Teams with assistance, guidance and strategies to initiate, develop and formally adopt their district transition plans.

(d) The local board of education, following public review and comments, shall be responsible for the final form and formal adoption of the district transition plan.

(e) A local board's decision not to adopt a District Transition Plan for shared-decision-making shall not limit the authority of a school principal who demonstrates significant faculty support to submit a waiver request to the local board pursuant to a provision of this title or to develop a school improvement plan; provided, however, that this subsection shall not deprive the local board of its authority to disapprove a waiver request or a school improvement plan pursuant to its authority under § 1049 of this title.

(70 Del. Laws, c. 457, § 1; 71 Del. Laws, c. 180, §§ 38-40.)

## § 804. Shared decision-making at the school level.

(a) Any school in a school district which has adopted a district transition plan as specified in § 803(d) of this title shall establish a school-level shared decision-making advisory committee ("School Advisory Committee"). Such school may also submit a written request to the Department of Education, via its local board of education, in order to receive funds to conduct structured conversations and activities among the school community to decide whether or not to apply to the Department of Education for a school-level shared decision-making transition grant as specified in § 807(d) of this title and as provided for in the annual appropriations act.

(b) The principal shall facilitate the selection of representatives on the School Advisory Committee through an inclusive process as established in the District Transition Plan that has the goal of ensuring a fair selection process for the representatives of constituencies within the school community such as parents, community members, teachers, administrators, other employees and students (where appropriate) which reflects the diversity within the school community. Such process shall ensure that the members of the various constituencies select their respective representatives.

(c) The structured conversations and activities, as defined in this title, shall result in a decision, accompanied by an explanatory report and recommendation, by the School Advisory Committee, through a process it developed to produce as much agreement as practicable, that:

(1) They wish to pursue share decision-making further by developing a school transition plan to implement shared decision-making for educational improvement in the school; or

(2) They choose not to explore shared decision-making further.

(d) If the School Advisory Committee decides to proceed with shared decision-making, the structured conversations and activities shall result in the development of a process to establish a school transition plan, to determine the composition of the "School Transition Team" and to develop the roles and responsibilities delegated to the School Transition Team. The School Transition Team representatives shall be selected through the same process established by subsection (b) of this section for their respective constituency groups. The decision as to these issues shall be reflected in the Report and Recommendation pursuant to subsection (c) of this section or in a supplemental Report and Recommendation, signed in accordance with subsection (e) of this section.

(e) Each representative of a stakeholder group who participates in the structured conversation and activities of the School Advisory Committee pursuant to subsection (b) of this section shall sign the Report and Recommendation pursuant to subsection (c) of this section and any supplemental Report and Recommendation pursuant to subsection (d) of this section. Each such representative shall also indicate that the representative has made a good faith effort to communicate with the representative's stakeholder group so as to ensure that the views of the membership of the representative's stakeholder group were reflected in the Report and Recommendation.

(f) The Department of Education and the relevant local district administration shall provide schools with assistance, guidance and strategies to initiate and plan the implementation of these structured conversations and activities.

(70 Del. Laws, c. 457, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 38, 41.)

## § 805. School transition plans and grants.

(a) A school community which chooses to begin transition to shared decision-making, as defined herein, may apply to the Department of Education via the local board of education for a school transition grant. The State shall provide funding for such grants as authorized in § 807(d) and (e) of this title.

(b) The Department of Education with the approval of the State Board of Education shall adopt guidelines for the approval of school transition grants, based upon the recommendations of an advisory committee comprised of representatives of the school community, and promulgate such guidelines by January 1, 1997. The guidelines shall require, but not be limited to, specifying that the school demonstrates that the school has:

(1) Conducted structured conversations and activities and has agreed to make the transition to shared decision-making as evidenced by the Report and Recommendation signed by representatives of the School Advisory Committee as specified in § 804(c)-(e) of this title;

(2) Established a School Transition Team;

(3) Established a working procedure for the School Transition Team to reach decisions and resolve conflicts;

(4) Validated significant support from members of the school community;

(5) Committed to develop a school improvement plan including comprehensive school improvement goals tied to state and local academic performance standards and strategies to achieve these goals and including staff development for building the necessary capacities and skills to successfully implement shared decision-making and improve parental involvement;

(6) Established plans for communicating the results of the school improvement plan to the broader school community for information and critical review; and

(7) Described how the various stakeholder groups will formally express their opinion regarding the school transition plan prior to its adoption by the local board of education.

(c) The Department of Education and the relevant local district administration shall provide school transition teams with assistance, guidance and strategies to initiate, develop and formally adopt their transition plans.

(d) The local board of education, following public review and comments, shall adopt the school transition plan unless evidence demonstrates that the school's transition plan is inconsistent with specific provisions of the adopted district transition plan and such disapproval shall extend only to such inconsistent provisions of the school transition plan.

(70 Del. Laws, c. 457, § 1; 71 Del. Laws, c. 180, §§ 38, 42.)

## § 806. School improvement plans.

(a) A school, which has an approved shared decision-making transition plan as specified in § 805 of this title, may apply to the Department of Education for a school improvement implementation grant. Such grants shall be awarded at the beginning of the fiscal year. A school with an approved application shall be eligible for such grant for the following 3 years as provided in the annual Appropriations Act. Subsequent applications may be made only after the review and evaluation of the school improvement plan required by § 808 of this title is completed and the results of such are included in the school's application. The Department of Education with the approval of the State Board of Education shall adopt guidelines for the approval of school improvements grants to be awarded beginning Fiscal Year 1999, based upon the recommendations of an advisory committee comprised of representatives of the school community, and promulgate such guidelines by January 1, 1998. The guidelines shall require that the school demonstrate that its school improvement plan has the following components:

(1) Comprehensive school improvement goals tied to state and local academic performance standards and strategies to achieve these and other goals identified by the school, including staff development and parental involvement;

(2) A description of the rationale for the proposed governance structure, stating how and why the governance process should improve decision-making and support continuous improvement in teaching and student learning;

(3) Review by the broader school community with agreement that the school improvement plan is consistent with the school district plan and evidence that the local board of education has formally adopted the school's improvement plan;

(4) A proposed budget that explains the use of resources allocated to the school to support strategies for achieving the school improvement goals;

(5) The structural changes or procedures for providing the necessary time and skill-building to support shared decision-making and continuous improvement in teaching and student learning;

(6) The assessment and evaluation process that the school will use to measure its progress toward achieving its stated goals;

(7) A proposed timeline for phasing-in its school improvement plan; and

(8) A proposed budget for the use of the school improvement grant.

(b) Without limiting the local board's authority to determine district policy pursuant to § 1049 of this title or to disapprove plans to the extent they are inconsistent with the district transition plan, each school committee may propose in its school improvement plan, policies or suggestions relating to subjects, including but not limited to: Curricular, instructional and assessment strategies to be used at the school; assignment of staff within the school; assignments of students to classes; the school's calendar; staff development; classroom materials; parental involvement; the need for extra learning time for students through longer days and years and Saturday sessions; the needs of at-risk students; discipline and school climate; teacher orientation and mentoring; and proposed waivers of regulations and district policies.

(70 Del. Laws, c. 457, § 1; 71 Del. Laws, c. 180, § 43.)

## § 807. District and school grants supporting shared decision-making.

(a) The amount of appropriations to fund the grants specified in this chapter shall be as determined by the annual Appropriations Act. The Department may allocate available federal funds to fund the grants specified in this chapter. School districts and schools shall not be required to provide a local match to these funds but shall be required in the process established by § 803 of this title to consider and incorporate in their district transition plan the appropriate level of local budget support for such purposes.

(b) Each school district shall be entitled to receive a grant to conduct structured conversations and activities and to design a shared decision-making transition plan. This grant may be used over a period set forth in the annual Appropriations Act. Upon written request to the Department of Education on or before April 1, 1998, a district may use and be awarded up to one third of its grant to conduct its required structured conversations and activities.

(c) Districts meeting the requirements for approval of a transition grant as specified by § 803(a) and (b) of this title and the guidelines developed by the Department of Education with the approval of the State Board of Education for such grants may be awarded the balance of their grants for development of a district transition plan; provided, that no such funding shall be available for award after June 30, 1998, and that any application for such funding shall be made to the Department on or before May 1, 1998.

(d) Each school in a district which has adopted a district transition plan for shared decision-making, as specified in § 803(d) of this title, shall be entitled to receive a grant to conduct structured conversations and activities and to develop a school transition plan which incorporates shared decision-making. The amount of such grants shall be established in the annual Appropriations Act or by allocation of available federal funds. Such grants shall be made available starting July 1, 1997, and shall not be available for award after June 30, 2000. Any application for such a grant shall be made on or before May 1, 2000. The grants awarded may be used over a period set forth in such act or determined by the Department in the case of federal funds. The local boards of such schools shall not reduce the funds otherwise allocated to such schools as a result of such grants or otherwise use such grants to supplant local board expenditures. A school may use and be awarded up to $^{1}/_{3}$ of its grant to conduct structured conversations and activities.

(e) Schools meeting the requirements for approval of a transition grant as specified by § 805(a) and (b) of this title and the guidelines developed by the Department of Education with the approval of the State Board of Education for such grants may, if they comply with the deadline set forth in subsection (d) of this section, be awarded the balance of their grants for development of the school's transition plan.

(f) Upon the adoption of its school transition plan by the local board of education and upon its subsequent approval every 3 years pursuant to § 808 of this title, a school shall be eligible to be awarded annually a school improvement grant to implement its school improvement plan through the application process set forth in § 806(a) of this title. The amount and duration of such grants shall be established by the annual Appropriations Act. The local boards of such schools shall not reduce the funds otherwise allocated to such schools as a result of such grants or otherwise use such grants to supplant local board expenditures.

(g) School committees for school discipline and climate, formed pursuant to Chapter 16 of this title, shall be authorized to continue to receive incentive grants, as provided in Chapter 16 of this title and authorized in the annual state Appropriations Act, until such time as a school transition plan, as defined in § 806 of this title, specifies an alternative governance structure to assume the authority and responsibilities specified in Chapter 16 of this title. Such school improvement plan shall be presented to the Department of Education as evidence upon application for such incentive grants.

(70 Del. Laws, c. 457, § 1; 71 Del. Laws, c. 180, § 44.)

## § 808. Review of district and school plans.

District transition plans and school improvement plans shall be reviewed and evaluated at least every 3 years or more frequently upon a schedule specified within the school's or district's plan to measure continuous progress in achieving the goals specified in the plan. Such review and evaluation shall include the school community. The results of such review and evaluation will be reported in the annual school district and school profiles as specified in this title.

(70 Del. Laws, c. 457, § 1.)

# Part I
# Free Public Schools

## Chapter 10
## Reorganization of School Districts

### Subchapter I
### Reorganization

### § 1001. Purpose.

(a) The purpose of this subchapter is to continue the statewide process of reorganization of school districts begun under the School District Reorganization Act of 1968; to preserve the historic concept of semiautonomous locally controlled school districts throughout the State; to provide a procedure for the effective and orderly reorganization of certain existing school districts in Delaware; and to provide a framework of a governance system for such reorganized districts.

(b) It is the further purpose and intent of the General Assembly to establish policy, procedures, standards and criteria under which the State Board of Education is authorized to determine and establish an appropriate reorganized school district or school districts and to implement the reorganization thereof. Any plan or rules and regulations duly adopted in accordance with this subchapter and § 1028(k) of this title by the State Board of Education for its implementation of such a plan shall be binding upon the parties involved in accordance with § 122(a) of this title.

(14 Del. C. 1953, § 1001; 56 Del. Laws, c. 292, § 6; 61 Del. Laws, c. 210, § 1; 62 Del. Laws, c. 351, § 1.)

### § 1002. Definitions.

Unless otherwise defined in this chapter:

(1) “Component former school board” means the board of education of any component former school district or component school district.

(2) “Component former school district” or “component school district” means a school district, as constituted on July 1, 1977, which comprises in whole or in part a reorganized school district on or after July 1, 1978.

(3) “Reorganized school district” or “newly reorganized school district” means a school district which is constituted and established in accordance with this chapter, provided that “reorganized school district” or “newly reorganized school district”, for the purposes of this subchapter and § 1028(k) of this title, shall not include any district specifically created to administer a system of vocational and/or technical education.

(4) “School board” means the board of education of a reorganized school district consisting of members duly elected or appointed in accordance with this chapter.

(5) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area provided that “school district” shall not, for the purposes of this subchapter and § 1028(k) of this title, include any district specifically created to administer a system of vocational and/or technical education.

(14 Del. C. 1953, § 1002; 56 Del. Laws, c. 292, § 6; 61 Del. Laws, c. 210, § 1; 62 Del. Laws, c. 351, § 4.)

### § 1003. Criteria.

The State Board of Education is hereby authorized and empowered to reorganize school districts pursuant to this chapter. Any such reorganization shall meet at least the following criteria:

(1) Provide a complete instructional program for grades 1 through 12 except as may be provided for vocational and/or technical education;

(2) Be composed of whole component school districts or parts of component school districts or any combination of whole and parts of component school districts without regard to any specific provisions of this chapter which would otherwise require the preservation of the boundaries of any component school district.

(14 Del. C. 1953, § 1003; 56 Del. Laws, c. 292, § 6; 61 Del. Laws, c. 210, § 1.)

### § 1004. Implementation; date of reorganization.

Whenever any school district is reorganized either by consolidation of whole or parts of whole districts into a new district or districts or by division of a district or by a combination of consolidation and division of districts, the State Board of Education shall set the date upon which the implementation of the reorganized district or districts shall occur, after which date the reorganized district or districts shall be organized and administered according to this title and the school board of the former school district shall be dissolved.

(14 Del. C. 1953, § 1004; 56 Del. Laws, c. 292, § 6; 57 Del. Laws, c. 56, § 1; 61 Del. Laws, c. 210, § 1; 62 Del. Laws, c. 351, § 5.)

## § 1005. Employee's right to fair dismissal; seniority.

Nothing in this chapter shall be deemed to alter or affect in any way either Chapter 14 of this title or the right to terminate the employment of any school employee to whom Chapter 14 of this title does not apply, for cause or for any other reasons not inconsistent with the purpose of this section, except that, for purposes of § 1403 of this title, a teacher as defined in § 1401 of this title who is and has been continuously employed among a district created by a division under § 1028(k) of this title, the district divided under § 1028(k) of this title and 1 of its component former school districts shall be deemed to have been continuously employed by the new district to which that teacher has been assigned for the entire term of that teacher's continuous employment in the several school districts.

(14 Del. C. 1953, § 1005; 56 Del. Laws, c. 292, § 6; 61 Del. Laws, c. 210, § 1; 62 Del. Laws, c. 351, § 6; 70 Del. Laws, c. 186, § 1.)

## § 1006. Deployment of school employees in each reorganized school district.

(a) The State Board of Education shall devise a fair and equitable procedure for the deployment of school employees among and within the districts reorganized pursuant to this subchapter and § 1028(k) of this title which will be consistent with the criteria for reorganization set out in § 1003 of this title.

(b) Any school district which is eligible for division pursuant to § 1028(k) of this title shall include in every employment contract into which it enters after July 8, 1980, a statement providing that the contract shall not be binding on any district created by such division.

(14 Del. C. 1953, § 1008; 56 Del. Laws, c. 292, § 6; 61 Del. Laws, c. 210, § 1; 62 Del. Laws, c. 351, § 7.)

## § 1007. Interim boards; membership; authority.

(a) When a reorganized school district, excluding a vocational-technical school district, is divided pursuant to this subchapter and § 1028(k) of this title, there shall be an interim board of education for each district being created. The interim board of education shall have 7 members, one of whom resides in each nominating district. Each member of the board of education of the district being divided shall become a member of the interim board of the district being created and from the nominating district in which that member resides, provided that the member's term on the interim board shall terminate on the date on which that member's term on the board of education of the district being divided terminates. Any person who succeeds a member of the board of the district being divided shall also succeed that person as a member of the interim board. Except with regard to persons appointed to fill vacancies, the remainder of the members of the interim board of education shall be chosen by election pursuant to the following procedure:

(1) Candidates for the interim board of education shall be nominated in accordance with § 1075 of this title except that a nominee must be a resident of the nominating district that nominee will represent;

(2) A nominating petition in support of any nominee may be signed by any resident of the school district qualified to vote in the election proposed;

(3) Election of members of the interim board shall be at large in the geographic area encompassed by the school district being created, provided that no person may vote for more than 1 person who resides in each nominating district;

(4) The election shall be conducted in accordance with subchapter IV of this chapter; provided, however, that:

a. The election shall be held within 130 days of the approval by the State Board of Education of the plan for division of the district pursuant to § 1028(k) of this title on a date chosen by the department of elections of the county in which the district is located after consultation with the State Board of Education or its designee; provided, however, that it shall not be held in November or December;

b. The election shall be conducted by the department of elections of the county in which the district is located. The cost of the election shall be borne by the school district being divided;

c. In the case of a tie between nominees from the same nominating district, the member shall be chosen by a run-off election to be held within 30 days.

(b) Not later than 10 calendar days after the election of the members of an interim board, the President of the State Board of Education or the President's designee shall meet the new board and swear in the members and shall on the same occasion instruct the board immediately to organize according to this chapter.

(c) Each new board so organized shall serve as an interim board of education for the reorganized district until the date set by the State Board of Education for the establishment of the new school district according to § 1004 of this title.

(d) Each interim board shall have all of the authority of a board of education as set forth in this title for the sole purpose of planning and preparing for the establishment of a reorganized school district to be established on the date set by the State Board of Education. The authority herein granted to each interim board may include but is not limited to the authority to set tax rates in accordance with this title, negotiate contracts, employ personnel for assignment as of the date of implementation of the new district and select a name for the reorganized school district.

(e) The interim board may employ personnel for immediate assignment to execute the policies of the interim board.

(f) All persons elected to the interim board or appointed to fill a vacancy shall be members of the interim board until it is dissolved on the date selected by the State Board of Education pursuant to § 1004 of this title for implementation of the reorganization. A vacancy on the interim board shall be filled by the remaining members of the interim board who shall appoint a person who resides in the nominating district in which that person's predecessor resided.

(g) Each interim board shall devise a budget to support its operation during the period from the date of its organization until the date set by the State Board of Education for implementation of the new district and present that budget to the State Board of Education for review and approval on a date set by the State Board of Education which shall be not more than 30 calendar days after the date that the interim board is organized. The State Board of Education shall approve or make modifications in and approve the budget not later than 10 days after it is presented by the interim board.

(h) If the district being divided or consolidated fails to contribute to the interim board the amount assessed against it, according to this section, within 10 calendar days of receipt of the statement of assessment delivered by certified mail, the interim board shall report the delinquency to the State Board of Education, which shall in turn verify the delinquency and certify its finding to the Secretary of Finance. Upon certification of the Secretary of Finance, the State Treasurer shall pay the assessed amount to the interim board from such funds as are available in the state and local district accounts for the delinquent district.

(i) Prior to the organization of the interim board, the State Board of Education shall engage in planning to effectuate the division of the school district. The board of education of the school district being divided shall, at the request of the State Board of Education, assign personnel to assist the State Board of Education.

(j) Nothing herein shall alter the procedure or timing of elections for membership on the board of education of the district being divided.

(14 Del. C. 1953, § 1008; 56 Del. Laws, c. 292, § 6; 61 Del. Laws, c. 210, § 1; 62 Del. Laws, c. 351, §§ 8, 9; 70 Del. Laws, c. 186, § 1.)

## § 1008. The Redding Consortium for Educational Equity.

(a) The Redding Consortium for Educational Equity ("Consortium") replaces the Wilmington Education Improvement Commission. The Consortium shall recommend policies and practices to the Governor and General Assembly and to the Secretary of Education to achieve educational equity and to improve educational outcomes of all pre-K to grade-12 students in the City of Wilmington and northern New Castle County.

(b) The Consortium shall monitor the educational progress and outcomes of students in the City of Wilmington as well as all low-income, English learners and other students at risk across northern New Castle County. It shall develop and publish data reports on the conditions impacting the educational outcomes of these students and also track the progress of these students.

(c) The Consortium shall recommend policies and actions to the Governor and General Assembly that support the continuous improvement of public education in the City of Wilmington and northern New Castle County. It shall spotlight best practices from across the State and nation for increasing educational equity, improving educational outcomes, and strengthening school and community services. It shall facilitate collaboration on implementation of best practices among school districts and charter schools and may implement pilot projects It shall also facilitate the consistent engagement of impacted communities to strengthen and inform its work.

(d) The Consortium shall evaluate the need for additional or alternative educational facilities in the City of Wilmington, including secondary schools.

(e) The Consortium shall develop policy proposals to be introduced through legislation to improve teaching and learning in both district and charter schools in the City of Wilmington and northern New Castle County.

(f) The Consortium shall develop a proposal for redistricting in the City of Wilmington and northern New Castle County that must include provisions under § 1026(d)(3) of this title formulated specifically for that purpose with designated responsibilities and timelines for action at all levels.

(g) The Consortium shall research the viability of the New Castle County Tax District and Tax Pool.

(h) The Consortium is comprised of 25 voting members, as follows:

(1) Fifteen members serving by virtue of position, or a designee selected by the member, as follows:

a. A State Senator representing the City of Wilmington, appointed by the President Pro Tempore of the Senate.

b. A State Representative representing the City of Wilmington, appointed by the Speaker of the House of Representatives,

c. A State Senator from the minority caucus, appointed by the President Pro Tempore of the Senate.

d. A State Representative from the minority caucus, appointed by the Speaker of the House of Representatives.

e. The Superintendent of the Red Clay Consolidated School District.

f. The Superintendent of the Christina School District.

g. The Superintendent of the Colonial School District.

h. The Superintendent of the Brandywine School District.

i. The Superintendent of the New Castle County Vo-Tech School District.

j. The Mayor of the City of Wilmington.

k. The Head of the Metropolitan Urban League.

*l.* The President of the Delaware Hispanic Commission.

m. The Chair of the Advisory Council on English Learners.

n. A Chair of the Wilmington Community Advisory Council.

o. The President of the Delaware State Education Association.

(2) Ten members identified and appointed by the co-chairs of the Consortium, as follows:

a. A representative of the Wilmington Center for Education Equity and Public Policy.

b. A charter school lead.

c. Two teachers from schools in the City of Wilmington.

d. Two business leaders.

e. Two parents.

f. Two additional community leaders or representatives of the Wilmington and northern New Castle County community with educational interests.

(i) The Consortium is comprised of the following nonvoting members, or a designee selected by the member:

(1) The Secretary of Education.

(2) The Secretary of Finance.

(3) The Director of the Office of Management and Budget.

(j) Official action by the Consortium requires the approval of a majority of all voting members.

(k) Meetings of the Consortium and all related committees are public meetings and must be conducted under the requirements of the Freedom of Information Act, Chapter 100 of Title 29.

(*l*) The Consortium shall meet at least quarterly, and its first meeting shall occur on or before September 1, 2019.

(m) The Consortium may invite education and community stakeholders to participate in meetings as nonvoting members as determined by the co-chairs.

(n) The co-chairs of the Consortium are as follows:

(1) The member appointed by the President Pro Tempore of the Senate under paragraph (h)(1)a. of this section.

(2) A member appointed by the Governor from the members of the Consortium under paragraphs (h)(1)e. through (h)(1)o. or paragraphs (h)(2)a. through (h)(2)e. of this section.

(o) The Consortium may form standing committees to develop recommendations for consideration by the full Consortium. The co-chairs of the Consortium may appoint members of committees and working groups who are not members of the Consortium but whose participation will enhance the work undertaken.

(p) The Consortium shall work with and across all relevant governmental agencies, educational entities, and private and nonprofit institutions serving residents of the City of Wilmington. The Consortium shall build upon the work and recommendations of the Wilmington Education Advisory Committee and the Wilmington Education Improvement Commission.

(q) As requested by the Governor and the General Assembly, the Consortium shall carry out other responsibilities consistent with its overall mission.

(r) The Consortium shall report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House, the City of Wilmington, the Director and the Librarian of the Division of Legislative Services, and the Delaware Public Archives at least once each fiscal year. It shall annually present a report to a joint session of the education committees of the Senate and the House. Each report must include all of the following:

(1) A summary of the work and actions completed by the Consortium to accomplish its purposes as required under this section.

(2) Recommendations of the Consortium about whether and how to further implement, promote, and achieve improvement in the education of pre-K to grade-12 students in the City of Wilmington and northern New Castle County.

(s) The University of Delaware's Institute for Public Administration and Delaware State University's School of Graduate Studies shall staff the Consortium. A policy director from the Institute for Public Administration, approved by the co-chairs of Consortium, shall manage the staff. An annual line item allocation of funding must be provided to the Consortium to support the operational services, research, and analysis carried out by the Institute for Public Administration and Delaware State University and in the development of the transition, resource, and development plan.

(t) The Consortium shall remain in operation until the Governor and General Assembly conclude that its mission has been fulfilled.

(82 Del. Laws, c. 164, § 2; 83 Del. Laws, c. 37, § 15; 83 Del. Laws, c. 283, § 16; 84 Del. Laws, c. 255, § 11.)

## § 1009. Transfer of property.

During the period beginning on the date that an interim board is organized pursuant to § 1007 of this title and ending on the date set by the State Board of Education for the establishment of a new district, any school district being divided shall take the steps necessary to transfer and convey all property that, as determined by the State Board of Education, naturally belongs to the reorganized district and shall make and execute such deed or deeds of conveyance as are necessary to pass to the reorganized district the legal title to all such property, provided that the State Board of Education shall make no determination contrary to § 1028(f) of this title. For purposes of this section, the property upon which a vocational-technical center or school is located and the property constituting such vocational-technical center or school shall be deemed to belong to the vocational-technical school board in the county in which the vocational-technical center

or school is located. The transfers herein required shall be concluded not later than 90 calendar days after the establishment of the new reorganized school district.

(61 Del. Laws, c. 210, § 1; 62 Del. Laws, c. 351, §§ 8, 10.)

### §§ 1010-1012. Property, indebtedness and obligation of component former school districts; property held by State Board at time of reorganization; federal funds.

Repealed by 62 Del. Laws, c. 351, § 8, effective July 8, 1980.

## Subchapter II

## Reorganized School Districts

### § 1021. Types of reorganized school districts.

After July 1, 1969, all school districts in this State shall be known as "reorganized school districts."

(14 Del. C. 1953, § 1021; 56 Del. Laws, c. 292, § 6.)

### § 1022. Property; legal title.

Any reorganized school district constituted and established under this chapter shall have, subject to the laws of this State, the power to purchase, receive, take, lease or otherwise acquire, own, hold, improve and otherwise use real or personal property, or any interest therein and to sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein. Legal title to property, real and personal, of a reorganized school district shall be held in the name of the reorganized school district.

(14 Del. C. 1953, § 1022; 56 Del. Laws, c. 292, § 6.)

### § 1023. School year.

Repealed by 72 Del. Laws, c. 6, § 2, effective February 8, 1999.

### § 1024. Fiscal year.

The fiscal year in each reorganized school district shall begin on July 1 and end on June 30 of the succeeding year.

(14 Del. C. 1953, § 1024; 56 Del. Laws, c. 292, § 6.)

### § 1025. Fixing doubtful or disputed boundaries of reorganized school districts.

(a) In case of doubt or controversy as to the correct location of the existing boundary or boundaries of any reorganized school district, the State Board of Education shall fix and establish the boundaries after examining the available records and after due hearing of the owners of the property that may be involved. This section applies where there is uncertainty as to the existing boundaries of a district. The power to change or alter deliberately the boundaries of a reorganized school district is governed by § 1026 of this title.

(b) The State Board of Education shall make and preserve a record of its decisions fixing the boundaries of a reorganized school district in a special book to be kept by it for that purpose and shall file a copy of such record with the Board of Assessment of the county in which the property involved is located.

(c) If the State Board of Education deems it necessary to employ technical assistance in fixing and establishing a doubtful or disputed boundary, it may pay the cost of such technical assistance out of any fund that it may have to its credit that is not specially designated for another purpose.

(14 Del. C. 1953, § 1025; 56 Del. Laws, c. 292, § 6.)

### § 1026. Changing boundaries; vocational-technical school districts; City of Wilmington.

(a) The State Board of Education may, in accordance with this section, change or alter the boundaries of any reorganized school district.

(b) Before making changes in the boundaries of a reorganized school district, the State Board of Education must consult with the school boards of the districts affected by the proposed change. Thereafter, the State Board of Education must submit for approval or rejection the question of the change of boundary to the qualified voters of the district or districts affected at a special referendum to be held for that purpose, after 2 weeks' notice of the referendum and proposed change has been posted at the school or schools of the district or districts affected. The referendum must be conducted in each district by the school board of the district. Any person who possesses the qualifications prescribed in § 1077 of this title may vote at the referendum. The question must be determined by a majority of the total vote cast in each district affected. Each school board must immediately certify to the State Board of Education the result of the referendum in the district.

(c) Subject to subsection (a) of this section, the State Board of Education may change or alter the boundaries of any reorganized school district without a referendum of the voters if the written consent of the owners of the real property to be transferred has been obtained and if also the school boards of the districts affected by such change or alteration have adopted resolutions favoring such change or alteration.

(d) (1) Notwithstanding the provisions of subsections (b) and (c) of this section, the State Board of Education may change or alter the boundaries of school districts in New Castle County in a manner consistent with some or all of the redistricting recommendations made

by the Redding Consortium for Educational Equity ("Consortium"), provided that the General Assembly passes, and the Governor signs, a Joint Resolution supporting the proposed changes in school district boundaries.

(2) Prior to ordering a change or alteration of a school district boundary under this subsection, the State Board or the Consortium, shall conduct at least 1 public hearing in each of the school districts to be affected, including at least 2 in the City of Wilmington.

(3) a. The State Board of Education shall make its decision and order to change or alter district boundaries under this subsection based on the recommendations of the Consortium as expressed in a transition, resource, and implementation plan for redistricting. The final recommendation and plan developed by the Consortium for presentation to the State Board of Education must include all of the following:

1. The orderly and minimally disruptive reassignment of students affected by the boundary change and the reassignment of governance responsibilities.

2. Implications for educators, administrators, and other personnel that may lead to equitable adjustments to local collective bargaining agreements.

3. Resources that will be required, from state, district, and local sources, to support the redistricting transition and provide for the effective ongoing education of all affected students, and for the support of schools with high concentrations of low income students and English learners.

4. Student transportation.

5. Distribution of capitalassets and financial obligations or a process for such distribution.

6. Engagement of educators, staff, parents, district personnel, and community members throughout the transition.

7. Directives for improving secondary education options for City of Wilmington students, such as the provision of additional secondary schools.

8. Redrawing of district boundaries in Wilmington and northern New Castle County to better serve the educational interests of all students, including reducing the concentration of low-income students and improving educational services and supports for English learners and other students at risk.

9. An assessment of the educational needs of City of Wilmington students and the resources required to meet those needs.

10. A stipulation that the funding statewide and locally will facilitate effective implementation of the proposed comprehensive plan in a manner that will improve the educational outcomes for all of the students impacted by that plan.

11. A timetable for implementing each element of the redistricting plan and the designated responsibility for carrying out responsibilities until the date of full implementation.

12. A process for the ongoing monitoring and evaluation of the educational impacts and outcomes of implementation, which will include an annual report by the Consortium to the Governor, the General Assembly, the Secretary of Education, and the State Board of Education.

13. The plan must permit students to continue their attendance at the school they attended prior to the boundary change with tuition payments made by the sending district as provided in Chapter 6 of this title until such time as the pupils complete the grade levels offered in that school.

b. The Consortium's final recommendation and plan may include all of the following:

1. Recommendations for changes in policies and practices that will improve the coordination and collaboration among districts and charter schools serving students in the City of Wilmington and New Castle County, including changes in the authorization of charter schools.

2. Recommendations for improvements to access to high-quality early education programs for all students in the areas impacted by the proposed change in district boundaries.

3. Recommendations for improvements of the provision and coordination of before and after-school services for students and families in the areas impacted by the proposed change in district boundaries.

4. Recommendations for policies and practices associated with student assignment and school choice.

5. Recommendations for addressing additional transportation costs generated by enabling students to complete their studies in schools attended prior to the boundary changes.

6. Recommendations for policies and practices for systematic reform to address the negative impacts of the Neighborhood Schools Act [subchapter II of Chapter 2 of this title].

c. The Consortium may submit 1 or more interim plans for action under this section, which may address redistricting to ensure that all school districts have contiguous geographical boundaries.

d. All school districts, including the New Castle County Vocational-Technical School District, and all charter schools operating in the City of Wilmington and New Castle County must cooperate fully with the Consortium in the development of the redistricting plan, including the timely provision of student, financial, personnel, and facilities data as well as other operational data.

e. A recommendation and plan of the Consortium must be reviewed and acted upon by the State Board of Education within 3 months of submission.

(e) If the State Board of Education does not approve a plan as submitted by the Consortium, it must notify the Chairperson of the Consortium in writing, give reasons why the plan was not approved, and allow the Consortium to resubmit the plan within 30 days of the Chairperson receiving the notice of denial.

(f) The State Board of Education must base its decision to change or alter school district boundaries on a record developed in compliance with state open meetings laws.

(g) The authority of the Consortium and the State Board of Education to act under the provisions of this section shall continue until the confirmation of a final State Board of Education approved plan by the Governor and the General Assembly.

(h) (1) Before the consideration of a Joint Resolution required under subsection (d) of this section by the General Assembly, the Controller General shall prepare a fiscal analysis of a redistricting plan approved by the State Board of Education under subsection (d) of this section ("the redistricting plan"). The fiscal analysis must do all of the following:

a. Describe all requirements of and obligations assumed by the State or a school district redistricted under the redistricting plan and any other consequences of the redistricting plan that has a fiscal impact on the State or a school district redistricted under the redistricting plan for each fiscal year following the enactment of the Joint Resolution.

b. Include full fiscal cost data estimates, including salaries, operating costs, other employment costs, capital outlays, and debt service that may be incurred under a redistricting plan.

c. State how the fiscal cost data estimates were calculated, including what facts were used or assumption made to calculate the estimates.

(2) On request by the Controller General, the Consortium, the State Board of Education, the Department of Education, the Office of Management and Budget, a school district redistricted under a redistricting plan, and any other state agency shall provide information and other assistance necessary to complete the fiscal projection required by this subsection.

(i) After the enactment of a Joint Resolution required under subsection (d) of this section, the General Assembly shall, through the General Assembly's budget process, determine the funding, if any, to be appropriated to provide resources needed for the implementation of a redistricting plan approved by a Joint Resolution, including any additional analysis, facility, and program requirements.

(j) Notwithstanding subsection (b) of this section, the State Board of Education may change or alter the boundaries of any reorganized vocational-technical school district if the school boards of the districts affected by such change or alteration have adopted resolutions favoring such change or alteration.

(14 Del. C. 1953, § 1026; 56 Del. Laws, c. 292, § 6; 68 Del. Laws, c. 260, § 1; 75 Del. Laws, c. 334, §§ 1-3; 76 Del. Laws, c. 142, § 1; 76 Del. Laws, c. 216, §§ 1-3; 80 Del. Laws, c. 139, § 1; 80 Del. Laws, c. 357, § 2; 82 Del. Laws, c. 163, § 1; 83 Del. Laws, c. 515, § 1; 84 Del. Laws, c. 237, § 1.)

## § 1027. Consolidation of reorganized or vocational-technical school districts; referendum; qualified voters; list of taxable property; bonds of vocational-technical school districts; school boards of consolidated school districts.

(a) The State Board of Education may, when in its judgment it is practicable and desirable, consolidate 2 or more reorganized school districts which are contiguous, in accordance with this section.

(b) In cases other than consolidation of reorganized vocational-technical school districts, the State Board of Education shall, by means of referendum conducted by the school board of the reorganized school districts affected, submit the question of consolidation to the voters of the reorganized school districts affected. The State Board of Education shall specify in advance the effective date of consolidation. The question of consolidation shall be determined by the majority of the total vote in each of the reorganized school districts affected, and the result shall be immediately certified to the State Board of Education in accordance with other provisions of this chapter. If approved by referendum in each of the reorganized school districts affected, the consolidated school district shall be constituted and established as of the effective date of consolidation.

(c) In the case of any consolidation of reorganized vocational-technical school districts, the State Board of Education shall, provided the school boards of the vocational-technical districts affected by such consolidation have adopted resolutions favoring such consolidation, constitute and establish such consolidated vocational-technical school district as of the effective date of consolidation.

(d) If consolidation is by referendum, the State Board of Education shall post a notice of the proposed referendum for consolidation at the school or schools in the reorganized districts affected and in at least 10 other prominent and conspicuous places in each of the reorganized districts affected at least 20 days prior to the date of the referendum. The notice of referendum shall distinctly state the following:

(1) That in case the consolidation is effected, the obligations evidenced by bonds of each of the consolidating districts shall become the common obligation of all of the residents of the consolidated district and the principal and interest on the outstanding bonds shall be paid according to the original terms as to principal and interest by means of a common tax levied uniformly throughout the consolidated district;

(2) That the rate of tax for current expenditures not including Division III in the consolidated district shall not be in excess of the highest rate that was authorized in any of the reorganized school districts to be consolidated, without a new referendum to authorize such taxation;

(3) That, in the event of consolidation, all obligations evidenced by bonds issued by the consolidated district after consolidation shall become the common obligation of the residents of the consolidated district.

(e) If consolidation is by referendum, every person qualified to vote under § 1077 of this title may vote, and §§ 1078, 1079 and 1085 of this title shall apply to such referendums.

(f) If consolidation is by referendum, the school board for the consolidated school district shall be responsible for preparing and maintaining the list of taxable property and capitations for each of the respective school districts in accordance with paragraph (d)(1) of this section, as each was constituted prior to consolidation and at the time the obligations evidenced by bonds were issued and shall continue to levy the taxes to pay for the principal and interest on the bonded indebtedness of each such school district, and the receiver of taxes and county treasurer or their successors shall deposit such tax moneys in the approved manner provided elsewhere in this title for the account of the consolidated district. The school board of the consolidated district shall keep such records and accounts as are necessary showing the receipts from such taxes and payments made on bonded indebtedness of each such school district as was constituted prior to consolidation.

(g) In the case of any consolidation of reorganized vocational-technical school districts where any of the school districts so consolidating have outstanding obligations evidenced by bonds, such obligations after consolidation shall become the common obligation of all the residents of the consolidated vocational-technical school district and the principal and interest on the bonds shall be paid according to the original terms as to principal and interest by means of a common tax levied uniformly throughout the consolidated vocational-technical school district.

(h) All property, real and personal, of the school districts consolidating shall upon consolidation become the property of, and vest by operation of law in, the consolidated school district, and all indebtedness and obligations of the districts consolidating shall become the indebtedness and obligations of the consolidated district. The rights of any bondholders shall not be impaired by reason of anything contained in this section.

(i) The school board of any school district consolidated under this section shall be created and constituted in accordance with § 1065 of this title.

(j) Any consolidated school district created under this section shall be operated and maintained as other school districts reorganized under this chapter and all laws in this State relating to school districts reorganized under this section shall apply to such consolidated school districts.

(k) This section shall apply only with respect to reorganized school districts constituted and established in accordance with this chapter and shall not be deemed to alter or affect in any way former § 1108 of this title with respect to school districts consolidating on or before June 30, 1969.

(14 Del. C. 1953, § 1027; 56 Del. Laws, c. 292, § 6.)

## § 1028. Division of reorganized school districts; names; bonded indebtedness; levy of taxes without referendum; real property; personal property; school boards; school districts conducted and maintained as other reorganized school districts; applicability of section; division of school districts created by federal court orders.

(a) A reorganized school district may be divided by the State Board of Education into 2 or more school districts in accordance with this section.

(b) A division, except in the case of the division of a reorganized vocational-technical school district, shall be by referendum, which referendum shall be conducted in the same manner as a referendum for the consolidation of reorganized school districts under § 1026 of this title. If division is by referendum, the question of division shall be determined by a majority of the total vote of the reorganized school district to be divided. A division of a reorganized vocational-technical school district shall be by resolution of the State Board of Education, and by resolution of the board of the reorganized vocational-technical school district affected. In the case of any division of any reorganized school district, the State Board of Education shall specify in advance the effective date of the division.

(c) One of the school districts resulting from a division shall retain the name of the reorganized school district being divided, unless otherwise specified by the State Board of Education. The school board of the reorganized school district being divided shall specify in advance and with the approval of the State Board of Education the proposed names for the school districts resulting from any division and the boundaries of the school districts so named. If division is by referendum, the proposed names and the boundaries of the school districts so named shall be distinctly stated in the notice of referendum.

(d) In the event any reorganized school district has, at the time of division, any outstanding obligations evidenced by bonds or bond obligations resulting from a division in a previous high school district, such obligations shall remain the obligations of the residents of the school district then obligated upon such bonds to pay the principal and interest when due until paid according to the original authorization with respect to principal and interest. The rights of any bondholder shall not be impaired by reason of a division of any reorganized school district. If division is by referendum, the notice of the referendum shall distinctly state the provisions of this subsection.

(e) Each school district resulting from a division of a reorganized school district shall levy taxes sufficient:

(1) To maintain the level of current expenditures including Division III as established in the divided reorganized school district; and

(2) To provide for payment of principal and interest on any bonded indebtedness as provided in this section.

Such taxes shall be levied by the school boards of the school districts resulting from any such division without a further referendum. If division is by referendum, the notice of referendum shall distinctly state the provisions of this subsection.

(f) All real property of the divided reorganized school district shall, by operation of law, become vested in the respective school district resulting from such division in which such real property is located.

(g) All personal property of the divided reorganized school district shall be apportioned between or among the school districts resulting from such division upon the basis of enrollments in such resulting school districts as of September 30, immediately preceding the division. In the event the school boards of the resulting school districts cannot agree as to such apportionment, the State Board of Education shall make the apportionment which shall be final.

(h) School boards for school districts resulting from any division under this section shall be created and constituted in accordance with § 1066 of this title.

(i) All school districts resulting from any division under this section shall be operated and maintained as other school districts reorganized under this chapter, and all laws in this State relating to school districts reorganized under this chapter generally and not inconsistent with this section shall apply to such school districts resulting from such division.

(j) This section shall apply only with respect to a division of a reorganized school district constituted and established in accordance with this chapter.

(k) During the period January 1, 1980, through August 31, 1981, the State Board of Education may divide any school district created by order of a federal court pursuant to this section; provided, however, that:

(1) The requirement of referendum included in subsection (b) of this section, the requirement of taxation of subsection (e) of this section and the statutory restriction of subsection (j) of this section shall not be applicable;

(2) The requirements of subsection (d) of this section shall be met by funds available pursuant to § 1057(b) of this title and by taxes collected by the county taxing authorities, which taxes shall be collected uniformly throughout the entire area being divided;

(3) The area being divided shall be permanently constituted as a school tax district as defined in § 1925 of this title;

(4) The rates for school taxes for current operating expenses and debt service on obligations evidenced by:

a. Bonds of the district being divided authorized prior to the division;

b. Bonds of the district being divided; and

c. Bonds of any former school district located in the geographical area of the district being divided which are levied in the school tax district

shall be established and set according to § 1925 of this title;

(5) Obligations evidenced by bonds authorized prior to the division herein authorized shall be paid by the county taxing authorities from debt service taxes collected in the school tax district;

(6) Taxes collected in the school tax district for current operating expenses shall be distributed each year in a uniform manner, on a per unit basis according to units certified by the State Board of Education for the previous fiscal year, by the county taxing authorities, to the districts formed by the division;

(7) No tax funds herein authorized shall be distributed to a separate vocational-technical school district;

(8) Nothing herein or in § 1925 of this title shall prevent any school district created as a result of such a division from levying and collecting taxes for any purpose within the new district when such rates are set according to Chapter 19 of this title requiring a referendum of the qualified voters in the district;

(9) Nothing herein or in § 1925 of this title shall prevent any school district created as a result of such division from issuing bonds and levying and collecting taxes to provide funds for the payment of interest and annual payments on such bonds, in accordance with Chapter 21 of this title;

(10) Any school district created as a result of such division may each fiscal year determine and set tax rates for tuition and for minor capital improvements for the next fiscal year;

(11) A change in tax rates by a single district shall not alter the rate set in accordance with § 1925 of this title for the school tax district;

(12) The boundaries of school districts divided according to this subsection shall be established in accordance with § 1066A of this title.

(13) The boards of education of school districts resulting from the division authorized by this subsection shall be established in accordance with § 1066 of this title.

(*l*) If the division of a school district is carried out under subsection (k) of this section, then the following provisions shall apply:

(1) Any outstanding obligations of the school district for current operating expenses, on the effective date of the division, shall become the joint obligation of the newly created districts. Each new district shall be responsible for a portion of the total outstanding obligation; the liability of each new district shall be in the same proportion to the total liability of the district being divided as the number of units of pupils enrolled in schools located in the area encompassed by the new district was to the total number of units in the district being divided in the fiscal year preceding the division;

(2) Balances in the local current expense account of the school district, on the effective date of the division, shall be divided among the newly created districts. The amount of funds received by each such district shall be in the same proportion to the total balance as the number of units of pupils enrolled in schools located in the area encompassed by the new district was to the total number of units in the district being divided in the fiscal year preceding the division;

(3) Balances in the local tuition account of the school district, on the effective date of the division, shall be divided among the newly created districts. The amount of funds received by each such district shall be in the same proportion to the total balance as the number of units of pupils enrolled in the schools located in the area encompassed in the new district was to the total number of units in the district being divided in the fiscal year preceding the division;

(4) Balances in the local debt service account of the reorganized school district, on the effective date of the division, shall be retained in the debt service account of the school tax district. These funds shall be used to meet bond obligations which are due after the effective date of the division;

(5) Balances in the local minor capital improvement accounts of the district being divided, on the effective date of the division, shall be divided among the newly created districts. The funds shall be divided in a proportion which will best enable the funds to be used for the projects for which they were intended at the time of the division, as determined by the State Board of Education;

(6) Balances in the annual maintenance accounts of the reorganized district, on the effective date of the division, shall be divided among the newly created districts. The funds shall be divided in a proportion which will best enable the funds to be used for the maintenance for which they were intended at the time of the division, as determined by the State Board of Education.

(14 Del. C. 1953, § 1028; 56 Del. Laws, c. 292, § 6; 62 Del. Laws, c. 351, §§ 2, 12; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 491, § 1.)

## § 1029. Vocational-technical school districts; school boards.

(a) Vocational-technical school districts superimposed on other reorganized school districts shall be operated and maintained as other reorganized school districts under the control of the State through its Department of Education as provided in this Code.

(b) In each reorganized vocational-technical school district there shall be a vocational-technical school board which shall have the authority to administer and to supervise all the vocational-technical centers or schools of the vocational-technical school district and which shall have the authority to determine policy and adopt rules and regulations for the general administration and supervision of the vocational-technical centers or schools of the reorganized vocational-technical school district. Such administration, supervision and policy shall be conducted and formulated in accordance with Delaware law and the policies, rules and regulations of the State through its Department of Education as provided in this Code. All vocational-technical centers or schools shall come within the authority of the vocational-technical school board in the county in which they are located.

(14 Del. C. 1953, § 1029; 56 Del. Laws, c. 292, § 6; 61 Del. Laws, c. 208, § 1; 71 Del. Laws, c. 180, § 45.)

# Subchapter III

# School Boards of Reorganized School Districts

## § 1041. Definitions.

As used in this subchapter:

(1) “Inhabitant” means a person who both claims legal residence and physically resides in a designated area or school district.

(2) “Reorganized school district” means a school district constituted and established under this chapter whether by reorganization, consolidation or division.

(3) “School board” means the board of education of a school district which is constituted and established under this chapter whether by reorganization, consolidation or division.

(4) “School board member” means a person duly elected or appointed to a school board in accordance with the provisions for such election or appointment as provided elsewhere in this chapter.

(14 Del. C. 1953, § 1041; 56 Del. Laws, c. 292, § 6; 85 Del. Laws, c. 50, § 1.)

## § 1042. School boards to which this subchapter applies.

This subchapter applies to school boards of all reorganized school districts in this State, except where otherwise provided in this subchapter.

(14 Del. C. 1953, § 1042; 56 Del. Laws, c. 292, § 6.)

## § 1043. Authority.

In each reorganized school district there shall be a school board which shall have the authority to administer and to supervise the free public schools of the reorganized school district and which shall have the authority to determine policy and adopt rules and regulations for the general administration and supervision of the free public schools of the reorganized school district. Such administration, supervision and policy shall be conducted and formulated in accordance with Delaware law and the policies, rules and regulations of the State.

(14 Del. C. 1953, § 1043; 56 Del. Laws, c. 292, § 6; 71 Del. Laws, c. 180, § 46.)

## § 1044. Designation of official office.

The official office of the school board shall be at the location of the office of the chief school officer, or superintendent of the reorganized school district, except as otherwise adequately provided for and publicly advertised.

(14 Del. C. 1953, § 1044; 56 Del. Laws, c. 292, § 6.)

## § 1045. Annual meeting; election of officers.

(a) Each school board shall hold an annual meeting at its office in July of each year.

(b) At each annual meeting the school board shall elect 1 of its members as president and another of its members as vice-president, who, in the absence or disability of the president, shall act in the president's stead.

(c) At each annual meeting, the school board shall designate the chief school officer or superintendent as the executive secretary of the school board.

(14 Del. C. 1953, § 1045; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1.)

## § 1046. Compensation of school board members.

A school board member shall receive no compensation for that member's services.

(14 Del. C. 1953, § 1046; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1.)

## § 1047. Treasurer.

The State Treasurer shall serve as treasurer of each reorganized school district in the State and shall receive all moneys to which the reorganized school districts are entitled by law and all those moneys collected for school purposes by the receiver of taxes and county treasurer or their successors of each county, who shall deposit all such moneys in the legal depository for State moneys in the custody of the State Treasurer.

Where any provision of this section is inconsistent with Chapter 92, Volume 23, Laws of Delaware, as amended, relating to the school district of the City of Wilmington and the Board of Public Education in Wilmington, Chapter 92, Volume 23, Laws of Delaware, as amended, shall control.

(14 Del. C. 1953, § 1047; 56 Del. Laws, c. 292, § 6.)

## § 1048. Regular and special meetings; quorum; roll call vote.

(a) Regular meetings of the school board shall be held each month during the year at the regular meeting place designated by the school board.

(b) Special meetings of the school board may be held whenever the duties and business of the school board may require.

(c) No business shall be transacted at any meeting of the school board without a quorum, such quorum to consist of a majority of the members of the board. No motion or resolution shall be declared adopted without the concurrence of a majority of the whole school board.

(d) A roll call vote of all board members on every motion or resolution shall be recorded as part of the minutes of such meetings and shall be considered a matter of public record except when the presiding officer determines and announces a unanimous vote on any issue which vote shall then be so recorded and considered a matter of public record.

(e) School board meetings must include time for public comment on agenda items that are subject to a vote. Public comment on agenda items must take place before a school board vote on agenda items. The school board may impose reasonable time, place, and manner restrictions on the length of the public comment period and the amount of time allotted for each public comment. For purposes of this subsection, "Agenda items" means major issues expected to be discussed at a public meeting, and excludes procedural items such as votes to approve minutes or enter into executive session.

(f) A method for the public to remotely attend and provide public comment at school board meetings must be provided.

(g) (1) If a school board allows school board members to attend regular or special meetings remotely by electronic means, then all of the following must be permitted reasons for remote attendance:

a. Illness of the school board member.

b. Illness of an individual in the school board member's family where that individual requires caretaking.

c. A public health emergency.

d. Pregnancy or immediate postpartum care responsibilities of the school board member or the school board member's spouse or partner.

e. Military deployment of the school board member.

(2) a. A school board may impose limitations on the number of times a school board member may be permitted to attend remotely under paragraph (g)(1) of this section.

b. A school board may not expand the permissible reasons for a board member to attend remotely beyond those enumerated under paragraph (g)(1) of this section.

(3) A school board member attending remotely under paragraph (g)(1) of this section is counted as though physically present for purposes of quorum and voting.

(4) The means used to facilitate remote attendance under this subsection must allow all participating members and witnesses to simultaneously hear the comments of each member or witness.

(14 Del. C. 1953, § 1048; 56 Del. Laws, c. 292, § 6; 59 Del. Laws, c. 91, § 1; 73 Del. Laws, c. 262, § 1; 84 Del. Laws, c. 14, § 1; 85 Del. Laws, c. 182, § 2; 85 Del. Laws, c. 184, § 1.)

## § 1049. Policy making.

(a) The school board of each reorganized school district, subject to this title and in accordance with the policies, rules and regulations of the State, shall, in addition to other duties:

(1) Determine the hours of daily school sessions, the holidays when district schools shall be closed, and the days on which teachers attend educational improvement activities. This authority is subject to the requirement that all school district calendars must provide for school attendance of at least the following number of hours:

Beginning at the start of the 2008-2009 school year

| | |
|---|---|
| Kindergarten: | 1060 hours |
| Grades 1-11: | 1060 hours |
| Grade 12: | 1032 hours |

The waiver provisions in § 1305 of this title also apply to the district calendar.

The number of hours in a school day for grades K-12 shall be at least $3^1/_2$ hours exclusive of lunch, and abbreviated days shall not be scheduled on the last school day prior to a scheduled holiday. In the case of an unplanned delay, or early dismissal caused by weather or other unforeseen emergency conditions, such a delay or early dismissal shall be no more than 2 hours. All district calendars shall be adopted by April 30 for the following school year and may only be amended following a 30-day public notice.

(2) Determine the educational policies of the reorganized school district and prescribe rules and regulations for the conduct and management of the schools;

(3) Enforce the provisions of this title relating to school attendance;

(4) Grade and standardize all the public schools under its jurisdiction and may establish kindergartens and playgrounds and such other types of schools, as in its judgment will promote the educational interest of the reorganized school district;

(5) Adopt courses of study;

(6) Select, purchase, and distribute free of charge such textbooks and other materials of instruction, stationery, furniture, equipment, apparatus and supplies as are necessary to the work of the schools;

(7) Provide forms on which regular school employees shall make such reports as may be required by the school board;

(8) Make all reports required by the Secretary of Education, at such time, upon such items and in such form as may be prescribed by the Secretary of Education;

(9) Appoint personnel.

(b) Notwithstanding any provision or section of this chapter to the contrary, each school board shall provide a stand-alone, self-contained half-day kindergarten option within the district, provided there are 18 or more children signed up for a half-day kindergarten option.

(14 Del. C. 1953, § 1049; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 365, § 2; 71 Del. Laws, c. 15, §§ 1, 2; 71 Del. Laws, c. 132, § 364; 71 Del. Laws, c. 180, § 47; 72 Del. Laws, c. 6, § 1; 75 Del. Laws, c. 440, §§ 2-5, 7; 78 Del. Laws, c. 290, § 311.)

## § 1049A. Waiver of local regulations.

For the purpose of ensuring that local board regulations do not impede innovation or the improvement of student achievement, any school-based committee established pursuant to this title or the principal of any school without such a committee who demonstrates significant faculty support for the waiver application may apply to its local board for a waiver of any regulation, rule or policy and the local board may grant such waiver where:

(1) Such a waiver would further the accomplishment of state and local educational policies, particularly those addressing student achievement in the core academic subjects of mathematics, science, language arts and social studies;

(2) Such a waiver would not impose undue administrative burdens upon the State or the local district or harm the district's ability to ensure that public funds are properly expended and the applicable state and federal laws are followed; and

(3) The purpose of the regulation, rule, or policy to be waived can be satisfied in a less burdensome or different manner than through compliance with the rule, regulation or policy.

The school making such waiver request shall give notice of the consideration by notices posted in at least 10 public places in its district and on the door of the school at least 20 days prior to the public meeting of the board of education at which the waiver request will be presented and discussed. The public shall be provided an opportunity to present comments concerning the waiver to be requested at a meeting of the local board following posting and preceding its formal adoption.

(70 Del. Laws, c. 456, § 3.)

## § 1049B. School board training.

(a) (1) In order to best understand the educational and legal issues involved in special education due process hearings, each school board member must complete training at the beginning of that member's term on a school board concerning special education due process hearings.

(2) In order to understand and fulfill the requirements of office, each school board member must complete training on all of the following at the beginning of that member's term on a school board:

a. Requirements for school board meetings under this title and the Freedom of Information Act, Chapter 100 of Title 29.

b. Best practices regarding the conduct of meetings, including the use of rules of order.

c. The State Employees', Officers' and Officials' Code of Conduct, subchapter I. of Chapter 58 of Title 29.

(b) (1) The Department of Education (Department) shall establish through regulations, the criteria, material, and method of the training required under paragraph (a)(1) of this section. The delivery of the training may be delegated to or purchased from another entity.

(2) a. The Department must identify trainings on the topics required under paragraph (a)(2) of this section.

b. Each school district is responsible for offering the trainings required under paragraph (a)(2) of this section to school board members. The delivery of the training may be delegated to or purchased from another entity.

(3) The training required under subsection (a) of this section must be offered virtually at least twice a year.

(c) The president of a school board shall inform each newly-elected or appointed member of the school board of the obligation to complete training under subsection (a) of this section. By January 15 each year, the president of a school board shall send a letter to any board member who has not completed the training required under subsection (a) of this section by January 1 following the board member's election or appointment.

(d) The training and notices required under this section may be combined with the training and notices required for financial responsibility training under § 1803 of this title.

(77 Del. Laws, c. 314, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 522, § 2; 85 Del. Laws, c. 183, § 1.)

## § 1050. Annual report.

On or before August 15 of each year, the school board of each reorganized school district shall file with the Department of Education a district report as required by § 124A of this title. Such district report shall be a public document and be made available to the citizens of the school district. Each school district is also encouraged to include in such report such additional information as it believes will help its citizens better understand the current conditions, accomplishments, and policies of the school district, as well as the expenditures, revenues and business and financial transactions of the school district for the prior fiscal year, and the need for the improvement and advancement of the schools within the school district.

(14 Del. C. 1953, § 1050; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 458, § 3; 71 Del. Laws, c. 180, § 48.)

## § 1051. Election of school board members; exceptions.

(a) School board members shall be elected by the qualified voters of the respective reorganized school districts, except as may otherwise be provided by §§ 1061, 1062 [repealed], 1063 [repealed], 1064, 1065 and 1066 of this title.

(b) No person shall be elected or serve as a school board member who holds a paid position which is subject to the rules and regulations of such school board.

(14 Del. C. 1953, § 1051; 56 Del. Laws, c. 292, § 6.)

## § 1052. Number; qualifications of members; election of members; term of members [For application of this section, see 83 Del. Laws, c. 251, § 7].

(a) Unless otherwise provided in this chapter, each school board is composed of 5 members.

(b) Each member must be a citizen of the State and inhabitant of the school district in which elected or appointed and must be qualified to vote at a school election in that district at the time of such election or appointment.

(c) Unless otherwise provided in this chapter, 1 school board member is elected each year except where an unexpired term of a former member is also to be filled or the terms of 2 school board members expire the same year.

(d) Unless otherwise provided in this chapter, each school board member is elected for a term of 4 years commencing on July 1 following the member's election, except when such election is to fill an unexpired term.

(e) (1) If a school board member is charged with a crime under § 209(a) of this title, the school board member is automatically suspended pending the final resolution of the charges.

a. If the charges under § 209(a) of this title that are the basis of the suspension under this paragraph (e)(1) are resolved in favor of the suspended school board member before the expiration of the suspended school board member's unexpired term, the school board member may immediately return to service as a school board member.

b. If a school board member who is suspended under this paragraph (e)(1) is convicted or pleads guilty or nolo contendere of a crime under § 209(a) of this title that is the basis of the suspension, the suspended school board member ceases to be a member of the school board.

(2) If a school board member is suspended under paragraph (e)(1) of this section, the school board member's seat is treated as vacant and may be filled, at the discretion of the school board, under § 1054 of this title until 1 of the following occur:

a. The suspended school board member resigns.

b. The suspended school board member's term expires.

c. The suspended school board member returns to service under paragraph (e)(1)a. of this section.

d. The suspended school board member ceases to be a member of the school board under paragraph (e)(1)b. of this section.

(f) (1) A school board member who is suspended or removed under paragraph (e)(1) of this section may mail or deliver a written request for a hearing to the school district superintendent within 20 days of the suspension or removal.

(2) A hearing under paragraph (f)(1) of this section is for the limited purpose of determining if the school board member was charged, convicted, or pleaded guilty or nolo contendere to a crime under § 209(a) of this title and the burden of proof is on the school board member who requested the hearing.

(3) A hearing under paragraph (f)(1) of this section is conducted by a hearing panel selected by the Commissioner of Elections as follows:

a. The Delaware School Board Association must provide names of 3 or more school board members from different school districts in each county for the hearing panel.

b. The Commissioner of Elections must select the members of the hearing panel from the list provided under paragraph (f)(3)a. of this section and must select 1 member from a school district in each county.

c. A member of the hearing panel may not be a member of the same school board as the school board member that requested the hearing under paragraph (f)(1) of this section.

(4) A decision made by the hearing panel under paragraph (f)(3) of this section is final, unless a party to the hearing files a civil action in the Superior Court within 30 days of the date of the decision. In an action under this subsection, the complaining party has the burden of proving that the hearing panel's decision under paragraph (f)(2) of this section was not supported by substantial evidence on the record.

(14 Del. C. 1953, § 1052; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 187, § 4; 83 Del. Laws, c. 251, § 1; 85 Del. Laws, c. 50, § 1.)

## § 1053. Oath of office of the school board member.

(a) Each school board member shall, before entering upon the duties of the office, take and subscribe to the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States of America, the Constitution of the State of Delaware, and the laws of Delaware governing public education, and that I will faithfully discharge the duties of the office of school board member according to the best of my ability; and I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered to or promised to contribute, any money or other valuable thing as consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, so help me God (or I so affirm)."

(b) The oath or affirmation shall be administered by the president or vice-president of the school board of the school district or in the case of a newly constituted board by a person appointed by the Secretary of Education to administer said oath.

(14 Del. C. 1953, § 1053; 56 Del. Laws, c. 292, § 6; 73 Del. Laws, c. 65, § 14; 77 Del. Laws, c. 45, § 1.)

## § 1054. Vacancy on school board.

(a) (1) a. Except as otherwise provided in this subsection, if a school board member ceases to be an inhabitant of the reorganized school district, that member shall cease to be a member of its school board. For purposes of this subsection, a school board member who is not physically present in the school board member's district for more than 75% of the days in any consecutive year-long period of the school board member's term is no longer an inhabitant of the district.

b. A school board member whose absence from the district is attributable to deployment in military service is still considered physically present in the district during any period of deployment for purposes of a calculation under paragraph (a)(1)a. of this section.

c. A school board member whose absence from the district is due to an event that can neither be anticipated nor controlled is not considered absent during such time for purposes of a calculation under paragraph (a)(1)a. of this section.

(2) If a resident of a reorganized school district has good cause to believe that a school board member has ceased to be an inhabitant of a reorganized district during that school board member's term, but the school board has not declared a vacancy, the resident may bring an action in the Superior Court to have the school board member's seat declared vacant.

(3) If the Court issues an order declaring the school board member is no longer an inhabitant of the reorganized school district and declaring the school board member's seat vacant, that member shall cease to be a member of its school board. The remaining school board members shall then proceed under subsection (b) of this section.

(b) Unless otherwise provided in this chapter, a vacancy on a school board, for any cause other than the expiration of term, shall be filled by the remaining members of the school board for the remainder of the fiscal year, and a new member shall be elected at the next regular school board election to serve for the unexpired term as specified below:

(1) When a vacancy occurs on a school board except for expiration of a term, the respective School District shall inform the public and the Department of Elections that conducts elections for the School District that the vacancy has occurred no later than 5 business days following the vacancy.

(2) A person appointed to fill a vacant seat must meet the qualifications to be elected to that seat, including the completion of a background check as required under § 209 of this title. The Commissioner of Elections must make a determination that an individual seeking appointment is qualified under §§ 209 and 1052 of this title before the individual may be appointed.

(3) No appointment shall be made until after public notice of the vacancy and the request for formal application from interested persons is made. Notice shall be given by posting the notice on the main door of each school in the school district and by publication for once a week for 2 consecutive weeks in a newspaper of general circulation in the school district.

(4) When a vacancy occurs on a School Board after the second Friday in February of a fiscal year and on or before the filing deadline established in § 1075(a) of this title, the Department of Elections shall establish a special filing deadline for that seat that is 20 days following receipt of notification of the vacancy. If the special filing deadline falls on a Saturday, Sunday or state holiday, the deadline shall be the first business day following that Saturday, Sunday or state holiday.

(c) In the event that a majority of or the whole membership of a school board shall become vacant at the same time for any reason whatsoever, the State Board of Education shall immediately appoint an interim school board to conduct the business of the district. If the school board is elected, the State Board of Education shall call a special school board election to be held in the reorganized school district, within 60 calendar days, to elect members to fill the unexpired terms. If the school board is appointed, the appointing authority shall appoint the required number of school board members to fill the unexpired terms. Candidate filings and elections held or appointments made pursuant to this section shall be held or made in accordance with this chapter. The interim board members shall be dismissed upon qualification of the newly elected or appointed members.

(d) In the event of vacancies under this section which are to be filled at the next regular school board election, candidates shall file for the position vacant to fill the remainder of the unexpired term in accordance with § 1075 of this title.

(14 Del. C. 1953, § 1054; 56 Del. Laws, c. 292, § 6; 57 Del. Laws, c. 378, § 1; 67 Del. Laws, c. 243, § 7; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 138, §§ 1, 2; 81 Del. Laws, c. 111, § 1; 85 Del. Laws, c. 50, § 1; 85 Del. Laws, c. 185, § 1.)

## § 1055. Maintenance of school property.

The school board of each reorganized school district shall provide for the care of the buildings, grounds, equipment, apparatus and other school property and shall maintain the same in accordance with the standards adopted by the Department. The school board shall make all repairs to school property, purchase all necessary furniture and provide for adequate heating and proper ventilation of the buildings.

(14 Del. C. 1953, § 1055; 56 Del. Laws, c. 292, § 6; 71 Del. Laws, c. 180, § 49.)

## § 1056. School property; use, control and management.

(a) As used in this section:

(1) “School equipment” as used in this section shall be deemed to mean, and to include, but not be limited to: kitchen equipment, projection equipment, office machines, laboratory equipment, industrial arts equipment, art equipment, home economics equipment, playground equipment, pools and scoreboards.

(2) “School property or school facilities” means buildings and land.

(b) All property, estate, effects, money, funds, claims and state donations vested by law in the public school authorities of any public school district prior to June 3, 1968, for the benefit of the public schools of such district, shall be under the control, management and custody of the school board of such district subject to § 1047 of this title. Any real and personal estate granted, conveyed, devised or bequeathed, or which may hereafter be granted, conveyed, devised or bequeathed on or after June 3, 1968, for the use of any public school district, shall be held in trust by the school board for the benefit of the public schools of the respective district. Such grants, bequests or money invested in trust for the use of any public school district shall be exempt from all state, county and local taxes.

(c) The control, management and custody of school property and school equipment in all public school districts shall be subject to the laws of this State, the rules and regulations of the Department of Education and the rules and regulations of the school boards of the respective school districts. Each school board shall adopt a set of rules and regulations governing the use of school property and school equipment within the respective district subject to the provisions hereinafter set forth.

(d) The primary purpose for the use of school property is the education of children and youth. The use of such property for purposes other than the primary purpose shall not be permitted whenever such use would interfere with the primary purpose. Any scheduled public school activity, whether taking place during the school day or otherwise, shall have precedence over any other activity for the use of such property. However, in order to encourage the citizens of any community to participate in worthwhile community activities, a school board shall consider any written request by 10 citizens of the respective district, or a recognized community organization, for the use of school property in such district for purposes other than the primary purpose. The decision of such school board regarding the granting of such requests shall be based upon a consideration of the following conditions, paragraphs (d)(1) through (3) of this section, listed in order of importance:

(1) The facility requested for use has not been scheduled for use at the time requested;

(2) The use of the facility requested will be beneficial to children and youth and consistent with the program of education of the school district;

(3) The use of the facility requested will serve a purpose that is educational, cultural, civic, political or recreational;

(e) A local school board may permit the use of school property or school equipment under its jurisdiction free of charge for any school-sponsored organization, such as parent teacher organizations, as well as specified nonprofit organizations (including any youth group designated in Title 36 of the United States Code as a patriotic society). A local school board may also permit the use of school property or school equipment under its jurisdiction free of charge for any specified governmental agency. In order to be eligible to use school property and school equipment free of charge, a school-sponsored organization, a specified nonprofit organization or a specified governmental agency must be individually designated and approved by the local school board and must comply with all other building use policies approved by the local school board. A local school board may, however, adopt a policy charging school-sponsored organizations, nonprofit organizations and governmental agencies for costs incurred in excess of normal operations. Other organizations, including for-profit organizations, which receive approval to use school property and/or school equipment, shall be charged an amount at least equal to the costs incurred in excess of normal operations. Such costs shall be determined by the local school board, and shall include custodial salaries, other employment costs, heat, lighting and other identifiable operational costs. It shall be the local school board's responsibility to calculate these costs so that all excess costs are recovered and to maintain appropriate documentation of such calculations, which shall be subject to audit. Any fee schedule developed by the local school board shall be in accordance with the provisions of this title and Title 29. All such fees collected by a local school board shall be retained by the school district to be used as local funds for any permissible educational purpose.

(f) Any school board may refuse to permit the use of any school property under its jurisdiction for any purpose which, in its discretion, would tend to interfere with the program of the public schools or would not be in harmony with the purposes of public education in such matters as character building, the development of unprejudiced social attitudes and the training of pupils for responsible citizenship. Any dispute which may arise because of the refusal of any school board to permit the use of any school property under its jurisdiction to any organization or group of citizens shall be reviewed by appeal, in writing, to the State Board of Education.

(g) Any group of citizens permitted to use school property shall be responsible for any damages done to such property over and above the ordinary wear. The extent of such damage shall be determined by the school board having control over such property.

(h) Any school board which permits the use of public school property for any use other than for public school use shall not be liable in tort for any damages by reason of negligence in the construction or maintenance of such property.

(i) All public schools receiving an appropriation of state funds shall be governed by this section as a condition for the receipt of such state funds.

(14 Del. C. 1953, § 1056; 56 Del. Laws, c. 292, § 6; 62 Del. Laws, c. 365, § 1; 64 Del. Laws, c. 50, § 2; 66 Del. Laws, c. 303, § 303; 71 Del. Laws, c. 6, §§ 1, 2; 71 Del. Laws, c. 180, § 50; 73 Del. Laws, c. 380, §§ 1-7.)

## § 1057. Sale or lease of property; disposition of proceeds.

(a) When any real property, title to which is held by a reorganized school district, is no longer needed for school purposes, it may be sold by the school district subject to the following:

(1) The board of education of the school district shall receive documented recommendations from the superintendent of schools of the district showing why the property is no longer needed for school district purposes;

(2) The board shall take action to consider such recommendations;

(3) The board shall release the recommendations for public review and shall announce by 10 days' notice in a news release to print and electronic media covering the district the time and place of a public hearing on the recommendation to dispose of the property in question;

(4) The board shall conduct the public hearing as announced;

(5) The board shall within 60 days of said hearing take action to accept, reject or modify the recommendation and proceed according to the terms of the recommendation in its current status. If the recommendation was rejected, no further action is required pending any future recommendation;

(6) Except for property acquired or constructed with 100% state funds upon affirmative decision to sell a property the board shall retain the services of 1 or more licensed real estate brokers or realtors who are not associated with any member of the board of education of that district and who shall determine a minimum price at which the property is to be offered for sale. In the event the property was acquired or constructed with 100% state funding, then this paragraph shall not apply;

(7) The property for sale shall be offered to other state agencies at the price determined in paragraph (6) of this subsection. Such offer to other state agencies shall be made through the Director of the Office of Management and Budget who shall in turn confer with the Department of Education. Together, they shall approve a purchase or release the district to proceed with another sale within 30 days of the offer by the board of education to the Director of the Office of Management and Budget;

(8) A state agency may negotiate to the extent feasible and practical to assume the state share in such property by transfer of the debt service obligation to the account of that agency without payment of cash for that share of the price set;

(9) If no other agency of state government declares its intent to purchase the property, the Board of Education shall proceed to offer said property to the local government in whose jurisdiction the property is located. Such an offer shall be made to the chief elected official of that local government. If the offer is not accepted within 30 days, the Board may proceed to sell the property on the open market;

(10) A public hearing for the sale of the property on the open market must be advertised at least once a week for 2 consecutive weeks in a newspaper published or circulated in each county of the State. Any proposal to purchase the property shall be delivered to the office of the Executive Secretary of the Board, or to such other place as shall be specified in the advertisement, no later than 5:00 p.m. on the last working day preceding the day fixed for the hearing, and the Board shall not consider any proposal submitted subsequent to that time. The Board shall act upon the proposals no sooner than 7 days and no more than 14 days following the hearing, during which period residents of the district may review the proposals at the office of the district during regular business hours and submit comments on the proposals. The Board shall consider such comments in acting upon the proposals. In its discretion, the Board may reject all proposals or accept a proposal subject to such modifications, except as to price, as the Board determines are appropriate;

(11) A sale on the open market may be conducted by the board and administrative staff of the district or through a licensed realtor or agency who is not associated with the appraiser or any member of the board of education of that district. Any final contract for such sale shall be approved within a period of 60 days by the Director of the Office of Management and Budget, who shall confer with the Department of Education. Approval will not be withheld unless the contract is found by the Director to be unreasonable, in which event the Director shall disapprove the sale and make specific written findings for such disapproval;

(12) When an offer to purchase the property at a price not less than fixed pursuant to paragraph (6) of this subsection is accepted by the board, the Facilities Management of the Office of Management and Budget shall direct that an appraisal be prepared by 2 independent appraisers licensed in Delaware who are from different firms. The amount of this confirmatory appraisal will be the average of the 2 appraisals. Any offer to purchase the property, including offers from state agencies or local governments, at a price not less than that fixed pursuant to paragraph (a)(6) of this section may be accepted by the board provided that the purchase price specified in the offer is either not less than the amount established by the confirmatory appraisal or is amended to increase to the amount established by the confirmatory appraisal;

(13) The rights of bond holders shall not be jeopardized through such sale. This section shall be construed so as not to impair the rights of any bondholder, and all bonds outstanding shall remain in full force and effect according to the terms thereof;

(14) No sales agreement shall be entered into until it can be demonstrated that the purchaser of the property will use the property for purposes authorized according to the zoning requirements, if any, for the area in which the property is located. If any modification of zoning requirements is necessary, those modifications must be certified to by the appropriate zoning authority prior to the conclusion of the sale;

(15) a. The proceeds of sale of school district property financed, in whole or in part, with the proceeds of bonds issued by the State shall be paid to the State less costs incurred in selling the property after such costs have been met or provision for their payment has been made. The proceeds of sale attributable to the State financing of the property shall be deposited in the School Bond Reversion Account of the State in an amount that bears the same proportion to total net sale proceeds as the State's contribution to meet the cost of the property bears to the total cost of the property.

b. The remaining proceeds shall be deposited in a special fund of the State for the benefit of the selling school district. The money in those special funds shall be invested by and subject to the guidelines established by the Cash Management Policy Board separate and apart from other money invested by the Board. Interest earned, but not profit realized, from the investment of such proceeds shall be paid by the State Treasurer, not less than once nor more than 4 times in each fiscal year of the State, to the school district for which the proceeds are held, for any lawful school purpose, or reinvested pursuant to a written request to the State Treasurer from the school board for such school district. If the school board directs the reinvestment of the interest earnings, they shall become part of the corpus of such special fund.

c. The corpus of the special funds shall, at the direction of the appropriate school board, be applied to retire bonds issued by the school district or to meet the school district's local share of construction required by any school construction bond authorization act, as defined in Chapter 75 of Title 29, as amended.

d. Notwithstanding any other provisions of the above subparagraphs, when it can be documented that all or a part of the property was a gift to a reorganized school district, or its antecedent, the portion of the residual representing the gift shall be assigned to the school district to be used in conformance with paragraphs (a)(15)b. and c. of this section. That portion not identifiable as a gift shall be distributed and deposited in conformance with paragraphs (a)(15)a. and b. of this section.

(b) (1) Notwithstanding § 1056 of this title, when any real property or part thereof of any reorganized school district is not then deemed necessary for school purposes, temporarily or permanently, the board of education of the district may lease such property or part thereof to any person or organization. The leasing person or organization may be required to pay a rental or fee to be determined by the board and to assume sole responsibility for the complete maintenance and preservation of the property, including compliance with all applicable building and housing codes, so that there will be no cost or obligation to the school district for the continued ownership of such property.

(2) a. Any funds raised from rent or charges collected by the school district during any lease term of 10 years or less shall be retained by the school district to be used as local funds for any permissible educational purpose. Any funds raised from rent or charges collected

by the school district during any lease term of more than 10 years shall be applied to the costs of maintaining and operating the leased property, if any, with the balance to be turned over to the State Treasurer to be assigned to the State and the school district according to paragraph (a)(15) of this section.

b. Notwithstanding paragraph (b)(2)a. of this section, in the event that there is any outstanding, unpaid, bonded indebtedness held by the State with respect to the building or grounds leased by a local district in accordance with this section, or any identifiable portion thereof, a prorated portion of the lease proceeds in excess of the cost of custodial salaries and utilities associated with the lease shall be turned over to the State Treasurer during any period of the lease that the bonded indebtedness held by the State remains outstanding and unpaid. The amount of such excess lease revenues payable to the State shall be equal to the lesser of:

1. The actual debt service payable by the State during any period covered by the lease; or

2. The amount of the excess revenues generated by the lease during any period that the bonded indebtedness held by the State remains outstanding and unpaid, multiplied by a fraction equal to the State share in the major capital project or projects for which the outstanding, unpaid, bonded indebtedness was originally issued.

In the event that the outstanding, unpaid, bonded indebtedness relates only to an identifiable portion of the leased facility, the amount payable to the State Treasurer shall be the amount calculated in accordance with the preceding sentence, multiplied by a fraction, the numerator of which shall be the gross square footage of the identifiable portion of the leased facility which is included in the lease and the denominator of which shall be the gross square footage of the entire identifiable portion of the leased facility to which the outstanding, unpaid, bonded indebtedness relates.

(3) Before leasing such property or part thereof to any person or organization for any period in excess of 12 months, and before renewing any existing lease where the original term was for 12 months or less but the original term or terms together with the proposed renewal period or periods will exceed 12 months:

a. The school district board of education shall first offer to lease the property to state agencies. If, as a result of the public hearing, sufficient objections to the use of the property by a state agency have been raised, then the school district board of education may refuse to lease to a state agency.

b. If no agency of state government declares an intent to lease the property within 30 days of the offer, or if the lease by a requesting state agency is denied, the school district board of education shall offer to lease the property to the local government in whose jurisdiction the property is located. If, as a result of the public hearing, sufficient objections to the use of the property by the local government have been raised, then the school district board of education may refuse to lease to the local government.

c. If such local government does not declare an intent to lease the property within 30 days of the offer, or if the lease by a requesting local government is denied, the school district board of education may proceed either to offer to lease the property on the open market or enter into an agreement with a lessee, the terms of which are supported by an independent appraisal. If, as a result of the public hearing, sufficient objections to the use of the property by such third-party lessee have been raised, then the school district board of education may refuse leasing to such third party lessee.

(4) No lease of property pursuant to this subsection shall be negotiated until the school district board of education has complied with the procedures set forth in paragraphs (a)(1) through (5) of this section.

(5) No lease of property pursuant to this subsection shall be entered into unless the proposed use of the property is compatible with the characteristics of the neighborhood in which the property is located.

(6) Should a school district contract with any person or organization to lease a classroom building during the regular school year, and specifically during normal operating hours, the State shall not be obligated to build or construct any additional space that may be needed by the school district as a result of entering into such lease.

(c) No sales agreement, lease or donation of real property described within this section shall be negotiated when such property contains or is an integral part of recreational facilities, such as athletic fields or playgrounds, unless and until the board has made specific findings with respect to such facilities after discussion thereof in public forum as described in paragraph (a)(3) of this section. In the event the property was acquired or constructed with 100% state funding, then this subsection shall not apply. Assignment of funds to bond payment shall occur according to the priority schedule in paragraph (a)(15) of this section.

(d) Any purchases, leases or donations not finalized as of April 8, 1982, shall be subject to all the terms and conditions described herein.

(e) Notwithstanding any provision of subsection (a), (b), (c) or (d) of this section, any real property:

(1) To which title is held by a reorganized school district free of any recorded liens;

(2) Which was originally purchased and paid for by 100% local district funds;

(3) Which is no longer needed for school purposes; and

(4) From the sale of which all proceeds would be retained by the local school district

may be sold by the district without first following the procedures set forth in subsection (a), (b), (c) or (d) of this section.

(f) Notwithstanding any provisions of subsection (a), (b), (c), (d) or (e) of this section, a school district may sell timber located on the real property of the school upon an affirmative vote of a majority of the members of the Board. Sixty percent of the net proceeds (after the expenses relating to the sale and any replanting of trees determined appropriate by the Board) from the sale shall be assigned to the

school district to be used in conformance with paragraphs (a)(15)b. and c. of this section. The balance of the proceeds may be utilized by the Board as part of their general fund.

(g) Notwithstanding any provision of § 1056 of this title or subsection (b) of this section, when any real property or part thereof any reorganized school district is not then deemed necessary for school purposes, the board of education of the district may lease such property or part thereof to any person or organization for agricultural use. Such a lease may be in excess of 12 months without requiring the district to first offer to lease the property to State agencies, the local government in whose jurisdiction the property is located, or on the open market. The person or organization leasing such property for agricultural purposes shall be required to pay fair rental value of the property. Any funds raised by the school district for such purpose shall be retained by the school district to be used as local funds for any permissible educational purpose.

(14 Del. C. 1953, § 1057; 56 Del. Laws, c. 292, § 6; 62 Del. Laws, c. 351, § 13; 63 Del. Laws, c. 191, § 4; 63 Del. Laws, c. 209, §§ 2-5; 63 Del. Laws, c. 387, § 45; 64 Del. Laws, c. 81, § 1; 64 Del. Laws, c. 254, § 1; 66 Del. Laws, c. 155, § 1; 69 Del. Laws, c. 10, § 1; 70 Del. Laws, c. 227, § 1; 71 Del. Laws, c. 6, § 3; 71 Del. Laws, c. 180, § 51; 71 Del. Laws, c. 371, §§ 1, 2; 75 Del. Laws, c. 88, §§ 16(2), 21(7), 30-32.)

## § 1058. Controversies concerning rules and regulations of the school board.

The school board of each reorganized school district shall decide on all controversies involving the rules and regulations of the school board. Any party to such controversy may appeal to the State Board of Education by setting forth such grievance in a petition which shall be served within 30 days after receiving notice of the decision upon the Secretary of Education. The State Board, shall by rules and regulations provide for adequate procedures for the hearing of any such petitions and shall decide the controversy. The State Board shall overturn the decision of a local board only if it decides, after considering the advice of the Secretary, that the local board's decision was contrary to a specific state or federal law or regulation, was not supported by substantial evidence, or was arbitrary or capricious. The decision of the State Board shall be final.

(14 Del. C. 1953, § 1058; 56 Del. Laws, c. 292, § 6; 71 Del. Laws, c. 180, § 52; 74 Del. Laws, c. 233, §§ 1-4.)

## § 1059. Hearings.

A school board may administer and examine persons under oath in any part of the reorganized school district.

(14 Del. C. 1953, § 1059; 56 Del. Laws, c. 292, § 6.)

## § 1060. False testimony is perjury.

Whoever, being a witness in any matter pertaining to the public schools of the reorganized school district and having been duly sworn or affirmed by the school board to tell the truth, wilfully gives false testimony is guilty of false swearing and shall be punished as perjury is punished.

(14 Del. C. 1953, § 1060; 56 Del. Laws, c. 292, § 6.)

## § 1061. School boards upon reorganization.

Previously elected or appointed school board members of component former school districts and all members of the board of a subdivided high school district board who reside within the reorganized school district, including those members elected at the regular election in May 1969, shall continue to serve out their respective terms on the school board of the reorganized school district constituted and established on July 1, 1969, notwithstanding any other provisions of this title to the contrary, except that in the case where a reorganized school district is composed of 1 or more non-1-through-12 grade component former school districts and 1 or more component former school districts previously providing grades 1 through 12, only the member elected in May 1969, in each of the non-1-through-12 grade districts will serve out that member's term as an interim member of the school board of the reorganized school district along with all of the school board members of the previously 1-through-12 grade district or districts. Subsequent elections or appointments in the reorganized school districts shall be for 1 member at large in the reorganized school districts until the school board meets the criteria of this subchapter. If it becomes necessary to fill a vacancy for any reason other than the expiration of term, the new member must be selected from the residents of the previously existing school district and in accordance with § 1054 of this title.

(14 Del. C. 1953, § 1061; 56 Del. Laws, c. 292, § 6; 57 Del. Laws, c. 378, § 2; 70 Del. Laws, c. 186, § 1.)

## §§ 1062, 1063. School board for the reorganized school district which includes the former school district of Alexis I. duPont Special School District; the Board of Public Education in Wilmington.

Repealed by 71 Del. Laws, c. 180, § 52A, effective July 31, 1997.

## § 1064. Reorganized vocational-technical school districts.

(a) The members of the school board of any reorganized vocational-technical school district shall be appointed by the Governor from the inhabitants of such district. The school board shall be composed of 7 members. Annually, the Governor shall appoint 1 member for the term of 7 years to fill the vacancy caused by the expiration of the term of the member whose term expires at such time. Any vacancy in the office of any such member, caused by death, resignation, removal from the district or any other cause whatever, shall be filled by

the Governor for the unexpired term. Every member, at all times, shall be an inhabitant of the reorganized vocational-technical school district, or that member's office shall be considered vacant and a successor shall be appointed for the unexpired term as provided in this section. After the expiration of the terms of the present members, not more than 4 members of the school board shall be of the same political party, and no member shall fail to state that member's own political affiliation.

(b) In the case of any reorganized vocational-technical school district which will not have, after reorganization, at least 7 school board members serving pursuant to § 1061 of this title, the Governor shall appoint such members as are necessary to bring the total number of school board members to 7 and shall designate the terms of such appointed members so that the term of 1 member shall expire each year thereafter for the succeeding 7 years. Not more than 4 members of the school board shall be of the same political party, and no member shall fail to state that member's own political affiliation.

(c) The terms of the school board members shall begin July 1 following their appointments and shall continue until their successors qualify.

(d) (1) If a member of the school board of a reorganized vocation-technical school district is convicted or pleads guilty or nolo contendere to a crime under § 209(a) of this title, the Governor must remove the member.

(2) a. If a member of the school board of a reorganized vocation-technical school district is charged with a crime under § 209(a) of this title, the school board member is automatically suspended pending the final resolution of the charges.

b. If the charges under § 209(a) of this title that are the basis of the suspension under paragraph (d)(2)a. of this section are resolved in favor of the suspended school board member before the expiration of the suspended school board member's unexpired term, the school board member may immediately return to service as a member of the school board.

(3) If a school board member is suspended under paragraph (d)(2)a. of this section, the school board member's seat is treated as vacant for purposes of quorum until 1 of the following occur:

a. The suspended school board member resigns.

b. The suspended school board member's term expires.

c. The charges that are the basis for the suspension are resolved in favor of the suspended school board member.

d. The suspended school board member ceases to be a member of the school board under paragraph (d)(1) of this section.

(14 Del. C. 1953, § 1064; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 187, § 5; 85 Del. Laws, c. 50, § 1.)

## § 1065. Dissolution of school boards upon consolidation of reorganized school districts; appointments by State Board of Education; members elected annually after consolidation; appointment by Governor [For application of this section, see 83 Del. Laws, c. 251, § 7].

(a) Upon the consolidation of reorganized school districts under § 1027 of this title, the school boards of such consolidating reorganized school districts shall be dissolved as of the effective date of consolidation.

(b) Except as provided in subsection (c) of this section, the State Board of Education shall upon consolidation appoint 5 members of the previously existing school boards of the consolidating districts to the school board of the consolidated district and shall designate 1 member to serve for a term of 5 years, 4 years, 3 years, 2 years, and 1 year, respectively. The qualified voters of the consolidated district shall, at each annual election after consolidation, elect 1 member for a term of 4 years who shall serve from the July 1 next succeeding that member's election and until that member's successor qualifies.

(c) In the case of any consolidation of vocational-technical school districts under § 1027 of this title, the Governor shall appoint 7 members of the previously existing school boards of the consolidating vocational-technical districts to the school board of the consolidated vocational-technical district and shall designate 1 member each to serve for a term of 7 years, 6 years, 5 years, 4 years, 3 years, 2 years and 1 year, respectively. Annually thereafter, the Governor shall appoint 1 member for a term of 7 years who shall serve from the July 1 next succeeding that member's appointment and until that member's successor qualifies.

(14 Del. C. 1953, § 1065; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 251, § 2.)

## § 1066. Dissolution of school board upon division of a reorganized school district; members of school board continue to serve terms in districts resulting from division; appointments by State Board of Education and annual election thereafter; appointments by Governor in vocational-technical districts [For application of this section, see 83 Del. Laws, c. 251, § 7].

(a) Upon the division of a reorganized school district into 2 or more school districts under § 1028 of this title, the school board of the divided reorganized school district shall be dissolved as of the effective date of division.

(b) Any member of the previously existing school board, including a vocational-technical school board, shall continue to serve out the term for which that member was elected or appointed in the divided school district as a member of the school board of the school district resulting from such division in which that member resides.

(c) Except as provided in subsection (d) of this section, the State Board of Education shall appoint such additional members of the school boards of the school districts resulting from such division as are necessary to bring the total number of school board members for

each such resulting district to 5 and shall designate the terms of such appointed members so that the term of 1 member shall expire each year thereafter for the succeeding 5 years. The qualified voters of any school district resulting from such division shall, at each annual election after division, elect 1 member for a term of 4 years who shall serve from the July 1 next succeeding that member's election and until that member's successor qualifies.

(d) In the case of any division of a vocational-technical school district under § 1028 of this title, the Governor shall appoint such additional members of the school boards of the vocational-technical school districts resulting from such division as are necessary to bring the total number of school board members to 7 and shall designate the terms of such appointed members so that the term of 1 member shall expire each year thereafter for the succeeding 7 years. Annually thereafter, the Governor shall appoint 1 member for a term of 7 years who shall serve from the July 1 next succeeding that member's appointment and until that member's successor qualifies.

(14 Del. C. 1953, § 1066; 56 Del. Laws, c. 292, § 6; 62 Del. Laws, c. 351, § 11; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 491, § 2; 83 Del. Laws, c. 251, § 3.)

## § 1066A. Elections to the school boards of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District [For application of this section, see 83 Del. Laws, c. 251, § 7].

(a) Notwithstanding anything contained in this chapter to the contrary, members of the school boards of the Brandywine School District, the Christina School District, the Colonial School District, and the Red Clay Consolidated School District shall be elected by the procedures described herein. Elections shall be conducted in accordance with §§ 1071-1086 of this title; provided, however, that:

(1) The number of members for each of the school boards of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District shall be 7.

(2) The term of office for members of the school boards of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District shall be 4 years. All terms shall end on June 30 and the terms shall be staggered so that no more than 2 terms in any school district ends on any June 30. Any vacancy shall be filled for the remainder of the unexpired term in accordance with § 1054 of this title.

(3) The Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District (the "districts") each shall be divided into 7 nominating districts to be denominated districts A through G and to be denominated on the basis of their geographical proximity (i.e., district A shall be as contiguous as practicable with district B and so forth).

(4) Candidates for the school boards of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District shall file for candidacy in accordance with § 1075 of this title, except that a candidate must be an inhabitant of the district for the seat that candidate seeks.

(5) All members of the school boards of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District shall be elected by the qualified voters of the respective districts. To vote in a district election, a voter must be qualified pursuant to § 1077 of this title. No voter may vote for more than 1 candidate.

(b) The nominating districts shall be drawn by the State Election Commissioner, subject to the approval of the County Board of Election and the State Board of Education. On or before January 1, 2002, the Commissioner shall draw the 7 districts for each of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District so that the nominating districts shall encompass an area in which approximately $^{1}/_{7}$ of the total population of each district is resident. Each representative district shall, insofar as is possible: (i) be formed of contiguous territory; (ii) be nearly equal in population; (iii) be bounded by major roads, streams or other natural boundaries; and (iv) not be created so as to unduly favor any person. The data base for the determination of population in residence shall be census data from the United States Census of 2000. The Controller General's office shall provide the Election Commissioner with its assistance upon the request of the Commissioner.

(1) Not later than January 1 of the year ending in 2 in each subsequent decade (e.g., 2012), the Commissioner shall reapportion the school board nominating districts using the most recent United States census data so that the nominating districts are reapportioned in time for the elections beginning in the next year. The subsequent reapportionments shall comply, insofar as possible, with the criteria identified in subsection (b) of this section.

(2) The Commissioner shall also establish for each District the sequence in which elections held pursuant to this section shall occur. To the extent consistent with the redistricting criteria set forth in subsection (b) of this section, the Commissioner shall endeavor to designate the new nominating districts and to sequence the elections so that the elections for particular nominating district seats occur in the year of the expiration of the terms of the incumbent board member or members whose constituent population in the nominating district or districts prior to the most recent reapportionment most closely conform to the constituent population in the newly reapportioned nominating district or districts.

(3) The Commissioner shall, in addition to drawing the nominating districts, establishing the sequence for elections and reapportioning the nominating districts each decade, act as a continuing advisory resource for the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District in implementing the election system established by this section. The Commissioner may propose such recommendations as it deems necessary to ensure fair and

efficient school board elections in the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District.

(70 Del. Laws, c. 491, § 3; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 122, §§ 1, 2; 74 Del. Laws, c. 204, § 1; 76 Del. Laws, c. 138, § 3; 83 Del. Laws, c. 251, § 4; 85 Del. Laws, c. 50, § 1.)

## § 1067. Election of Milford Special School District in 1969 for the Board of Education.

On the regularly designated day for school board elections in the school districts of this State in the year 1969, the qualified voters of the entire Milford Special School District, as it is then constituted, shall elect 2 members of the Board of Education of Milford Special School District. The individual with the highest number of votes shall be elected for a term of 5 years. The individual with the second highest number of votes shall be elected for a term of 4 years and shall fill the vacancy created by the expiration of the term of the previously elected school board member. Both individuals shall be elected at large in the entire Milford Special School District and shall serve in addition to the 3 then incumbent previously elected school board members. Thereafter, school board members in the school district shall be elected in accordance with §§ 1051 and 1052 of this title. No fewer than 2 members shall be residents of Kent County and no fewer than 2 members residents of Sussex County.

(14 Del. C. 1953, § 1067; 56 Del. Laws, c. 292, § 6.)

## § 1068. Indian River School Board [For application of this section, see 83 Del. Laws, c. 251, § 7].

(a) Notwithstanding anything contained in this chapter to the contrary, the School Board of Indian River School District shall be composed of 10 members.

(b) The Indian River School District is hereby divided into 5 representative districts as follows:

(1) *District Number 1.* — Beginning on Route 28 where Fleetwood Pond Branch crosses Route 28, east on Route 28, crossing Route 113 to the Georgetown town limits (1 mile circle); right on School Lane following the southern boundary of the Town to South Bedford Street; right and south on South Bedford Street to Route 318; left on Routes 318 and 321 to Route 47; right on Route 47 to Route 30; left and north on Route 30 to Gravel Hill; right at Gravel Hill on Route 18 to Route 5 at Harbeson; left on Route 5 to the presently established boundary between Indian River School District and Cape Henlopen School District; thence following the Indian River School District and Cape Henlopen School District boundary, westerly from Route 5 to the intersection of Routes 238 and 239; thence westerly on Route 238 to the North Fork of Gravelly Branch; thence southwesterly along Gravelly Branch and Collins Pond to Route 18; left on Route 18 to Route 527; right on Route 527 to its intersection with Route 526 and Route 516; thence southeasterly to the intersection of Route 529 and Route 46; easterly along Route 46 for a distance of approximately one tenth mile to a point where Tyndall Branch crosses Route 46; thence following Tyndall Branch, Fleetwood Pond, Fleetwood Pond Branch in a southeasterly direction to the beginning point on Route 28. The last portion of this description being the established boundary line of the Indian River School District and the Milford School District, the Woodbridge School District and Seaford School District.

(2) *District Number 2.* — Beginning at a point where Fleetwood Pond Branch crosses Route 28; southeasterly along said Branch to a point where it crosses Route 444 approximately seven tenths mile north of Route 20; south on Route 444 to Route 20; left on Route 20 to Jones Crossroads; thence southeasterly in a straight line between Jones Crossroads and Pusey's Crossroads to a point on Route 74 approximately 1.1 mile west of its intersection with Route 20; left on Route 74 to Route 20; right on Route 20 to Route 113 (Bob's Diner) crossing Route 113 to State Street and continuing on State Street easterly to Betts Mill Pond Bridge; thence following this stream and the south bank of the Millsboro Pond to the Mill Dam at Route 24; thence easterly along Route 24 to the Herring Creek Branch; thence following the established boundary between Indian River School District and Cape Henlopen School District westerly and northerly following a portion of the Beaverdam Creek and Route 259 to its intersection with Route 5. The remaining portion of District Number 2 shall be described by the southern boundary of District Number 1.

(3) *District Number 3.* — Beginning at a point 1.1 mile west of Route 20 on Route 74; thence along the established boundary line between Indian River School District and Laurel School District to Pusey's Crossroads at Route 472; left on Route 472 to a point where the Pocomoke River reaches Route 472; thence southeasterly along the Pocomoke River to Route 424; right on Route 424 to Route 24; left on Route 24 to Route 25; right on Route 25 to Route 26; left on Route 26 to Route 113; right and south for a distance of approximately .5 mile to the southern boundary of the Town of Dagsboro; thence easterly along the town boundary line to Pepper Creek; thence north and east along Pepper Creek to Indian River Bay and Rehoboth Bay to Herring Creek; thence westerly along Herring Creek to Route 24. The remaining northern boundary for District Number 3 shall coincide with the description of the southern boundary of District Number 2.

(4) *District Number 4.* — Beginning on Route 113 at its intersection with Route 26; south on Route 113 to Frankford; thence following the southern boundaries of Frankford and Vines Creek to the place where Vines Creek crosses Route 54; thence east along Route 54 to Route 382 (Omar); right on Route 382 through Roxana to Route 382A; right on Route 382 to Route 389; right on Route 389 to Route 396; right on Route 396 to the Delaware and Maryland state line. The remaining boundaries of this District are as follows: The southern boundary is the Delaware and Maryland state line; the eastern boundary is the Atlantic Ocean; the northern boundary is the Indian River Bay from Indian River Inlet to Pepper Creek and the southern boundary of the Town of Dagsboro as described as the southern boundary of District Number 3.

(5) *District Number 5.* — Beginning on Route 413B at its intersection with Route 24; south on Route 413B; thence following the established boundary line between Indian River School District and Delmar School District through Pepper Box and Whitesville to the Delaware-Maryland line; thence easterly along the Delaware-Maryland line to Route 396 at Williamsville; thence northerly to Dagsboro following the here described westerly boundary of District Number 4 and westerly through Mission following the southern boundary of District Number 3 herein described.

(c) At the regular school election in 1973 the qualified electors shall choose 1 member from Representative District No. 2 for a term of 2 years; 1 member from Representative District No. 3 for a term of 5 years; and 1 member from Representative District No. 5 for a term of 3 years.

(d) At the regular school election in 1974 the qualified electors shall choose 1 member from Representative District No. 1 for a term of 3 years; 1 member from Representative District No. 2 for a term of 4 years; 1 member from Representative District No. 4 for a term of 5 years; and 1 member from Representative District No. 5 for a term of 5 years.

(e) All subsequent school board elections shall follow the schedule herein listed:

| YEAR | DISTRICT | TERM |
|---|---|---|
| 1975 | District No. 1 | 5 Years |
| 1975 | District No. 2 | 5 Years |
| 1976 | District No. 3 | 5 Years |
| 1976 | District No. 5 | 5 Years |
| 1977 | District No. 4 | 5 Years |
| 1977 | District No. 1 | 5 Years |
| 1978 | District No. 2 | 5 Years |
| 1978 | District No. 3 | 5 Years |
| 1979 | District No. 4 | 5 Years |
| 1979 | District No. 5 | 5 Years |

(f) Each school board member shall be elected for a term of 4 years, commencing on July 1 following the school board member's election, except when such election is to fill an unexpired term, as provided in this chapter, until a successor has been elected and duly qualified.

(g) All members of the Board of Education of Indian River School District shall be elected from the several representative districts in which they reside by the qualified electors of those districts. Each member of the Board of Education shall be an inhabitant of the Indian River School District and of the representative district from which that member is elected. All qualifications to be a member of the Board of Education shall be continuing qualifications and the failure of any member of the Board of Education to have any of the qualifications required by this title during that member's term of office shall create a vacancy in the office.

(14 Del. C. 1953, § 1068; 59 Del. Laws, c. 38, § 1; 65 Del. Laws, c. 312, § 1; 70 Del. Laws, c. 84, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 333, § 1; 83 Del. Laws, c. 251, § 5; 85 Del. Laws, c. 50, § 1.)

## § 1069. School Board for Cape Henlopen School District [For application of this section, see 83 Del. Laws, c. 251, § 7].

(a) Notwithstanding anything contained in this chapter to the contrary, the School Board of the Cape Henlopen School District shall be composed of 7 members.

(b) The Cape Henlopen School District is hereby divided into 4 areas as follows:

(1) *Area A.* — Beginning at a point on the shoreline of the Delaware Bay between Broadkill Beach and Roosevelt Inlet near where the Broadkill River runs in an east-westerly direction; thence following a westerly direction through the middle of the Broadkill River to the midpoint of the confluence of Beaverdam Creek; thence in a southerly direction through the middle of Beaverdam Creek to the boundary line of Cape Henlopen School District; thence following the boundary of Cape Henlopen School District first in a westerly direction and extending to the shoreline of Delaware Bay in the vicinity of Fowlers Beach; thence in a southerly direction to the beginning point.

(2) *Area B.* — Beginning at a point on the shoreline of the Delaware Bay intersected by a perpendicular line running through and extended from the middle of Route 9 on Lewes Beach; thence following a westerly direction through the middle of Route 9 until the intersection of Route 261; thence in a southerly direction through the middle of Route 261 until the intersection of Route 285; thence in a southerly direction through the middle of Route 285 to the intersection of Route 5; thence southerly through the middle of Route 5 until the intersection with the District's boundary: thence following the District's boundary first in a westerly then northerly direction until the boundary connects to the same point where Area A's boundary intersects with Route 259 and Beaverdam Creek; thence following the same boundary for Area A to the Delaware Bay; thence in a southerly direction along the shoreline of Delaware Bay to the beginning point.

(3) *Area C.* — Beginning at the same point on the shoreline of Delaware Bay as Area B and following the same boundary of Area B in a westerly and then southerly direction until the line meets the District boundary; thence in an easterly direction along the District

boundary to a point on the boundary which is directly grid south of the tip of Bald Eagle Point; thence in a northwesterly direction, off-shore of land, through the center of Love Creek to the intersection of Route 24; thence in a northeasterly direction through the center of Route 24 until the intersection of Route 1; thence for a short distance in a southerly direction through the center of Route 1 until the intersection of Route 270; thence in a northeasterly direction through the center of Route 270 until the termination of Route 270 near the sewage treatment plant; thence in a grid easterly direction to the shoreline of the Atlantic Ocean; thence in a northerly direction along the shoreline of the Atlantic Ocean and then in a westerly direction along the shoreline of the Delaware Bay to the beginning point.

(4) *Area D.* — Beginning at a point where the Indian River Inlet and the Atlantic Ocean converge; thence in a westerly and then northerly direction until the line meets the point of intersection for Area C and the District boundary; thence following the same boundary for Area C in a northerly and then easterly direction until the line meets the shoreline of the Atlantic Ocean; thence in a southerly direction to the beginning point.

(c) School board members shall be elected in the following manner:

(1) At the regular school election in 1997, the qualified electors in the school district shall choose 1 member who is a resident of Area D. The member shall serve a term of 1 year.

(2) At the regular school election in 1998, the qualified electors in the school district shall choose 1 member who is a resident of Area A. One member shall be elected from Area D and shall serve a term of 4 years.

(3) At the regular school election in 1999, the qualified electors in the school district shall choose 1 member who is a resident of Area C and 1 member who is a resident of the district at large.

(4) At the regular school election in 2000, the qualified electors in the school district shall choose 1 member who is a resident of Area B and 1 member who is a resident of the district at large.

(5) At the regular school election in 2001, the qualified electors in the school district shall choose 1 member who is a resident of the district at large.

(6) All subsequent school board elections shall follow a schedule with a 5 year sequence as herein listed and thereafter:

2002 — Elect 1 member who is an inhabitant of Area D.

2003 — Elect 1 member who is an inhabitant of Area A.

2004 — Elect 1 member who is an inhabitant of Area C and 1 member who is an inhabitant of the district at large.

2005 — Elect 1 member who is an inhabitant of Area B and 1 member who is an inhabitant of the district at large.

2006 — Elect 1 member who is an inhabitant of the district at large.

(7) Except for the shortened term of Area D for 1 year from 1997 to 1998 and Area D for 4 years from 1998 to 2002, thereafter, each school board member shall be elected to a term of 4 years. An exception shall be when such election is to fill an unexpired term as provided in this chapter, until a successor has been elected and duly qualified, said term of such elected school board member to commence on July 1 following the election.

(8) The notice of candidacy filed by each candidate qualified to be a school board member shall provide a declaration of intention as to whether the candidate is to serve at large, if elected, or if the candidate is to serve from the candidate's legal place of residence whether it be Area A, B, C or D, depending upon board members to be elected in a given year. Filings in either case shall be by inhabitants of the school district as provided elsewhere in this chapter. At the election, whether by voting machine or ballot, the names of all persons properly filed shall be listed alphabetically in appropriate groupings by area and/or "at large." If in a given year when notices of candidacy may be filed for members living in a specific area and no filings are so made, and if during that given year a notice of candidacy may also be filed for a member to serve "at large," the member "at large" living in the area receiving the highest number of votes shall be declared duly elected to the position of school board member; if the same candidate should also have received the highest number of votes of all candidates who had filed a notice of candidacy to serve "at large," then the person receiving the second highest number of votes shall be declared duly elected to the position "at large" in the school district.

(9) In all school board elections, board members shall be chosen at the election by qualified electors of the entire school district thereof.

(10) Each school board member so elected shall have those qualifications prescribed by this chapter and shall meet any other requirements provided in this section.

(14 Del. C. 1953, § 1069; 59 Del. Laws, c. 24, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 21, § 1; 74 Del. Laws, c. 122, §§ 3-7; 83 Del. Laws, c. 251, § 6; 85 Del. Laws, c. 50, § 1.)

## § 1070. School Board for Milford School District.

Notwithstanding anything contained in this chapter to the contrary, the School Board of the Milford School District shall be composed of 7 members. Three members shall be elected at large from the reorganized Milford School District and 1 board member shall be elected from each of the 4 areas "A," "B," "C" and "D" described in paragraph (1) of this section.

(1) The Milford School District is hereby divided into 4 areas as follows:

a. *Area A.* — Beginning at the intersection of Roads 396 and 395 proceed southeast along the center of Road 396 to Route 14; east along the center of Route 14 to the intersection of Route 113; north along the center of Route 113 to the point where Route 113

intersects with Swan Creek; east along the center of Swan Creek to the Mispillion River and thence along the center of the Mispillion River to the Delaware Bay. Thence follow the shore line of Delaware Bay north to the Murderkill River; thence southwest along the common boundary between the Milford and Lake Forest School Districts to the intersection of Roads 396 and 395.

b. *Area B.* — Beginning at the point where Road 594 intersects the boundary between Milford and Woodbridge School Districts, proceed northeast along the center of Road 594 to the intersection of Road 42; north along the center of Road 42 to a point .2 miles south of Road 207; thence due east to the Herring Branch. Follow along Herring Branch to the point where it intersects with Route 113; thence north along the center of Route 113 to the intersection of Route 14; west along the center of Route 14 to Road 396; northwest along the center of Road 396 to the Milford-Lake Forest School District boundary. Thence follow the existing common boundary south between the Milford-Lake Forest and Woodbridge School Districts to the point where Road 594 intersects the boundary between Milford and Woodbridge School Districts.

c. *Area C.* — Beginning at the point where the Mispillion River enters the Delaware Bay, proceed westward along the center of the Mispillion River to Swan Creek; west along the center of Swan Creek to the point where it intersects with Route 113; south along the center of Route 113 to the point where Route 113 intersects Herring Branch (near Lincoln); proceed along the Branch northeast to the Milford city line; continue following the branch east and south to a point where the branch intersects Road 211; southeast along the center of Road 211 to Road 207; northeast along the center of Road 207 to Road 30; southeast along the center of Road 30 to the northeast corner of Cedar Creek Millpond; proceed east along the common boundary between the Milford and Cape Henlopen School Districts to the Delaware Bay; north along the Delaware Bay coastlines to the point where the Mispillion River enters the Bay.

d. *Area D.* — Beginning at the northeast corner of Cedar Creek Millpond proceed directly northwest along the center of Road 30 to the point where Roads 30 and 207 intersect; thence southwest along the center of Road 207 to the point where Roads 207 and 211 intersect; thence northwest along the center of Road 211 to a branch being the northeast boundary of the James Deputy property; continue northwest along this branch to the Milford city line; west along the city line to Herring Branch; follow Herring Branch southwest to a point approximately .2 miles south of Road 207; thence follow a line directly west to Road 42; south along the center of Road 42 to Road 594; southwest along the center of Road 594 to the present boundary of the reorganized Milford School District. Thence follow the existing common boundary between Milford and the Woodbridge, Indian River, and Cape Henlopen School Districts to the northeast corner of Cedar Creek Millpond.

(2) School Board members shall be elected in the following manner:

a. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is an inhabitant of Area A for a term of 4 years;

b. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is an inhabitant of Area B for a term of 5 years;

c. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is an inhabitant of Area C for a term of 2 years;

d. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is an inhabitant of Area D for a term of 3 years;

e. At large board members shall be chosen in accordance with the schedule contained in paragraph (3) of this section. No at large board members will be chosen at the regular school election in 1974. An at large board member is any inhabitant of Milford School District who meets other qualifications for school board membership as determined elsewhere in this chapter. Area designation is not applicable to at large board members.

(3) Beginning with the regular school election in 1975, school board members shall be elected in accordance with the following schedule:

| Election Year | Designated Area Seats | Term | At Large Seats | Term |
|---|---|---|---|---|
| 1975 | None | — | 1 | 5 yr. |
| 1976 | C | 5 yr. | 1 | 5 yr. |
| 1977 | D | 5 yr. | 1 | 5 yr. |
| 1978 | A | 5 yr. | 1 | 5 yr. |
| 1979 | B | 5 yr. | None | — |
| 1980 | None | — | 1 | 5 yr. |
| 1981 | C | 5 yr. | 1 | 5 yr. |
| 1982 | D | 5 yr. | 1 | 5 yr. |
| 1983 | A | 5 yr. | 1 | 5 yr. |
| 1984 | B | 5 yr. | None | — |

(4) The notice of candidacy filed by each candidate qualified to be a school board member shall provide a declaration of intention as whether the candidate is to serve at large, if elected, or if the candidate is to serve from that candidate’s own legal place of residence

whether it be Area A, B, C or D, depending upon board members to be elected in a given year. Filings in either case shall be by inhabitants of the school district as provided elsewhere in this chapter. At the election, whether by voting machine or ballot, the names of all persons properly filed shall be listed alphabetically in appropriate groupings by area and/or at large. If in a given year when notices of candidacy may be filed for members living in a specific area and no filings are so made, and if during that given year a notice of candidacy may also be filed for a member to serve "at large," the member "at large" living in the area receiving the highest number of votes shall be declared duly elected to the position of school board member; if the same candidate should also have received the highest number of votes of all candidates who had filed a notice of candidacy to serve "at large," then the person receiving the second highest number of votes shall be declared duly elected to the position "at large" in the school district.

(5) In all school board elections board members shall be chosen at the election of qualified electors of the entire school district thereof.

(6) Each school board member so elected shall have those qualifications prescribed by this chapter and shall meet any other requirements provided in this section.

(59 Del. Laws, c. 286, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 122, §§ 8-12; 80 Del. Laws, c. 199, § 1; 85 Del. Laws, c. 50, § 1.)

## Subchapter IV

## Elections in Reorganized School Districts

### § 1071. Applicability of this subchapter; definitions.

(a) This subchapter shall apply to any election conducted in any reorganized school district by the school board of such district or by the State Board of Education. This subchapter shall be in addition to Chapters 19, 20 and 21, and to the extent that any provision of this subchapter is inconsistent with any provision contained in Chapter 19, 20 or 21, Chapters 19, 20 and 21 shall govern.

(b) As used in this subchapter:

(1) "Department of Elections conducting the election" means the Department of Elections in the county in which the office of the superintendent of a public school district is located and which is responsible for conducting elections in accordance with Chapters 10, 19, 20 and 21 of this title for that school district, except that public school elections in the Milford and Smyrna School Districts shall be conducted by the Department of Elections for Kent County and public school elections in the Woodbridge School District shall be conducted by the Department of Elections for Sussex County.

(2) "Election" shall include a referendum where applicable.

(3) "Public school election" means an election to elect 1 or more members to a board of education and any election conducted in accordance with Chapter 19, 20 or 21 of this title.

(4) "Reorganized school district" means a school district constituted and established in accordance with this chapter whether by reorganization, consolidation or division.

(5) "School board" means the board of education of a reorganized school district.

(14 Del. C. 1953, § 1071; 56 Del. Laws, c. 292, § 6; 74 Del. Laws, c. 122, § 13.)

### § 1072. Time; places; annual election of school board members; dates.

(a) School elections, for whatever purposes, must be held between the hours of 7:00 a.m. and 8:00 p.m. prevailing local time during which time the polls shall remain open.

(b) The Department of Elections conducting the election shall designate and procure the buildings within the district, including buildings not owned by the school district, which shall be used as polling places for any public school election. The suitability, convenience and accessibility of a polling place to voters of the school district must be given prime consideration in its selection. Whenever possible, such polling place shall be located in public buildings which shall include suitable schools, government buildings, firehouses, community buildings, churches, financial institutions, lobbies or other gathering places. In the event that no public building is available in a conveniently located and readily accessible place, then the Department of Elections conducting the election may designate a suitable, conveniently located and readily accessible private business establishment.

(1) The reorganized school district for which an election is being conducted under this subchapter shall provide school district buildings designated as polling places and/or as election officer training sites by the Department of Elections conducting the election to that Department of Elections without charge for use or fee for custodial services.

(2) The Department of Elections conducting an election may establish one or more polling places for that election outside of the boundaries of the reorganized school district for which the election is being conducted as deemed necessary and proper by that Department of Elections.

(c) Elections for school board members shall be held annually on the second Tuesday of May; except, that when only 1 person files for election to a given vacancy the school board shall declare that person elected and shall not open the polls for an election to fill that vacancy.

(d) All public school elections other than school board elections shall be held on the date set by the local school board of the school district in which such elections are to be held and in accordance with subsections (a) and (b) of this section.

(e) All school districts are requested to consider scheduling an in-service day for the second Tuesday in May.

(14 Del. C. 1953, § 1072; 56 Del. Laws, c. 292, § 6; 63 Del. Laws, c. 253, § 1; 64 Del. Laws, c. 82, § 1; 64 Del. Laws, c. 255, § 1; 70 Del. Laws, c. 515, § 23, 24; 74 Del. Laws, c. 122, § 14; 74 Del. Laws, c. 334, §§ 1-3; 81 Del. Laws, c. 326, § 1; 82 Del. Laws, c. 5, § 1.)

## § 1073. Election officers.

The Department of Elections conducting an election under the provisions of this title shall appoint an inspector, 2 election officers for every voting machine assigned to a polling place. Two of the aforesaid election officers shall be designated as judges and the remaining election officers shall be designated as clerks. The Department of Elections conducting the election may assign additional clerks to polling places as deemed necessary.

(1) The inspector shall be the person responsible for the set up, operation and closing of the polling place and make all decisions regarding the aforesaid except for questions regarding voter eligibility.

(2) The inspector and both judges shall by majority vote decide all questions of voter eligibility.

(14 Del. C. 1953, § 1073; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 515, § 25; 74 Del. Laws, c. 122, § 15.)

## § 1074. Notice of election.

(a) The Department of Elections conducting a public school election for the purpose of electing members to a board of education shall give notice of such election by notices placed on each school building and by notices published in at least 1 newspaper with countywide circulation, or a combination of newspapers that cover the area or areas in the county where the school board seats are up for election. The notices shall be published at least 1 time per week during the 4 weeks prior to the date of the election. The last publication shall be not more than 5 days before the day of the election. Such notices shall plainly set forth the office or offices to be filled, the date, the time and the place or places of the election. The Department shall also post the notices on its website for 21 days prior to the election.

(b) School districts shall give notice of elections conducted in accordance with Chapters 19, 20 and 21 of this title by notices placed on each school building and by notices published in at least 1 newspaper with countywide circulation, or a combination of newspapers that cover the area or areas in the county where the school board seats are up for election. The notices shall be published at least 1 time per week during the 4 weeks prior to the date of the election. The last publication shall be not more than 5 days before the day of the election. For elections conducted under the provisions of Chapter 19 of this title, such notices shall plainly set forth the amount to be raised, the proposed rate of taxation, the purpose or purposes for the proposed additional taxes, the date, the time and the place or places of the election. For elections conducted under the provisions of Chapters 20 and 21 of this title, such notices shall plainly set forth the amount of the bonds proposed to be issued, the purposes and reasons for the bond issuance, the amount of each annual tax increase that would be imposed as a result of the proposed bond issuance, the application of any gifts or any other money on hand which are not required by law to be used for some other purpose to any major capital improvement project or project for which the bonds may be issued, and the date, time and place or places of the election. The school district shall also post the notices of elections conducted under the provisions of Chapters 19, 20 and 21 of this title on its website for 21 days prior to the election. The department conducting the elections shall also post the notice on its website for 21 days prior to the election.

(c) The notices to be placed on each school building as required by subsections (a) and (b) of this section shall be posted on or near the front door of each school building in the school district in which an election is being held at least 21 days prior to the date of the election. The notices shall remain posted until the day following the election.

(d) In the case of an election for consolidation or division of a reorganized school district or districts, as the case may be, or for the changing of the boundaries of a reorganized school district, the notice of the election shall be by the Department of Elections in accordance with this chapter.

(e) At least 40 days prior to the date of an election to be conducted under Chapter 19, 20 or 21 of this title, school districts shall provide to the Department of Elections conducting the election a certified copy of the notice required by subsection (b) of this section and an affidavit signed by the Superintendent of the school district that the notice complies with the provisions of subsection (b) of this section. The Department of Elections shall determine whether the notice contains the information required by subsection (b) of this section and shall promptly notify the school district of any omission in the notice. If, at least 30 days before the date of the election, the school district has failed to cure any omission, the Department of Elections shall be authorized to cancel the election and such cancellation, if any, shall be effective upon written notice to the superintendent of the school district.

(14 Del. C. 1953, § 1074; 56 Del. Laws, c. 292, § 6; 59 Del. Laws, c. 507, §§ 1, 2; 70 Del. Laws, c. 515, §§ 26, 27; 74 Del. Laws, c. 122, § 16; 76 Del. Laws, c. 138, § 4; 77 Del. Laws, c. 226, §§ 1- 4.)

## § 1075. Filing of candidacy for school board member; withdrawal of candidacy.

(a) (1) a. No later than 4:30 p.m. on the first Friday in March, candidates for election to a board of education shall file a notice of candidacy on the form promulgated by the Commissioner of Elections for that purpose with the Department of Elections responsible for conducting the election. If the last day of filing is a legal holiday, the last day for a person to file is the first business day next that is not a Saturday, Sunday, or a legal holiday.

b. A candidate must request the background checks required under § 209 of this title and provide proof that the background checks have been requested under § 309 of Title 31 with the notice of candidacy under paragraph (a)(1)a. of this section.

c. A candidate who files a notice of candidacy under paragraph (a)(1)a. of this section is considered a provisional candidate for election to a board of education until the Commissioner of Elections has made the determination under paragraph (a)(4)a. of this section.

(2) The State Bureau of Identification and the Department of Services for Children, Youth and Their Families must provide the results of the background checks requested by a candidate under paragraph (a)(1)b. of this section, to the Commissioner of Elections within 15 days of the candidate's request, under § 309(e)(5)a. of Title 31.

(3) Information obtained by the Commissioner of Elections under paragraph (a)(2) of this section is confidential and is not a public record under Chapter 100 of Title 29.

(4) a. The Commissioner of Elections must determine that an individual is qualified under § 209 and § 1052 of this title before the individual may be considered a candidate for election to a board of education.

b. The Commissioner of Elections must disclose the names of provisional candidates under paragraph (a)(1)c. of this section.

(5) The cost of the criminal background and Child Protection Registry checks required under paragraph (a)(2) of this section are allowed fees for placing the name of the candidate on a ballot under § 8020 of Title 15.

(b) In the event that there is only 1 candidate for the election of a school board member, the Department of Elections conducting the election shall declare the candidate elected, shall not hold an election for that seat, and shall issue a certificate of election to that candidate.

(c) A person may withdraw as a candidate by filing the form promulgated by the Commissioner of Elections for that purpose with the Department of Elections conducting the election.

(1) If the withdrawal creates a circumstance where there is no contest for a school board seat and there are no other school board seats or questions on the ballot, the Department of Elections conducting the election shall cancel the election.

(2) If there are at least 2 remaining candidates for the office and/or there are other offices or questions on the ballot, the Department of Elections conducting the election shall, time permitting, make new ballots.

(3) If time does not permit to make new ballots, the Department of Elections conducting the election shall take such action as is possible to inform the voters at the polling place of the withdrawal.

(4) If there are 2 remaining candidates for the office and there are 7 or more days prior to the date of the election, the Department of Elections conducting the election shall mail new absentee ballots to all persons who had voted by absentee ballot or had not returned absentee ballots mailed to them. If the replacement ballots are not returned by the close of the polls on the day of the election, the earlier ballot shall be counted. Votes shall not be tallied for persons who have withdrawn their candidacy.

(5) Any votes cast for a person who has withdrawn as a candidate shall be considered null and void and shall not be tallied, canvassed or reported.

(d) The county Departments of Elections shall give notice of the deadline for filing as a candidate for a seat on a board of education by notices published in at least 1 newspaper with countywide circulation or a combination of newspapers that cover the area or areas in the county where the school board seats are up for election. The notices shall be published at least 1 time per week during the 3 weeks prior to the filing deadline. The last publication of the aforesaid notice shall be not more than 3 days before the filing deadline. Such notices shall plainly set forth the office or offices to be filled, the deadline for filing a notice of candidacy, and the location at which candidates shall file their notice of candidacy.

(14 Del. C. 1953, § 1075; 56 Del. Laws, c. 292, § 6; 59 Del. Laws, c. 507, § 3; 65 Del. Laws, c. 247, § 1; 70 Del. Laws, c. 515, §§ 28, 29; 74 Del. Laws, c. 122, § 17; 77 Del. Laws, c. 226, § 5; 83 Del. Laws, c. 187, § 6; 84 Del. Laws, c. 30, § 1.)

## § 1076. Voting machines; election supplies; cost.

(a) School elections shall be conducted by the use of voting machines.

(b) The Department of Elections conducting the election shall cause to appear on the machines next to the appropriate selection device the following:

(1) For the election of school board members, the names of all filed candidates shall be listed alphabetically without political party designation.

(2) For consolidation, division or change of boundaries of reorganized school districts the voting machine shall briefly state the question and provide for voting for or against the proposal, with such words:

For the proposal

Against the proposal

(3) For elections conducted in accordance with Chapter 19, 20 or 21 of this title the appropriate selection language.

(c) The Department of Elections conducting the election shall supervise the setting for the machines to denote the choices indicated in subsection (b) of this section and shall in advance of the date of the election instruct the designated election officers in the proper use of the machines.

(d) The needed election supplies shall be provided by the Department of Elections conducting the election.

(e) The cost of necessary election supplies shall be paid by the Department of Elections conducting the election.

(f) Any reorganized school district shall use voting machines and the appropriate department of elections shall pay the transportation for the voting machines and other necessary charges for the use of such voting machines. While conducting an election or referendum for any public school district, the district may not charge rent or custodial fees associated with the use of its space. Sufficient heat, when needed to maintain a minimum 68 degree Fahrenheit temperature for such facilities, shall be provided for the conduct of an election or referendum. For the clarification of county department of elections' costs relating to public school district elections, Smyrna School District and Milford School District elections will be conducted by the Kent County Department of Elections and Woodbridge School District elections will be conducted by the Sussex County Department of Elections.

(g) In case of an election for the consolidation, division or change of boundaries of a reorganized school district, all preparation for and cost of the election shall be borne by the department of elections that conducts said election or elections.

(14 Del. C. 1953, § 1076; 56 Del. Laws, c. 292, § 6; 66 Del. Laws, c. 359, § 3; 70 Del. Laws, c. 515, §§ 1-4, 7, 30; 73 Del. Laws, c. 312, § 233; 73 Del. Laws, c. 321, §§ 1, 325; 74 Del. Laws, c. 122, §§ 18-24.)

## § 1077. Qualified voters.

Every citizen 18 years of age or over and a resident of the reorganized school district shall be eligible to vote at the school election in the reorganized school district in which that citizen resides, whether or not that citizen is at the time a registered voter for purposes of a general election.

(14 Del. C. 1953, § 1077; 56 Del. Laws, c. 292, § 6; 58 Del. Laws, c. 411; 68 Del. Laws, c. 220, § 1; 70 Del. Laws, c. 186, § 1.)

## § 1078. Determination of qualifications of the voter.

For the purpose of determining whether a person offering to vote at a school election is in fact the person he or she claims to be and is qualified to vote, that individual shall complete an affidavit, promulgated by the Commissioner of Elections, which shall affirm that the individual offering to vote is a qualified voter of the school district pursuant to § 1077 of this title. If it can be determined by a majority opinion of the inspector and both judges assigned to that polling place that the individual offering to vote has met the qualifications for that school election pursuant § 1077 of this title, then said individual shall be permitted to vote. Otherwise, an election official shall require the person offering to vote to produce reasonable identification of himself or herself and their place of residence in the school district. The said identification may be:

(1) Delaware driver's license;

(2) Delaware ID card;

(3) Work ID card with photo and address; or

(4) U.S. postal material.

If a vote is objected to for the reason that the person offering to vote is not qualified to vote in that school election, its admission or rejection shall be determined according to the opinion of a majority of the inspector and both judges assigned to that polling place.

(14 Del. C. 1953, § 1078; 56 Del. Laws, c. 292, § 6; 59 Del. Laws, c. 231, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 515, §§ 8, 9; 71 Del. Laws, c. 446, § 1; 74 Del. Laws, c. 122, §§ 25, 26.)

## § 1079. Bribery.

(a) No person who receives or accepts or offers to receive or accept, or pays, transfers or delivers, or offers or promises to pay, transfer or deliver, or contributes or offers or promises to contribute to another to be paid or used, any money or other valuable thing as a compensation, inducement or reward for giving or withholding or in any manner influencing the giving or withholding a vote at any public school election, shall vote at such election unless such person being challenged for any of said causes takes and subscribes to the oath or affirmation as provided for in § 4940 of Title 15.

(b) Such oath or affirmation shall be conclusive evidence to the election officers of the truth of such oath or affirmation, but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no conviction thereon shall bar any prosecution under § 8 of Article V of the Constitution of this State. Such oath or affirmation, when signed and attested as provided in this section shall be competent evidence in any proceeding against the party making the same.

(74 Del. Laws, c. 122, § 27.)

## § 1080. Method of voting.

(a) For the election of school board members, a voter shall not vote for more candidates than there are school board memberships to be filled in the election. If only 1 school board member is to be elected, a voter shall vote for only 1 candidate. The voter shall place a mark in the square after the name of the candidate or candidates for whom the voter desires to vote, or, in the case where a voting machine is used, take the appropriate action on the machine as described in the posted instructions for the operation of said machine.

(b) For the consolidation, division or change of boundaries of a reorganized school district, the voter shall place a mark in the square after the item that expresses that voter's choice, or, in the case where a voting machine is used, take the appropriate action on the voting machine as described in the posted instructions for the operation of said machine.

(c) The voter expresses the voter's own intent on an absentee ballot as follows:

(1) Making a distinct mark in the square provided to the right of the name of the candidate or response to a question.

(2) If the voter indicates the voter's own choice in a manner other than the manner specified in paragraph (c)(1) of this section the election officers shall attempt to determine the intent of the voter. If it is not possible to determine a voter's choice for an office or response to a question, the ballot shall not be counted for that office or question but shall be counted for all other offices and questions on the ballot where the voter's intent can be determined.

(3) If a ballot is marked for more names or responses than are permitted, it shall not be counted for that office or question but shall be counted for all other offices or questions on the ballot.

(4) If a ballot has been defaced or torn by a voter so that it is impossible to determine the voters choice for 1 or more offices or questions, it shall not be counted for such offices or questions but shall be counted for all other offices and questions on the ballot.

(14 Del. C. 1953, § 1080; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 122, § 28.)

## § 1081. Official record.

(a) The Commissioner of Elections, in consultation with the county Departments of Elections, shall promulgate a Voter Eligibility Affidavit for Public School Elections that all voters in public school elections shall complete before voting. The aforesaid affidavit shall be printed as a 1-part form. The Commissioner of Elections and the county Departments of Elections shall at least once every 2 years meet to review the Voter Eligibility Affidavit for Public School Elections. Upon approval of a new version of the affidavit, existing supplies of affidavits shall be used until exhausted.

(b) As soon as possible after the close of a public school election the Department of Elections conducting the election shall check for persons who voted more than once by putting the completed Voter Eligibility Affidavits for Public School Elections into alphabetic order. The department shall refer any instances of persons voting more than once in a public school election to the Attorney General.

(c) The Department of Elections conducting the election shall make the affidavits available to the respective school district upon request and at no cost. The Department may satisfy this requirement by providing a copy of the affidavits to the school district. School districts that receive affidavits from a department shall return them to the Department no later than 90 days after receiving them.

(d) The affidavits and all other records of a public school election shall be retained for 5 years and then destroyed.

(74 Del. Laws, c. 122, § 29; 75 Del. Laws, c. 108, § 1; 77 Del. Laws, c. 226, § 6.)

## § 1082. Procedure at the polling place.

(a) Upon arriving at a polling place, a person shall complete a Voter Eligibility Affidavit for Public School Elections attesting to the voter's eligibility to vote in the public school election and then present the aforesaid affidavit and proof of the voter's identity and address as required in § 1078 of this title to an election officer.

(b) Upon being presented an affidavit and proof of the voter's identity by a person, the election officer shall then legibly print the name of the person onto a poll list, determine whether or not the person is eligible to vote in the election, and then annotate the affidavit as to whether or not the person shall be permitted to vote. If the person does not offer reasonable proof of identity and address as required in this section, the person may be permitted to vote by majority vote of the inspector and both judges. Poll lists created as required above shall be retained by the Department of Elections that conducted the election for 1 year following the day of the election. At the end of the aforesaid year, the poll lists shall be destroyed.

(c) If the election officer determines that the person is not eligible to vote in the election, the election officer shall refer the person to the inspector and both judges. The inspector and both judges after hearing and considering evidence shall by majority vote determine whether or not to permit the person to vote. Upon making the decision, the inspector shall appropriately annotate the affidavit and poll list. If the person is not permitted to vote, the inspector shall direct the person to depart the polling place and then the inspector shall file the affidavit in the appropriate place.

(d) If a person's eligibility to vote is challenged by anyone for any reason, the inspector and both judges shall immediately hear and consider the evidence and then by majority vote decide whether or not the person is eligible to vote. Once the inspector and both judges have made their decision, there is no appeal at the polling place. The person shall either be permitted to vote, or shall not be permitted to vote and directed to depart the polling place. A person who has not been permitted to vote may appeal the decision of the inspector and both judges to the county director or, in the county director's absence, to the deputy county director for the Department of Elections conducting the election.

(e) Upon hearing the evidence of an appeal by a voter, the county director or deputy county director for the Department of Elections conducting the election shall rule on the appeal. A person whose appeal is successful shall be permitted to vote at the polling place or by absentee ballot at the Department of Elections conducting the election.

(14 Del. C. 1953, § 1082; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 515, § 12; 74 Del. Laws, c. 122, § 30; 81 Del. Laws, c. 79, § 18.)

## § 1083. Counting ballots; tie vote; certification of election.

(a) The Department of Elections conducting an election in accordance with this title shall compile and announce the unofficial results as soon as possible after the close of the election. No later than 15 days following the close of a public school election, the Department of Elections conducting the election shall canvass the vote and certify the results of the election as provided in subsection (d) of this section. For the election of school board members, the persons receiving the highest number of votes shall be declared duly elected to

the position of school board member. The Department of Elections conducting the election shall keep the certificate of the results of each public school election conducted under this title as a public record in their offices.

(b) In case of a tie:

(1) For the election of school board members, no later than the third Saturday in June following the May election, another election shall be held in accordance with this chapter to decide which of the candidates so tied shall be elected school board member;

(2) For an election pursuant to Chapter 19, 20 or 21 of this title and for elections to determine a consolidation, division or change of boundaries of a reorganized school district, another election shall be held not less than 30 days nor more than 60 days after the date of the tied election, in accordance with this chapter, in order to break the tie.

(c) The Department of Elections conducting the election shall give a certificate of election to each person elected to the office of school board member.

(d) *Certification requirements.* — (1) In the case of an election pursuant to Chapter 10 or 19 of this title, the Department of Elections that conducted the election shall present certification of the results to the superintendent of the respective school district no later than the 16 days following the day of the election. If the sixteenth day is a Saturday, Sunday or holiday, such presentation shall be made no later than 4:30 p.m. on the next business day.

(2) In the case of an election pursuant to Chapter 20 or 21 of this title, the Department of Elections that conducted the election shall present certification of the results to the superintendent of the respective school district and to the Secretary of Education no later than 16 days following the day of the election. If the sixteenth day is a Saturday, Sunday or holiday, such presentation shall be made no later than 4:30 p.m. on the next business day.

(3) In the case of an election to determine a consolidation, division or change of boundaries of a reorganized school district, the Department of Elections that conducted the election shall present certification of the results to the superintendent of the respective school district and to the Secretary of Education no later than l6 days following the day of the election. If the sixteenth day is a Saturday, Sunday or holiday, such presentation shall be made no later than 4:30 p.m. on the next business day.

(e) Within 96 hours following the certification of a public school election, 25 or more persons who voted in the aforesaid public school election may petition the Department of Elections that conducted the election for a recompilation of the results, if the difference in the election of a school board member or in an election conducted in accordance with Chapter 19, 20 or 21 of this title was less than 10 votes or $^{1}/_{2}$ of 1 percent of the total vote whichever is larger. The petition shall contain the printed name, signature and the voting location of each petitioner. The recompilation shall be conducted no later than 5 business days after the verification of the petition. The Department of Elections that conducted the elections shall:

(1) Examine the voting machine tape from each voting machine used in the election and determine if the results were properly reported. The department shall then correct any results that were incorrectly reported.

(2) Examine the absentee vote tally sheets and determine if errors were made in reporting the absentee vote. The department shall then correct any errors in the reporting of the absentee votes.

(3) Count or cause to be counted all absentee ballots that were cast in the election and correct any errors in the tally that had been reported.

(4) Certify or, if necessary, recertify the recompiled results as required by this title.

(14 Del. C. 1953, § 1083; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 515, § 13; 71 Del. Laws, c. 180, § 53; 74 Del. Laws, c. 122, §§ 31-34.)

## § 1084. Certificate of election; type and form; preservation of records.

(a) The type and form of the certificate of election and all other school election documents shall be determined by the Commissioner of Elections, in consultation with the county Departments of Elections, and shall be uniform throughout the State.

(b) The several departments of elections shall have and retain custody of all books, maps, forms, oaths of office and of removal, blanks, instructions and all other records and supplies of every kind or description pertaining to any school election conducted by the respective department for 1 year following the close of the election.

(14 Del. C. 1953, § 1084; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 515, § 14-16; 74 Del. Laws, c. 122, § 35.)

## § 1085. Penalty for illegal voting in school elections.

Whoever votes at any school election, including elections pursuant to Chapters 19, 20 and 21 of this title, without possessing the qualifications prescribed by this subchapter, or having once voted, votes or attempts to vote or offers to vote again, or violates any of the other provisions of this subchapter or Chapter 19, 20 or 21 of this title shall, for each offense, be fined or imprisoned, or both, in accordance with the regular elections laws of this State.

(14 Del. C. 1953, § 1085; 56 Del. Laws, c. 292, § 6; 77 Del. Laws, c. 226, § 7.)

## § 1086. Absentee voting.

(a) Any individual qualified to vote in a school district election who shall be unable to appear to cast their ballot at the polling place of their school district on the date of the election may cast their vote by absentee ballot provided that the voter qualifies under 1 of the

provisions of § 5502 of Title 15 and files a statement under § 5503 of Title 15, in a form prescribed by the State Commissioner of Elections, with the appropriate county department of elections by 12:00 noon, local time of the day prior to the election.

(b) The Commissioner of Elections, in consultation with the Department of Elections for the counties, shall promulgate an absentee voting system that shall include envelopes and instructions similar to those provided for in Chapter 55 of Title 15. The Department of Elections responsible for conducting a public school election within a reorganized school district shall prepare the appropriate absentee ballots for any election conducted in accordance with this title. Upon receipt of the executed statement under § 5503 of Title 15, by at least 12:00 noon of the day prior to the election, the department of elections shall:

(1) Deliver an official ballot to the elector if the elector personally appears at the appropriate department of elections office; or

(2) Follow the instructions contained within the elector's statement to mail the official ballot and instructions to the elector; provided, that the statement is received by the department of elections by at least 12:00 noon, local time, of the fourth day prior to the election.

(3) Nothing contained in this subsection shall prevent the issuance of an absentee ballot to those lawfully entitled thereto prior to 12:00 noon, local time, of the day prior to any school election when the request is made less than 3 days prior to the day of the election.

(4) All absentee ballots must be returned to the appropriate department of elections prior to the closing of the polls on the day of the election. All absentee ballots received after the closing of the polls shall be voided and not opened. Each absentee ballot received in this manner shall be stamped with the date and time it was received and initialed by a representative of the department and retained as part of the official election record.

(c) All absentee ballots received by the Department of Elections conducting the election prior to the close of the polls on the day of the election shall remain sealed and held within that Department of Elections until such time that the absentee votes are to be counted.

(d) The Department of Elections conducting the election may appoint one or more boards of election officers to tally the absentee votes for a public school election within the offices of that Department of Elections and/or designate 1 or more polling places to tally the aforesaid absentee ballots. The tallying of the absentee ballots may commence no earlier than 10 a.m. on the day of the election. The absentee tally shall remain secret until after the close of the polls on the day of the election at which time the results shall be added to the election results. Anyone violating that secrecy shall be punished as provided by law.

(e) All absentee voting records, materials, and ballots shall be retained by the Department of Elections conducting the election for 1 year following the close of the elections. At the end of the said year, the ballots, materials and other absentee voting records shall be destroyed.

(67 Del. Laws, c. 447, § 1; 69 Del. Laws, c. 271, §§ 1, 2; 70 Del. Laws, c. 515, §§ 16-22; 74 Del. Laws, c. 122, §§ 36, 37; 81 Del. Laws, c. 425, §§ 6, 7.)

## § 1087. Electioneering.

Electioneering as described in § 4942 of Title 15 is prohibited in any public school election.

(74 Del. Laws, c. 122, § 38.)

## § 1088. Persons permitted in the voting room.

(a) No persons, other than members or employees of the Department of Elections conducting the election who shall be identified by a badge issued by that Department of Elections, the Commissioner of Elections and/or employees of the Office of the Commissioner of Elections who shall be identified by a badge issued by the Commissioner of Elections, appointed election officers, authorized challengers in accordance with § 1089 of this title, or persons voting or waiting to vote, shall be admitted within the voting room. Other persons necessary to the conduct of the election may be admitted within the voting room or within 50 feet of the entrance thereof upon first obtaining consent from the inspector, except as provided in subsection (b) of this section.

(b) Person or persons with other business within the building in which a polling place for a public school election is located may pass through the polling place area or by the room in which the polling place is located so as not to interfere with the conduct of the election. Such person or persons shall not loiter within 50 feet of the polling place, talk to any person or persons waiting to vote, promote any candidate or side to an issue, or in any other manner interfere with voters or disrupt the polling place. The inspector shall take those steps necessary to maintain order within the polling place as well as enforce § 1087 of this title and subsection (a) of this section.

(c) A voter may be accompanied by 1 or more children not more than 16 years of age. Any challenge to the age of any child shall be resolved by the voter signing an affidavit certifying that the child in question is not more than 16 years of age.

(74 Del. Laws, c. 122, § 39.)

## § 1089. Challengers and challenges.

(a) For school board member elections, each candidate on the ballot may appoint and accredit 1 or more suitable persons as challengers. One challenger from each candidate on the ballot may be present inside each polling place to observe the conduct of the election and all election records. The challengers may be changed and their places filled in like manner during the day. Each challenger shall present a challenger authorization for that particular election signed by the candidate before being permitted to sit as a challenger.

(b) For all other public school elections, 5 persons at a time may act as challengers. Persons desiring to sit as a challenger shall ask the inspector in the polling place for permission to serve as a challenger. If fewer than 5 persons are sitting as challengers, the person

shall be seated after completing the challenger identification form. If 5 persons are already seated, no person shall be seated until 1 of the seated persons has left the polling place. Any challenger who leaves the polling place for any reason shall immediately surrender the challenger's own challenger badge to the inspector and shall be replaced by a person waiting to be seated as a challenger.

(c) A person serving as a challenger shall be issued a challenger badge that the challenger shall wear while in the polling place. If the person leaves the polling place the challenger shall surrender the badge to the inspector and for school board member elections retrieve the challenger authorization from the inspector.

(d) Challengers shall be peace officers with the same powers of preserving the peace as election officers and the challengers shall be protected in the discharge of their duty by the election officers; provided, however, the challengers shall not create any disturbance or obstruction and shall not unreasonably prolong any challenge or inquiry. The inspector shall have the duty to caution the challengers concerning the foregoing and, if a challenger persists in objectionable behavior, the challenger may be ejected by the inspector. Nothing in this subsection shall prevent the substitution of another challenger for 1 who has been ejected.

(e) If an inspector wilfully ejects a challenger without cause, that inspector shall be deemed to have knowingly and wilfully violated that inspector's own official duty.

(f) Anyone legally within the polling place may challenge any voter for identity, address or bribery. The inspector and both judges shall hear each challenge immediately and before the person so challenged enters a voting machine. Once the inspector and both judges vote on the challenge, the matter is decided and the challenged person will either be permitted to vote or not permitted to vote depending on the decision. A person denied permission to vote shall leave the polling place immediately. A person challenged for bribery may take and subscribe to the oath as provided in § 4940 of Title 15. Once the person has taken and subscribed to the oath, the person shall be permitted to vote.

(74 Del. Laws, c. 122, § 40; 70 Del. Laws, c. 186, § 1.)

## Subchapter V

## Staffing of Reorganized School Districts

### § 1091. Superintendent of schools.

The school board of each reorganized school district shall appoint as the chief school officer for that district a superintendent of schools who shall also serve as executive secretary to the school board.

(14 Del. C. 1953, § 1091; 56 Del. Laws, c. 292, § 6.)

### § 1092. Employee qualifications.

Every employee of a reorganized school district must meet standards for qualification as adopted by the Professional Standards Board and the State Board of Education pursuant to § 1203 of this title, and be certified or otherwise licensed in accordance with these standards in order to be placed on the official payroll of the reorganized school district.

(14 Del. C. 1953, § 1092; 56 Del. Laws, c. 292, § 6; 58 Del. Laws, c. 262, § 1; 71 Del. Laws, c. 180, § 54; 72 Del. Laws, c. 294, § 50.)

### § 1093. State salary schedules.

The state salaries for the several categories of school employees shall be in accordance with salary schedules set forth in this title except that no such schedule shall prevent a school district from increasing those salaries by the amount of a supplement appropriately provided by the local school district including Division III state funds, and from funds other than those appropriated by this State.

(14 Del. C. 1953, § 1093; 56 Del. Laws, c. 292, § 6.)

### § 1094. School employee contract; dismissal or suspension.

(a) The contract with school employees shall be a contract drawn on a form approved by the Department of Education and shall be a state school employee contract that shall be executed by the reorganized school district board. One copy of the contract shall be delivered to the employee, and 1 copy shall be made part of the permanent file of the school district.

(b) A school employee may be dismissed or suspended from that employee's duties in accordance with Chapter 14 of this title.

(14 Del. C. 1953, § 1094; 56 Del. Laws, c. 292, § 6; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 55.)

## Subchapter VI

## Indemnity

### § 1095. Liability of local school districts for costs in actions against members of board or employees thereof.

Whenever a civil action has been or shall be brought against any person for any act or omission arising out of and in the course of the performance of that person's duties as a member of a board of education, principal, assistant principal, superintendent, assistant superintendent or professional employee, including a teacher, the board of education of that school district shall defray all costs of

defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom; provided, however, the board of education shall not be responsible for the payment of punitive damages nor damages attributable to intentional acts or the gross negligence of such person. Any board of education may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses. The State shall not be liable for such financial obligation incurred by a local school district.

(64 Del. Laws, c. 280, § 1; 70 Del. Laws, c. 186, § 1.)

# Part I
# Free Public Schools

## Chapter 11
## Recruiting and Training of Professional Educators for Critical Curricular Areas

### § 1101. Purpose.

It is the purpose of this chapter to provide for the establishment of a statewide program for the recruiting and training of certain professional educators who will serve the pupils in the public elementary and secondary schools of the State in critical curricular areas. The responsibilities for identifying those critical areas are assigned to the Department of Education with approval of the State Board and for the administration of the program are assigned to the Department of Education.

(64 Del. Laws, c. 341, § 1; 71 Del. Laws, c. 180, § 56.)

### § 1102. Appropriation.

The Department of Education may authorize, from the amount appropriated in the Budget Appropriation Bill for the purpose of enhancing professional development, an amount to be allocated for the purpose of establishing and maintaining programs to strengthen programs in those areas which the Department of Education with the approval of the State Board of Education designates as critical curriculum areas.

(64 Del. Laws, c. 341, § 1; 68 Del. Laws, c. 84, § 205; 71 Del. Laws, c. 180, § 57.)

### § 1103. Rules and regulations.

The Department of Education with approval of the State Board of Education shall, from time to time, adopt and promulgate such rules and regulations as will be necessary for the implementation of the programs authorized by this chapter.

(64 Del. Laws, c. 341, § 1; 71 Del. Laws, c. 180, § 58.)

### § 1104. Academic year program to meet certification requirements in critical curricular area.

The Department of Education with State Board approval may provide an ongoing program specifically designed to meet certification requirements for a teacher in the State in a critical curricular area and may include, but not be limited to, reimbursement for tuition, programs, textbooks or travel. The part-time program may be offered during the regular school year. The Department of Education with State Board approval shall provide rules and regulations for the conduct of the program.

(64 Del. Laws, c. 341, § 1; 68 Del. Laws, c. 84, §§ 206, 207; 71 Del. Laws, c. 180, § 59.)

### § 1105. Summer inservice program.

The Department of Education with State Board approval may provide for a summer program for Delaware teachers who are available to teach but who do not hold school certification in a critical curricular area. The Department of Education with State Board approval shall establish rules and regulations for the conduct of this program.

(64 Del. Laws, c. 341, § 1; 68 Del. Laws, c. 84, § 208; 71 Del. Laws, c. 180, § 59.)

### § 1106. Teacher Scholarship Loan Program.

The Department of Education with State Board approval may provide a Teacher Scholarship Loan Program. This Program shall be designed to help a teacher obtain certification in Delaware in a critical curriculum area by attending an institution of higher education on a full-time basis. The Department of Education with State Board approval shall establish rules and regulations for the conduct of this Program that shall include at least the following:

(1) Candidates selected must have taught in a Delaware public elementary or secondary school for at least 1 year prior to the year in which the scholarship is to be used.

(2) A teacher participating in this Loan Program shall execute a promissory note, in the amount of the loan, to the State Treasurer. This note shall be forgiven at a rate of $^1/_3$ of the loan for each of 3 years of teaching in a Delaware public school after completion of the study authorized. In any year that the teacher fails to meet the teaching obligation, the loan shall be due and payable for the unpaid balance.

(3) Such loan shall be interest free to persons who meet the teaching obligation.

(4) Necessary repayment procedures and interest requirements for persons who do not teach, or do not complete their teacher obligation as provided in paragraph (2) of this section, shall be established by the Department of Education with State Board approval.

(5) A teacher to whom a loan is granted shall also be paid during the year of study 1 year's salary and benefits based upon the prescribed state salary schedule for 185 teaching days as found in Chapter 13 of this title. A teacher to whom such a loan is granted may be granted a leave of absence by a school district upon agreement that the teacher will return to that district for assignment upon completion of the year of study. In the case of such leave of absence, nothing herein contained shall prevent the school district from providing local salary supplement and other district benefits.

(6) The amount of the loan will be determined by the Department of Education with State Board approval and may be applied to the cost of tuition, books and supplies for instruction at the institution in which the teacher is to be enrolled.

(64 Del. Laws, c. 341, § 1; 68 Del. Laws, c. 84, § 209; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 59.)

## § 1107. Program for persons lacking teaching certification.

The Department of Education with State Board approval may provide a program of training for persons who can present graduate or undergraduate degrees at or above the level of bachelor and who are interested in teaching in a field that has been declared a critical curricular area, but who lack the certificate requirements for teaching in that field. Such a program shall include reimbursement for tuition for any necessary training to obtain certification as determined by the Department of Education with State Board approval.

(64 Del. Laws, c. 341, § 1; 68 Del. Laws, c. 84, § 209; 71 Del. Laws, c. 180, § 59.)

## § 1108. Student Loan Program.

(a) The Department of Education with State Board approval may provide a Student Loan Program and shall make rules and regulations for the conduct of this Program to include at least the following:

(1) The candidate for a loan must have been admitted to an accredited institution of higher learning in a program that will result in training and certification in Delaware as a teacher in a critical curricular area designated by the Department of Education with State Board approval;

(2) The recipient of any such loan shall execute a promissory note in the amount of the loan to the State Treasurer;

(3) The loan will be forgiven on the basis of 2 years of teaching as a certified teacher in an actual critical curricular area in a Delaware public elementary or secondary school for each year of college training;

(4) Such loan shall be interest free to persons who meet the teaching obligation;

(5) Necessary replacement procedures and interest requirements for persons who do not teach or fulfill the teaching obligation as provided in paragraph (a)(3) of this section shall be established by the Department of Education with State Board approval;

(6) The loan may be renewed from year to year through a 4-year training program, based upon the criteria adopted by the Department of Education with State Board approval;

(7) A student selected for such a program may attend any accredited college or university in the United States where the appropriate training will result in certification as a teacher in this State.

(b) A loan made pursuant to subsection (a) of this section may be forgiven by the Secretary of Education if the Secretary determines that the recipient is unable to meet that recipient's repayment obligation because of total and permanent disability or death. The Secretary may require such documents as the Secretary considers necessary to verify a claim of disability or death, including but not limited to a sworn affidavit from a qualified physician or a death certificate. Notwithstanding any provision to the contrary in this chapter, the Department of Education may promulgate rules and regulations to implement this subsection.

(64 Del. Laws, c. 341, § 1; 68 Del. Laws, c. 84, § 209; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 59; 74 Del. Laws, c. 97, § 1.)

# Part I
# Free Public Schools

## Chapter 11A
## High Needs Educator Student Loans

(81 Del. Laws, c. 426, § 1.)

### § 1101A. Establishment; statement of purpose [Transferred].

Transferred to § 3437(a) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1102A. Definitions [Transferred].

Transferred to § 3437(b) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1103A. Funding [Transferred].

Transferred to § 3437(c) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1104A. Eligibility for Program [Transferred].

Transferred to § 3437(d) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1105A. Application [Transferred].

Transferred to § 3437(e) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1106A. Decision and disbursement [Transferred].

Transferred to § 3437(f) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1107A. Amount of award [Transferred].

Transferred to § 3437(g) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1108A. Rules and regulations [Transferred].

Transferred to § 3437(h) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1109A. Penalties [Transferred].

Transferred to § 3437(i) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1110A. Annual reporting [Transferred].

Transferred to § 3437(j) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

### § 1111A. Severability [Transferred].

Transferred to § 3437(k) of this title by 83 Del. Laws, c. 413, § 8, effective July 1, 2022.

# Part I
# Free Public Schools

## Chapter 12
## Educator Licensure, Certification, Evaluation, Professional Development, and Preparation Programs

### Subchapter I
### Professional Standards Board

### § 1201. Purpose [For application of this section, see 85 Del. Laws, c. 186, § 8].

The purpose of this chapter is to establish a system of professional development, professional standards, licensure, certification and evaluation that serves to continually improve the quality of instruction and support for Delaware's children so that they are equipped to work and succeed in an ever-changing and increasingly complex global economy. The General Assembly finds that a rigorous system of licensure, certification, permitting, professional development and evaluation designed to support improved student achievement and well-being, together with an expansion of the salary system to include compensation for skills and knowledge, will serve to improve the quality of the Delaware education workforce and to improve student performance. All educators must be licensed, certified, and evaluated under this chapter. Paraprofessionals and other student support and classroom personnel must hold a permit according to this chapter or an approved professional license under Title 24. To develop this system and to ensure that its purposes are achieved, the General Assembly creates the Delaware Professional Standards Board to work in conjunction with the Department of Education and the State Board of Education toward the full implementation of this chapter.

(72 Del. Laws, c. 294, § 2; 85 Del. Laws, c. 186, § 1.)

### § 1202. Definitions [For application of this section, see 85 Del. Laws, c. 186, § 8].

The following definitions apply to this chapter:

(1) "Approved professional license issued under Title 24" means a professional license issued by any of the following Boards:

a. Board of Occupational Therapy Practice.

b. Board of Mental Health and Chemical Dependency Professionals.

c. Board of Examiners of Psychologists.

d. Board of Social Work Examiners.

e. Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers, but excluding a hearing aid dispenser license.

f. Examining Board of Physical Therapists and Athletic Trainers.

(2) "ARTC program" means an alternative routes for teacher licensure and certification program.

(3) "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 § 1221(2) of this title.

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

(5) "Classroom aide" means a school employee who supports teachers by assisting students with activities and daily tasks. A classroom aide may work with individuals or small groups and provide additional assistance based on student needs. An individual with a diploma of alternate achievement standards may serve as a classroom aide.

(6) "Delaware Performance Appraisal System II" (DPAS II) means the evaluation developed and conducted pursuant to this chapter.

(7) "Department" means the Delaware Department of Education.

(8) "Educator" means a person licensed and certified by the State under this chapter to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. For purposes of this subchapter, the term "educator" does not include substitute teachers.

(9) "Emergency certificate" means a credential which may be issued if the employing district or charter school establishes that the proposed recipient meets the requirements under § 1221(1) of this title.

(10) "Evaluator" means an individual or team meeting the minimum qualifications to appraise educator performance, as set forth in the rules and regulations promulgated under § 1271 of this title.

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

(12) "Other student support personnel" means a person other than a paraprofessional who is hired or contracted by a district, charter school, or other state agency to support students with mental health services or behavior interventions in a school and may have direct, unsupervised contact with students, but who is not otherwise qualified to hold a license and a standard certificate issued under this chapter or an approved professional license issued under Title 24.

(13) “Paraprofessional” means a person permitted by this State under this chapter to assist in classroom instruction, classroom management, student behavior, or functional skills activities, and is paid under § 1324 of this title.

(14) “Permit” means a credential that authorizes the holder to engage in student support and classroom services within a public school.

(15) “Secretary” means the Secretary of the Delaware Department of Education.

(16) “Specialist intern” means a person who is enrolled in an education preparation program in school counseling or school psychology, who is completing the internship required for certification. Specialist interns include individuals completing required supervised fieldwork in behavior analysis at a school. All specialist interns must adhere to any other regulations or requirements required by the specialist intern’s applicable certificate.

(17) “Standard certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill and/or education to practice in a particular area, teach a particular subject, or teach a category of students. An educator may be issued 1 or more certificates.

(18) “Standards Board” means the Professional Standards Board established pursuant to this chapter.

(19) “State Board” means the State Board of Education of the State pursuant to § 104 of this title.

(20) “Year-long resident” means a person who is enrolled in a year-long residency program under § 1281 of this title.

(72 Del. Laws, c. 294, § 2; 75 Del. Laws, c. 77, §§ 2, 3; 81 Del. Laws, c. 202, § 2; 81 Del. Laws, c. 282, § 1; 85 Del. Laws, c. 186, § 1.)

## § 1203. Rules and regulations.

Unless otherwise provided for in this chapter, rules and regulations necessary to implement this chapter must be proposed by the Standards Board subject to approval of the State Board. The Standards Board shall develop rules and regulations in consultation and cooperation with the Department. Once developed, the rules and regulations must be sent to the Executive Secretary of the State Board and must be included on the State Board’s agenda no later than the second regular meeting of the State Board following the Executive Secretary’s receipt of the rules and regulations. The rules and regulations must be addressed by the State Board when placed on its agenda. If approved by the State Board, rules and regulations have the force and effect of law. The Department shall adopt and publish all rules and regulations pursuant to the provisions of this section and to the provisions of the Administrative Procedures Act [Chapter 101 of Title 29]. This subsection shall not apply to rules and regulations promulgated pursuant to the provisions of subchapter VII of this chapter.

(72 Del. Laws, c. 294, § 2; 74 Del. Laws, c. 13, § 1.)

## § 1204. License or permit requirement [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) No person may work in a public school unsupervised with students without a valid permit, a license issued under this chapter, or an approved professional license issued under Title 24.

(b) The following individuals are exempt from the requirements of subsection (a) of this section:

(1) Noninstructional administrators.

(2) Nutrition staff.

(3) Custodial staff.

(4) Transportation staff.

(5) Clerical staff.

(6) A charter school administrator exempt under § 507(c) of this title.

(7) A substitute teacher serving for less than 12 consecutive weeks in 1 school.

(85 Del. Laws, c. 186, § 1.)

## § 1205. Professional Standards Board [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) Recognizing that well-prepared, effective educators, paraprofessionals, and other student support and classroom personnel are critical to our students’ success and that those entrusted with the achievement of our students should have a voice in the development of policies that affect their profession, there is hereby established the Professional Standards Board. The intent of the General Assembly is that the Standards Board and the Department work in close coordination and collaboration to fully and effectively implement the purposes of this chapter. To this end, the Standards Board shall file reports on January 1, April 1, July 1, and October 1 of each calendar year with the General Assembly, the Governor, the State Board and the Department.

(b) The Standards Board shall develop rules and regulations relating to educators’ professional development, licensure requirements, and certification requirements. In addition, the Standards Board shall develop regulations relating to permit requirements for paraprofessionals and other student support and classroom personnel. The Department shall implement the rules and regulations promulgated and adopted pursuant to this chapter relating to licensure and certification of educators, permitting of paraprofessionals and other student support and classroom personnel, certification of evaluators, and as otherwise directed by rules and regulations developed under this chapter.

(72 Del. Laws, c. 294, §§ 2, 61; 74 Del. Laws, c. 13, §§ 2, 23; 85 Del. Laws, c. 186, § 1.)

## § 1206. Composition and governance of the Professional Standards Board.

(a) The Standards Board shall consist of 16 voting members as follows:

(1) Eight public school educators, no less than 2 from each county, with 1 being a special education teacher, 1 being an education specialist and at least 1 teacher each from the high school, middle school and elementary school levels. The 7 teachers and 1 education specialist must be selected from a list supplied by the Delaware State Education Association in accordance with subsection (c) of this section. Each teacher appointed to the Standards Board must have demonstrated excellence in that teacher's own field by achieving honors or special recognition in that teacher's field, including, but not limited to state, district or building level Teacher of the Year, National Board for Professional Teaching Standards certification, or the Presidential Award for Excellence.

(2) Four public school administrators, with at least 1 being from each county, selected from a list supplied by the Delaware Association of School Administrators in accordance with subsection (c) of this section.

(3) One member of a local school board selected from a list supplied by the Delaware State School Board Association in accordance with subsection (c) of this section.

(4) Two parents with children in public schools, from separate counties, selected from a list supplied by the Secretary of Education. The Secretary shall solicit nominations from groups such as the Delaware Congress of Parents and Teachers, the Delaware Parent Leadership Institute, and formal advisory councils in accordance with subsection (c) of this section.

(5) One representative of higher education selected from a list supplied by the Council of Presidents in accordance with subsection (c) of this section.

(b) The Governor, by and with the consent of a majority of the members elected to the Senate, shall appoint each voting member of the Standards Board for a term of 3 years, except that initial appointments are for the following terms: 5 members for an initial term that expires 2 years following the date of appointment; 5 members for an initial term that expires 3 years following the date of appointment; and 5 members, including the chair of the Standards Board, for an initial term that expires 4 years from the date of appointment. The Governor shall designate 1 voting educator member to serve, at the pleasure of the Governor, as chair of the Standards Board. The members of the Standards Board shall elect a vice chair. A member who misses 3 consecutive meetings without cause is presumed to have resigned from the Standards Board. A member of the Standards Board serves until that member's successor is appointed or until the member resigns. A member appointed to fill a vacancy serves for the remainder of the term of the member whom that member replaced. A Standards Board member is eligible for reappointment. If a disciplinary proceeding is initiated against a board member, the member may not participate in Standards Board business until the charge is adjudicated or the matter is otherwise concluded.

(c) With respect to appointments pursuant to subsection (a) of this section, the designated organization or person shall provide the Governor with a list of potential appointees 60 days prior to the expiration of a term or within 30 days after a vacancy of any term. The Governor may require that a specific number of potential appointees, up to 20, be included on any list submitted. The Governor may reject all potential appointees on the list and request up to 4 additional lists at the Governor's own discretion. If the designated organization does not submit a list to the Governor as provided in this subsection, then the Governor shall submit the Governor's own appointments for any vacancy.

(d) The Standards Board shall have the following standing committees in the following subject areas:

(1) Licensure and Certification Criteria; and

(2) Professional Development and Associated Compensation.

A standing committee must consist of at least 1 member of the Standards Board and other persons as may be mutually agreeable to the chair of the Standards Board and the Secretary.

(e) The majority of the voting members of the Standards Board shall appoint an executive director of the Standards Board. The executive director must have been a resident of Delaware for a minimum of 1 year immediately prior to the executive director's appointment and must have at least 10 years' experience as a professional educator in a public school system, with at least 5 years as a classroom teacher. The executive director acts as secretary to the Standards Board and receives compensation commensurate with the Department salary schedule. The executive director shall serve at the pleasure of the majority of the voting members of the Standards Board. The executive director is excluded from "classified service" and "state service" as defined in Chapter 59 of Title 29. The Department shall provide the Standards Board with access to Department personnel who are reasonably necessary to carry out the duties of the Standards Board.

(f) The Standards Board may create any committees that it deems necessary, provided that a committee created under this subsection does not overlap or otherwise make recommendations in the subject areas governed by the standing committees designated in subsection (d) of this section; and, further provided, that, prior to creating any such committee, the Standards Board shall first specify the tasks to be addressed by the committee and the time in which the committee is to complete those tasks. The chair of the Standards Board may appoint members of the Standards Board to such committees. The Standards Board may, by mutual agreement between its chair and the Secretary, appoint educators, parents, citizens and members of the business community to a committee created under this subsection.

(g) A majority of the current members of the Standards Board constitutes a quorum. No motion or resolution of the Standards Board may be adopted without the concurrence of the majority of the members of the Board plus at least 1 additional affirmative vote.

(h) A member of the Standards Board is entitled to receive $50 per meeting not to exceed $600 annually, and to be reimbursed for reasonable and necessary expenses incurred in connection with the performance of official duties. The Standards Board may hold 1

meeting per month during normal school hours, but any additional meetings in the same month shall not be held during normal school hours.

The provisions of subchapter III of Chapter 58, Title 29 shall not apply to members of the Standards Board who are employed by a public school district. Any Standards Board member employed by a public school district will be released from that member's normal duty for the purpose of attending any regular monthly meeting of the Board which is scheduled during normal school hours as provided in this section, and such member shall receive that member's normal salary from the member's employer pursuant to the provisions of Chapter 13 of this title and any applicable collective bargaining agreement. Subject to the availability of appropriated funds, the Standards Board shall reimburse the member's employing school district for such costs as the school district may incur in order to obtain the services of a substitute teacher to take the place of any teacher member of the Standards Board who is granted release time pursuant to this section. A member of the Standards Board who is granted release time pursuant to this section shall have that member's compensation, as provided in the first paragraph in this section, proportionally reduced so that such member is not compensated twice for the time spent in meeting.

(i) Upon the request of the Secretary for advice or recommendations on matters within the purview of the Standards Board, the Standards Board shall respond to the request within a time frame that is mutually agreed upon between the Secretary and the chair of the Standards Board.

(j) The initial 15 voting members of the Standards Board must be appointed no later than 90 days after the enactment of this act.

(k) The Standards Board is subject to the provisions of the Administrative Procedures Act (Chapter 101 of Title 29).

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 84, § 2; 74 Del. Laws, c. 13, §§ 3-7; 74 Del. Laws, c. 68, § 282; 76 Del. Laws, c. 93, §§ 1, 2; 79 Del. Laws, c. 324, § 1.)

## Subchapter II

## Three-Tiered Licensure System

### § 1210. Tier One — Initial licensure [For application of this section, see 81 Del. Laws, c. 43, § 5].

(a) An initial license is valid for 4 years unless revoked. The Department shall issue an initial license under this section if an applicant demonstrates that the applicant received a bachelor's degree from a regionally accredited 4-year college or university, has achieved a passing score on a content-readiness exam, and has either completed a student teaching program or meets any 1 of the following alternatives to student teaching:

(1) One year of teaching experience consisting of a minimum of 91 days of long-term teaching experience in 1 assignment or in no more than 2 assignments, excluding early childhood and elementary education, or 3 years of substitute teaching experience consisting of 91 days per year in multiple assignments under § 1716G of this title. Experience in an alternative routes for teacher licensure and certification program may not be used to meet this alternative.

(2) The applicant is enrolled and participating in the alternative routes for teacher licensure and certification program under subchapter VI of Chapter 12 of this title.

(3) [Repealed.]

(4) The applicant is applying for an initial license and certification as a specialist and completes a supervised practical experience in the specialty area equivalent to student teaching as recognized by rules and regulations promulgated and adopted under this chapter. Equivalent practical experience in the specialty area may include a supervised internship, a practicum, or clinical experience. For purposes of this section, "specialist" means an educator other than a teacher recognized by rules and regulations promulgated and adopted under this chapter who is eligible to apply for both licensure and certification from the State to engage in other related professional support services.

(b) (1) If an initial licensee intends to apply for a continuing license, the licensee shall, before the expiration of that initial license, complete professional development and mentoring activities required by rules and regulations promulgated and adopted under this chapter. Such professional development and mentoring activities must include a focus on the acquisition of pedagogical knowledge and the ability to apply that knowledge to meet the needs of the educator's students.

(2) The Department shall create a committee of stakeholders, including teachers, principals, local education agency administrators, representatives of institutions of higher education, representatives of the Delaware State Education Association (DSEA), representatives of the Delaware Association of School Administrators (DASA), and national experts, to gather input and make recommendations on a revised Comprehensive Induction Program that focuses on reinforcing all of the following:

a. Pedagogical skills.

b. Content knowledge.

c. Cultural responsiveness.

d. Data-driven instruction.

(c) Under the rules and regulations promulgated and adopted under this chapter, the Department may issue an initial license to an applicant with less than 4 years of experience as an educator who is licensed as an educator in another jurisdiction or to an applicant who previously held a valid Delaware license that has since expired. An applicant issued an initial license under this subsection must

complete all requirements under subsection (b) of this section. For purposes of this subsection, "educator" means a person licensed in another jurisdiction to engage in the practice of instruction, administration, or other related professional support services in public schools or a person who was an educator as defined in § 1202 of this title and previously held a valid Delaware license that has since expired.

(d) An initial license must not be renewed. It may, however, be extended under § 1216 of this title.

(e) Notwithstanding subsections (a) and (c) of this section, an initial license may be issued for a period of up to 6 years for applicants in a vocational trade and industry ("skilled and technical sciences" or "STS") area to complete specified college-level coursework required for certification.

(f) Notwithstanding subsection (a) of this section, an initial license may be issued for an applicant who is certified by the United States Department of Defense as a Junior Reserve Officer Training Corps instructor. An initial license issued under this subsection is valid for up to 4 years unless it is revoked. An applicant who is issued an initial license under this subsection must complete all requirements under subsection (b) of this section.

(g) The Standards Board shall promulgate regulations necessary to implement this section.

(h)-(j) [Repealed.]

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 20, § 1; 73 Del. Laws, c. 84, § 2; 74 Del. Laws, c. 14, §§ 1-3; 75 Del. Laws, c. 77, §§ 4, 5; 79 Del. Laws, c. 42, § 2; 79 Del. Laws, c. 288, § 1; 80 Del. Laws, c. 297, § 1; 81 Del. Laws, c. 43, § 1; 81 Del. Laws, c. 425, § 8; 83 Del. Laws, c. 79, § 1; 83 Del. Laws, c. 393, § 2; 84 Del. Laws, c. 151, § 1.)

## § 1210A. Tier Two — Initial licensure [Transferred].

Transferred to § 1210 of this title by 81 Del. Laws, c. 43, § 1, effective June 20, 2017.

## § 1211. Tier Two — Continuing licensure.

(a) A continuing license is valid for 5 years unless extended under § 1216 of this title or revoked.

(b) Upon application, the Department shall issue a continuing license to an educator holding an initial license if the educator has successfully completed the requirements of § 1210 of this title and has not received more than 1 unsatisfactory annual evaluation, as defined by a State of Delaware approved educator evaluation system, during the period of initial licensure.

(c) Under the rules and regulations promulgated and adopted under this chapter, the Department may issue a continuing license to an applicant licensed as an educator in another jurisdiction or to an applicant who previously held a valid Delaware continuing license that has since expired. An applicant under this subsection must have completed 4 or more years of successful experience as an educator to be issued a continuing license. For purposes of this subsection, "educator" means a person licensed in another jurisdiction to engage in the practice of instruction, administration, or other related professional support services in public schools or a person who was an educator as defined in § 1202 of this title and previously held a valid Delaware continuing license that has since expired.

(d) Notwithstanding subsection (b) of this section, the Department may issue a continuing license to an applicant who is certified by the United States Department of Defense as a Junior Reserve Officer Training Corps instructor, completes at least 4 years working as a Junior Reserve Officer Training Corps instructor in a school, and applies for a continuing license before July 1, 2024.

(72 Del. Laws, c. 294, § 2; 74 Del. Laws, c. 14, § 4; 75 Del. Laws, c. 77, § 6; 80 Del. Laws, c. 297, § 1; 81 Del. Laws, c. 43, § 1; 83 Del. Laws, c. 79, § 2; 84 Del. Laws, c. 151, § 2.)

## § 1212. Continuing licensure — Renewal.

(a) Upon application, the Department shall renew a continuing license for an additional 5-year term if the educator has completed 90 clock-hours of approved professional development, as well as other professional development and mentoring requirements as required by the rules and regulations promulgated and adopted under this chapter.

(b) For the purpose of this section, "clock-hour" means actual time spent in professional development, not credit hours.

(c) The Standards Board shall review the professional development requirements of this section on an ongoing basis for the purpose of proposing regulations that modify the minimum requirements of this section and that improve the effectiveness of professional development.

(d) The Department shall ensure that a variety of opportunities for professional development are available across different modes that meet a high standard of quality, including evidence-based programs.

(72 Del. Laws, c. 294, § 2; 72 Del. Laws, c. 295, § 1; 81 Del. Laws, c. 43, § 1; 83 Del. Laws, c. 79, § 3.)

## § 1213. Tier Three — Advanced licensure.

An advanced license is valid for up to 10 years unless extended pursuant to § 1216 of this title or revoked. Upon application, the Department shall issue an advanced license to an educator who receives National Board for Professional Teaching Standards certification. The term of the advanced license shall be the same as the balance of the term of the educator's National Board for Professional Teaching Standards certification. The Department may also issue an advanced license to an educator who, upon application, demonstrates proficiency under an equivalent program that has been approved in rules and regulations promulgated and adopted under this chapter.

(72 Del. Laws, c. 294, § 2; 75 Del. Laws, c. 77, §§ 7, 8; 80 Del. Laws, c. 297, § 1; 81 Del. Laws, c. 43, § 1.)

## § 1214. Advanced licensure — Renewal.

Upon application, the Department shall renew an advanced license for an additional 10-year term, provided that the educator maintained proficiency under the program for which the advanced license was first issued.

(72 Del. Laws, c. 294, § 2.)

## § 1215. Licensure of educators holding professional status certificates or other certificates [For application of repeal of this section, see 85 Del. Laws, c. 186, § 8] [Repealed].

(72 Del. Laws, c. 294, § 2; 74 Del. Laws, c. 14, § 5; repealed by 85 Del. Laws, c. 186, § 2, effective Sept. 2, 2025.)

## § 1216. License extension; license freeze.

(a) Upon a showing by an educator of exigent circumstances, the Department may, through rules and regulations promulgated and adopted pursuant to this chapter, issue a license extension for a period not to exceed 1 year.

(b) An educator may take an extended leave of absence for up to 3 years with no effect upon the validity or expiration of the educator's initial, continuing or advanced license.

(c) If an applicant is not employed by a public school district or charter school, the initial license shall be inactive until such time as the applicant is employed by a public school district or charter school. Once employed, the initial license shall be in effect for up to 4 years and all rules and regulations promulgated and adopted under this chapter shall apply.

(d) The expiration of an educator's license before the end of the school year shall be considered an exigent circumstance under subsection (a) of this section and the educator's license shall be extended until the end of that school year. Notwithstanding any extension, the effective date of any renewed license shall be the original expiration date.

(e) (1) Notwithstanding any provision of this title to the contrary, a license issued by the Department pursuant to this chapter does not expire for a "qualifying person" as defined in paragraph (e)(4) of this section as follows:

a. If the qualifying person holds an initial license, for 180 days after the date the qualifying person returns from active deployment.

b. If the qualifying person holds a continuing or advanced license, for 270 days after the date the qualifying person returns from active deployment.

(2) A qualifying person who held a valid continuing or advanced license at the time of deployment and who wishes to renew the continuing or advanced license must submit to the Department an application for renewal within 180 days after the qualifying person has returned from active deployment. Applicants for renewal of a continuing license must meet the requirements set forth in § 1212 of this title. Applicants for renewal of an advanced license must meet the requirements set forth in § 1214 of this title.

(3) The protection from license expiration provided under this subsection does not void or limit the obligations of the qualifying person to meet all requirements of licensure as established by this chapter and the regulations promulgated thereunder.

(4) As used in this section, "qualifying person" means an individual who is a member of the active duty military, a member of the National Guard, a member of the military reserve, retired military, or a military veteran.

(f) Notwithstanding any provision of this title to the contrary, a "qualifying person," as defined in paragraph (e)(4) of this section, or the spouse of a qualifying person, may apply for reinstatement of a license issued by the Department pursuant to this chapter within 2 years of the lapse or expiration of the license. The qualifying person or the spouse of a qualifying person must submit an application to reinstate the license together with a copy of official verification that the applicant is a qualifying person or the spouse of a qualifying person and the qualifying person is assigned to a duty station in this State. This subsection does not apply to a license that was suspended or revoked.

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 14, § 6; 75 Del. Laws, c. 77, § 9; 80 Del. Laws, c. 297, § 1; 81 Del. Laws, c. 43, § 1; 83 Del. Laws, c. 508, § 5.)

## § 1216A. Issuance and renewal of permits [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) The Department shall issue a permit to an individual who meets all of the following requirements:

(1) The individual's role involves 1 of the following:

a. Paraprofessional.

b. Other student support personnel, including visiting teacher.

c. Substitute teacher hired as an employee of a school district or charter school.

d. Substitute teacher seeking certification.

e. Student teacher.

f. Year-long resident.

g. Specialist intern.

h. Classroom aide.

(2) The individual does not have a license issued under this chapter or an approved professional license issued under Title 24.

(3) The individual works at or seeks to be credentialed to work at a public school in Delaware and is in the school either part-time or full time.

(4) The individual has met education and training requirements for the permit as determined by the Department and the Standards Board.

(b) Permits are valid for up to 5 years unless revoked.

(c) Upon application, the Department shall renew a permit for an additional term if the permit holder has completed the specified renewal activities for that permit as required by the rules and regulations promulgated and adopted under this chapter. An intern permit may not be renewed but may be extended until the internship period is completed.

(85 Del. Laws, c. 186, § 2.)

## § 1217. Denial of licenses and permits [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department may deny an applicant's application for a license or permit for failure to meet the qualifications for a license or permit. The Department may further deny a license or permit to an applicant who otherwise meets the requirements of this subchapter for any of the causes enumerated in § 1218(a) and (b) of this title.

(b) The Department shall not take action to deny a license or permit under this section without providing the applicant with written notice of the reasons for denial and with an opportunity for a full and fair hearing before the Standards Board.

(c) In any hearing before the Standards Board to challenge action taken under this section, the Standards Board shall have the power to administer oaths and issue subpoenas to compel the testimony of witnesses and the production of books, accounts, papers, records, or documents.

(d) The burden of proof in a license or permit denial action is on the applicant to show by a preponderance of the evidence that the applicant should not be denied a license or permit because that applicant meets the qualifications for licensure or a permit pursuant to the applicable laws and regulations.

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 268, § 1; 85 Del. Laws, c. 186, § 2.)

## § 1218. Limitation, suspension and revocation of licenses, certificates, or permits [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) The Secretary may issue a public letter of reprimand, suspend, revoke, or limit a license, certificate, or permit that has been issued to any person pursuant to this chapter, for any of the following causes:

(1) Obtaining or attempting to obtain a license, certificate, or permit by fraudulent means or through misrepresentation of material facts.

(2) Falsifying official school records, documents, statistics, or reports.

(3) Knowingly violating any of the provisions of the state assessment system set forth in § 172 of this title.

(4) Pleading guilty or nolo contendere with respect to, or is convicted of, any crime against a child constituting a misdemeanor, except for unlawful sexual contact in the third degree [§ 767 of Title 11].

(5) Pleading guilty or nolo contendere with respect to, or is convicted of, possession of a controlled substance or a counterfeit controlled substance classified as such in Schedule I, II, III, IV or V of Chapter 47 of Title 16.

(6) Immorality, incompetence, misconduct in office, wilful neglect of duty, disloyalty, or misconduct involving any cause for suspension or revocation of a license, certificate, or permit provided for in this section.

(7) [Repealed.]

(8) Having had a license, certificate, or permit suspended, revoked, or voluntarily surrendered in another jurisdiction for cause which would be grounds for suspension or revocation under this section.

(b) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall revoke a license, certificate, or permit if the license, certificate, or permit holder does any of the following:

(1) Pleads guilty or nolo contendere with respect to, or is convicted of any of the following:

a. Any crime constituting the manufacture, delivery, possession with intent to manufacture or deliver a controlled substance or a counterfeit controlled substance classified as such in Schedule I, II, III, IV or V of Chapter 47 of Title 16.

b. Any crime constituting a violent felony as defined in § 4201(c) of Title 11.

c. Any crime against a child constituting a felony, or unlawful sexual contact in the third degree (§ 767 of Title 11).

d. Any crime constituting a felony sexual offense.

e. Any crime constituting a felony offense against public administration involving bribery, improper influence or abuse of office.

(2) Commits a sexual offense against a child.

(3) [Repealed.]

(c) The Secretary may automatically suspend any license or permit without a prior hearing if the license or permit holder is arrested or indicted by a grand jury for a violent felony as defined in § 4201(c) of Title 11 or for any crime against a child constituting a felony. A suspension under this subsection is effective on the date of the arrest or grand jury indictment.

(1) For a suspension under this subsection, the Secretary shall issue a written temporary order of suspension to the license or permit holder at that license or permit holder's last known address.

(2) The chief school officer or head of school, on behalf of the local board of education or charter school board of directors, shall report to the Secretary the name and last known address of any license or permit holder employed by the district or charter school who it knows to have been arrested or indicted by a grand jury for a violent felony as defined in § 4201(c) of Title 11 or for any crime against a child constituting a felony.

(3) A license or permit holder whose license or permit has been suspended pursuant to this subsection may request an expedited hearing before the Standards Board within 20 calendar days from the date the notice of the Secretary's decision to temporarily suspend the license or permit holder's license was mailed. In the event that the license or permit holder requests an expedited hearing in a timely manner, the Standards Board shall convene a hearing within 90 days of the receipt of such a request.

(4) If the license or permit holder pleads guilty or nolo contendere with respect to, or is convicted of, a violent felony as defined in § 4201(c) of Title 11 or any crime against a child constituting a felony, the Secretary shall proceed with revocation under subsection (b) of this section.

(5) If the license or permit holder is found not guilty of the underlying criminal charges, a nolle prosequi is entered on the record by this State, or the charges are otherwise dismissed by the court, the license or permit holder may file a written request for license or permit reinstatement, including documentation of the final status of the judicial proceeding, and their license or permit shall be reinstated. If the license or permit expired during the period of suspension, the holder of the former license or permit may reapply for the same tier license or permit that was suspended, but shall meet the license or permit requirements that are in effect at the time of application for the license or permit.

(6) An order of suspension under this subsection shall remain in effect until the final order of the Secretary or the Standards Board becomes effective.

(d) The Secretary may take an action under subsection (a), (b), or (c) of this section on the basis of substantially comparable conduct occurring in a jurisdiction outside this State or occurring before a person applies for or receives any license or permit.

(e) Any license or permit holder who has pled guilty or nolo contendere to, or has been convicted of, a crime in a court of law which would constitute grounds for revocation, suspension, or limitation of a license or permit under subsection (a) or (b) of this section or has been arrested or indicted by a grand jury for a violent felony as defined in § 4201(c) of Title 11 or any crime against a child constituting a felony, shall notify the Secretary of such action in writing within 20 days of such conviction, arrest or indictment, whether or not a sentence has been imposed. Failure to do so shall be grounds on which the Secretary may limit, suspend, or revoke the holder's license or permit.

(f) Any license or permit holder who has surrendered an educator license or permit or any professional license or certificate or who has had such a license, permit, or certificate revoked, suspended, or limited in any jurisdiction or by any agency shall notify the Secretary of such action in writing within 30 days of such action. Failure to do so shall be grounds on which the Secretary may limit, suspend or revoke the holder's license or permit.

(g) The chief school officer or head of school, on behalf of the local board of education or charter school board of directors, shall report to the Secretary the name and last known address of any license or permit holder who is dismissed, resigns, retires, or is otherwise separated from employment with that district or charter school after the local board of education or charter school board of directors provides to the license or permit holder notice of intent to terminate for misconduct that constitutes grounds for revocation or suspension under subsection (a), (b), or (c) of this section. Such report shall be made within 15 days of the dismissal, resignation, retirement, or other separation from employment and is required notwithstanding any termination agreement to the contrary that the local board of education or charter school board of directors may enter into with the license or permit holder. The reasons for the license or permit holder's dismissal, resignation, retirement, or other separation from employment with the district or charter school shall also be provided along with all evidence that was reviewed by or is in the possession of the district or charter school relating to the dismissal, resignation, retirement, or other separation from employment. The Department shall give written notice to any license or permit holder of any notification received under this subsection to the license or permit holder's last known address. Such notification shall be made within 15 days of receipt of the district or charter school's report to the Department of misconduct under this subsection. The obligation to report also applies when a chief school officer or head of school acquires relevant information after a license or permit holder's dismissal, resignation, retirement, or other separation from employment. Failure to make such reports shall be grounds on which the Secretary may issue a letter of reprimand, limit, suspend, or revoke the chief school officer's or head of school's license. All information obtained from the chief school officer or head of school shall be confidential and shall not be considered public records under Delaware's Freedom of Information Act (Chapter 100 of Title 29). If after having received notice of intent to terminate for misconduct in office or immorality, a license or permit holder requests and prevails at a hearing, there is no required report to the Department.

(h) The Secretary may investigate any information received about a person that reasonably appears to be the basis for action under subsections (a) through (c) of this section. The Secretary shall not investigate anonymous complaints. The Department shall give written notice within a reasonable period of time to a license or permit holder of any investigation initiated hereunder to the license or permit

holder's last known address. All information obtained during an investigation is confidential and shall not be considered public records under Delaware's Freedom of Information Act (Chapter 100 of Title 29). The Secretary shall review the results of each investigation and shall determine whether the results warrant initiating action under subsection (a), (b), or (c) of this section. All final orders issued by either the Secretary or the Professional Standards Board under this section are public documents pursuant to § 10002 of Title 29.

(i) Whenever the basis of for action under subsection (a) or (b) of this section is a guilty plea, nolo contendere with respect to, or a conviction of a crime, a copy of the record of the plea, nolo contendere or conviction certified by the clerk of the court entering the plea, nolo contendere or conviction shall be conclusive evidence thereof.

(j) The Secretary may enter a consent agreement with a person against whom action is being taken under subsection (a), (b), or (c) of this section. A licensee or permit holder may surrender their license, certification, or permit through a consent agreement with the Secretary. Unless otherwise stated in the consent agreement and permitted under other applicable law, the Department must report the surrender of a license, certification, or permit to appropriate state and federal agencies and licensing data banks as a disciplinary action. The surrendered rights and privileges of a licensee and certification, or permit holder may not be reacquired.

(k) No action shall be taken against a person under subsection (a) or (b) of this section without providing the person with written notice of the charges and with an opportunity for a full and fair hearing before the Standards Board. Notice shall be personally delivered or sent by certified mail to the person's last known address. The license or permit holder shall have 30 calendar days from the date the notice of the charges was mailed to make a written request for a hearing. Unless otherwise provided for in this section, the burden of proof in a license or permit disciplinary action shall be on the agency taking official action to establish by preponderance of the evidence that the license or permit holder has engaged in misconduct as defined by subsections (a) and (b) of this section or otherwise has failed to comply with the applicable laws and regulations relating to the retention of the license or permit. At the conclusion of any such hearing, the Professional Standards Board shall issue a final order finding the facts as determined by the hearing and issuing a public letter of reprimand, revoking, suspending, or limiting the license, permit, or certificate, if appropriate. If no written request for a hearing is received by the Standards Board, the license or permit holder shall be issued a public letter of reprimand, or the license holder's license or permit holder's permit shall be deemed to be revoked, suspended, or limited in the manner set forth in the notice, and the holder shall be so notified.

(*l*) A license or permit may be suspended for a period of time not to exceed 5 years. The license or permit may be reinstated by the Secretary, upon written request, with verification that all requirements for license or permit renewal have been satisfied. If the license or permit expired during the period of suspension, the holder of the former license or permit may reapply for the same tier license or permit that was suspended but shall meet the license or permit requirements that are in effect at the time of the application for the license or permit.

(m) If any of the causes listed in subsection (a) or (b) of this section are determined, the Secretary or the Standards Board after a hearing, may put limitations on a license or permit that may include any of the following:

(1) Restrictions on the ages of students with whom the license or permit holder may work.

(2) Additional supervision requirements.

(3) Education, counseling, or psychiatric examination requirements.

(n) If a decision of license or permit limitation, suspension, or revocation is based on paragraph (a)(4), (a)(5), or (b)(1) of this section, and if the plea or conviction is overturned and there is no subsequent proceeding leading to a plea or conviction, the individual whose license or permit is limited, suspended, or revoked may file a written request for reinstatement, including documentation of the final status of the judicial proceeding, and the license or permit shall be reinstated.

(o) An individual whose license or permit has been revoked under subsection (a) of this section may petition the Secretary for reinstatement of the license or permit not sooner than 5 years from the date of revocation. The individual shall submit to the Secretary a written petition showing credible evidence, by affidavit or otherwise, of the factors set forth in paragraph (o)(1) of this section.

(1) The Secretary shall consider all of the following criteria in evaluating a petition for reinstatement and shall only grant such a petition if it is in the best interest of the public schools of this State:

a. The nature and circumstances of the individual's original misconduct.

b. The individual's subsequent conduct and rehabilitation.

c. The individual's present character.

d. The individual's present qualifications and competence to engage in the practice of instruction, administration, or other related professional support services.

(2) A former license or permit holder is entitled to a full and fair hearing before the Standards Board to challenge a denial of reinstatement pursuant to this subsection.

(3) A license or permit revoked under subsection (b) of this section or suspended under subsection (c) of this section may not be reinstated under this subsection. A license or permit revoked under paragraph (b)(1) of this section may only be reinstated pursuant to subsection (n) of this section and a license or permit suspended under subsection (c) of this section may only be reinstated pursuant to paragraph (c)(5) of this section or after a hearing before the Standards Board.

(p) In any hearing before the Standards Board to challenge action taken under this section, the Standards Board shall have the power to administer oaths and issue subpoenas to compel the testimony of witnesses and the production of books, accounts, papers, records, and documents.

(q) Notice of the public letter of reprimand, limitation, revocation, suspension, or reinstatement of a license or permit shall be made by the Secretary, or the Secretary's designee, to all chief state school officers of the other states and territories of the United States.

(r) All communications between a license or permit holder and the Department or Standards Board provided for in this section shall be by certified mail, with a return receipt or via electronic mail if requested by the license or permit holder.

(s) For the purpose of this section only, the term "license" shall include a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, an initial license issued pursuant to § 1210 of this title, a continuing license issued pursuant to § 1211 of this title, or an advanced license issued pursuant to § 1213 of this title.

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 77, § 10; 76 Del. Laws, c. 268, § 2; 78 Del. Laws, c. 53, § 45; 80 Del. Laws, c. 297, § 1; 81 Del. Laws, c. 43, § 1; 81 Del. Laws, c. 317, § 1; 85 Del. Laws, c. 186, § 2.)

## § 1218A. Temporary suspension pending hearing [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) In the event of a complaint concerning the activity of a person licensed, permitted, or certified that presents a clear and immediate danger to the health, safety, or welfare of students, the Secretary may temporarily suspend the person's license, permit, or certificate, pending a hearing. An order temporarily suspending a license, permit, or certificate under this section may not be issued unless the person or the person's attorney received at least 72 hours' written or oral notice before the temporary suspension so that the person or the person's attorney can file a written response to the proposed suspension. The decision as to whether to issue the temporary order of suspension will be decided on the written submissions. An order of temporary suspension pending a hearing may remain in effect for no longer than 60 days from the date of the issuance of the order unless the temporarily suspended person requests a continuance of the hearing date. If the temporarily suspended person requests a continuance, the order of temporary suspension remains in effect until the hearing convenes and a decision is rendered.

(b) A person whose license, permit, or certificate has been temporarily suspended pursuant to this section must be notified of the temporary suspension immediately and in writing. Notification consists of a description of the complaint and the order of temporary suspension pending a hearing personally served upon the person or sent by certified mail, return receipt requested, to the person's last known address.

(c) A person whose license, permit, or certificate has been temporarily suspended pursuant to this section may request an expedited hearing. The Professional Standards Board shall schedule the hearing on an expedited basis, provided that the Board receives the request within 10 calendar days from the date on which the person received notification of the decision to temporarily suspend the person's license, permit, or certificate.

(d) As soon as possible after the issuance of an order temporarily suspending a person's license, permit, or certificate pending a hearing, the Board shall appoint a hearing examiner. After notice to the person pursuant to subsection (b) of this section, the hearing examiner shall convene within 60 days of the date of the issuance of the order of temporary suspension to consider the evidence regarding the matters alleged in the complaint. If the person requests in a timely manner an expedited hearing, the hearing examiner shall convene within 15 days of the receipt of the request by the Board. The hearing examiner shall render a decision within 20 days of the hearing.

(e) In addition to making findings of fact, the hearing examiner shall also determine whether the facts found constitute a clear and immediate danger to the health, safety, or welfare of students. If the hearing examiner determines that the facts found constitute a clear and immediate danger to the health, safety, or welfare of students, the order of temporary suspension must remain in effect until the Board deliberates and reaches conclusions of law based upon the findings of fact made by the hearing examiner. An order of temporary suspension may not remain in effect for longer than 60 days from the date of the decision rendered by the hearing examiner unless the suspended person requests an extension of the order pending a final decision of the Board. Upon the final decision of the Board, an order of temporary suspension is vacated as a matter of law and is replaced by the disciplinary action, if any, ordered by the Board.

(81 Del. Laws, c. 317, § 1; 85 Del. Laws, c. 186, § 2.)

## § 1218B. Nondisciplinary letter of concern [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) If the Secretary determines after the investigation that a violation of this chapter or of regulations enacted pursuant to this chapter which warrants formal disciplinary action has not occurred, but that an act or omission of the person is a matter of concern and that the person's practice may be improved if the person is made aware of the concern, the Secretary may issue a nondisciplinary, confidential letter of concern regarding the person's act or omission.

(b) If a person licensed, permitted, or certified receives a total of 3 letters of concern pursuant to this section addressing the same or substantially similar conduct, the Secretary may reasonably impose any of the restrictions of § 1218(m)(3) of this title in order to protect the health, safety, or welfare of the person's current or prospective students.

(81 Del. Laws, c. 317, § 1; 85 Del. Laws, c. 186, § 2.)

## § 1219. Disclosure [For application of this section, see 85 Del. Laws, c. 186, § 8].

Pursuant to the rules and regulations promulgated and adopted under this chapter, the Department shall require each applicant for a license or permit under this chapter to disclose that applicant's own criminal conviction history. Failure to disclose a criminal conviction

history pursuant to this section is grounds for denial of a license or permit under § 1217 of this title, revocation of a license or permit under § 1218 of this title, and criminal prosecution under subchapter I of Chapter 3 of Title 31.

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 297, § 1; 85 Del. Laws, c. 186, § 2.)

## Subchapter III

## Educator Certification

### § 1220. Standard certificate [For application of this section, see 83 Del. Laws, c. 339, § 38].

(a) The Department shall issue a standard certificate to an applicant who meets the requirements for licensure and has acquired the prescribed knowledge, skill, or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students. Where applicable and available, an applicant for a standard certificate must have achieved a passing score on an examination of content knowledge, such as Praxis II. This requirement shall apply to all applicants teaching special education in a "core content area," as defined in § 1210 of this title, in secondary schools.

(b) Notwithstanding the provisions of subsection (a) of this section, the Department shall issue a standard certificate to an applicant who:

(1) Meets the requirements for licensure and holds a valid and current license or certificate from another state; or

(2) Meets the requirements for a Meritorious New Teacher candidate designation adopted pursuant to § 1203 of this title.

(c) [Repealed.]

(72 Del. Laws, c. 294, § 2; 74 Del. Laws, c. 14, § 7; 79 Del. Laws, c. 42, § 3; 83 Del. Laws, c. 339, § 38; 83 Del. Laws, c. 400, § 1; 83 Del. Laws, c. 400, § 2.)

### § 1221. Emergency certificate and certificates of eligibility.

Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department may issue either of the following:

(1) An emergency certificate, if the employing district or charter school establishes that both of the following apply:

a. The proposed recipient of the emergency certificate is competent.

b. The employing district or charter school is committed to support and assist the proposed recipient in achieving the skills and knowledge necessary to meet certification requirements.

(2) A certificate of eligibility, if the employing district or charter school establishes that all of the following apply:

a. The proposed recipient is participating in a state-approved, appropriate alternative route for teacher licensure and certification program for teachers of students with disabilities.

b. The proposed recipient of the certificate of eligibility is competent.

c. The employing district or charter school is committed to support and assist the proposed recipient in achieving the skills and knowledge necessary to meet certification requirements.

(72 Del. Laws, c. 294, § 2; 74 Del. Laws, c. 14, § 8; 81 Del. Laws, c. 202, § 3.)

### § 1222. Revocation of certificate.

A certificate issued under this subchapter must be revoked upon a finding that the certificate holder made a materially false or misleading statement in that certificate holder's certificate application or upon revocation of a license issued under this chapter. A certificate holder is entitled to a full and fair hearing before the Standards Board to challenge a revocation pursuant to this section.

(72 Del. Laws, c. 294, § 2; 70 Del Laws, c. 186, § 1; 81 Del. Laws, c. 202, § 4.)

### § 1223. Teaching assignment outside area of certification.

If the employer of an educator assigns the educator to teach in an area outside the educator's certification, the employer may not reduce the salary of the educator as a result of the assignment.

(72 Del. Laws, c. 294, § 2.)

### § 1224. Review by the Secretary of Education.

The Secretary of Education shall have the authority to review licensure and certification credentials on an individual basis and to act upon same at the request of the local school district or charter school provided that the local school district or charter school is able to document the effectiveness of the applicant.

(74 Del. Laws, c. 14, § 9; 81 Del. Laws, c. 202, § 5.)

## Subchapter IV

## Substitute Teachers

### § 1230. Substitute teachers.

Repealed by 76 Del. Laws, c. 80, § 345, effective July 1, 2007.

## Subchapter V
## Special Institute for Teacher Licensure and Certification [Repealed] [For application of repeal of this subchapter, see 85 Del. Laws, c. 186, § 8]

### § 1250. Established [For application of repeal of this section, see 85 Del. Laws, c. 186, § 8] [Repealed].

(65 Del. Laws, c. 473, § 1; 71 Del. Laws, c. 180, § 62; 72 Del. Laws, c. 294, §§ 7, 11; 80 Del. Laws, c. 297, § 2; 81 Del. Laws, c. 43, § 2; repealed by 85 Del. Laws, c. 186, § 3, effective Sept. 2, 2025.)

### § 1251. Standards for admission [For application of repeal of this section, see 85 Del. Laws, c. 186, § 8] [Repealed].

(65 Del. Laws, c. 473, § 1; 67 Del. Laws, c. 281, § 248; 71 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 294, § 8; 75 Del. Laws, c. 77, §§ 13, 14; 81 Del. Laws, c. 43, § 2; repealed by 85 Del. Laws, c. 186, § 3, effective Sept. 2, 2025.)

### § 1252. Format of special institute program [For application of repeal of this section, see 85 Del. Laws, c. 186, § 8] [Repealed].

(65 Del. Laws, c. 473, § 1; 75 Del. Laws, c. 77, §§ 15-20; 80 Del. Laws, c. 297, § 2; 81 Del. Laws, c. 43, § 2; 81 Del. Laws, c. 202, § 6; 83 Del. Laws, c. 79, § 4; repealed by 85 Del. Laws, c. 186, § 3, effective Sept. 2, 2025.)

## Subchapter VI
## Alternative Routes for Teacher Licensure and Certification

(81 Del. Laws, c. 282, § 2.)

### § 1260. Requirements for an alternative routes for teacher licensure and certification program.

(a) Criteria is established for alternative routes for teacher licensure and certification programs, which are intended to provide essential knowledge and skills to participants in ARTC programs, through the following phases of training:

(1) A seminar and practicum that include all of the following:

a. Formal instruction or equivalent professional development required by an ARTC program established by regulation of the Department or law.

b. Introduction of basic teaching skills through supervised teaching experiences with students.

c. Components that are integrated and include an orientation to the policies, organization, and curriculum of the employing district or charter school.

d. 1. Assessment of the ARTC program participant's ability to apply pedagogical skills to meet the needs of the participant's students.

2. The Department shall create a committee of stakeholders including teachers, principals, local education agency administrators, representatives of institutions of higher education, representatives of the Delaware State Education Association (DSEA), representatives of the Delaware Association of School Administrators (DASA), and national experts, to gather input and make recommendations regarding the options for an ARTC program to assess the pedagogical skills of their participants.

(2) At least 200 hours of formal instruction, or equivalent professional development approved by the Department, is required to address subjects including, at a minimum, all of the following:

a. Curriculum.

b. Student development and learning at all levels.

c. The classroom and the school.

(b) A participant in an ARTC program may be granted hours for formal instruction or equivalent professional development successfully completed before entry into the program, or during the seminar and practicum.

(c) The Department shall promulgate rules and regulations to implement this section.

(70 Del. Laws, c. 459, § 1; 71 Del. Laws, c. 180, § 62A; 72 Del. Laws, c. 294, §§ 12, 13; 75 Del. Laws, c. 77, §§ 21-25; 77 Del. Laws, c. 15, §§ 1, 2, 5; 78 Del. Laws, c. 214, § 1; 80 Del. Laws, c. 10, § 1; 80 Del. Laws, c. 297, § 3; 81 Del. Laws, c. 43, § 3; 81 Del. Laws, c. 202, §§ 7, 8; 81 Del. Laws, c. 282, § 2; 83 Del. Laws, c. 79, § 5.)

### § 1261. Requirements for a district or charter school utilizing an alternative routes for teacher initial licensure and certification program.

A district or charter school seeking to hire an individual who is a potential participant in an ARTC program must do all of the following:

(1) Assign to each individual who is a potential participant a mentor under rules and regulations promulgated and adopted under §§ 1210 and 1212 of this title.

(2) Provide an initial period of intensive on-the-job supervision under rules and regulations promulgated by the Department.

(3) Provide an additional period of continued supervision and evaluation under rules and regulations promulgated by the Department.

(70 Del. Laws, c. 459, § 1; 71 Del. Laws, c. 180, § 62B; 72 Del. Laws, c. 294, §§ 14, 15; 75 Del. Laws, c. 77, §§ 26-30; 77 Del. Laws, c. 15, §§ 3, 4, 5; 78 Del. Laws, c. 214, § 1; § 1; § 1; §§ 9, 10; § 3.)

## § 1262. Requirements for participation in an alternative routes for teacher initial licensure and certification program.

(a) Subject to § 1217 of this title and notwithstanding any other provision in this chapter, an individual who is a potential participant must be issued an initial license in an ARTC program and applicable certification, provided the individual meets all of the following criteria:

(1) Holds a bachelor's degree from a regionally-accredited college or university.

(2) Has at least 24 credits from a regionally-accredited college or university aligned to the content area in which the individual is seeking certification, or the equivalent in professional development approved by the Department, appropriate to the instructional field, or passing scores on an approved content-readiness exam prior to entering the ARTC program.

(3) Obtains an acceptable health clearance under Department regulations, and an acceptable criminal background check clearance.

(4) Obtains and accepts an offer of employment in a full-time position that requires instructional certification.

(b) While in an ARTC program, a participant must meet both of the following criteria:

(1) Maintain satisfactory progress towards the completion of all ARTC program requirements.

(2) Be continuously employed with a district or charter school.

(c) An ARTC program participant must attain all of the following, before the expiration of the initial license to obtain standard certification within the first 3 years of teaching:

(1) Successful completion of all ARTC program requirements.

(2) Two summative evaluations using a state-approved educator evaluation system with not more than 1 summative evaluation being unsatisfactory.

(3) Passing scores on approved content readiness exams under the certification requirements.

(4) [Repealed.]

(d) The Department may grant additional time to complete the requirements of subsection (b) of this section, in consultation with the ARTC program, to an ARTC program participant based on exigent circumstances to complete any remaining formal instruction or equivalent professional development. The total extension of time may not exceed 1 year and a participant may be granted only 1 extension.

(e) The Department shall promulgate rules and regulations to implement this section.

(70 Del. Laws, c. 459, § 1; 72 Del. Laws, c. 294, §§ 16, 17; 81 Del. Laws, c. 202, § 11; 81 Del. Laws, c. 282, § 4; 83 Del. Laws, c. 79, § 6; 83 Del. Laws, c. 399, § 1.)

## § 1263. Issuance of initial licensure and certification to a participant in an alternative routes for teacher initial licensure and certification program.

(a) At the conclusion of an ARTC program, all of the following must be met:

(1) The ARTC program shall provide to each participant and the Department documentation stating whether the participant has successfully completed the alternative routes for teacher licensure and certification seminar and hours of formal instruction or professional development under § 1260 of this title.

(2) The local education agency shall provide to each participant and the Department documentation stating whether the participant has 2 summative evaluations using a state-approved educator evaluation system with not more than 1 summative evaluation being unsatisfactory.

(3) Each participant shall provide to the Department official documentation of passing scores on state-approved content readiness exams under the certification requirements.

(b) Subject to § 1217 of this title and notwithstanding any other provision in this chapter, the Department shall issue to an ARTC program participant the appropriate license and certification, if the participant has attained all of the following:

(1) Successful completion of all ARTC program requirements.

(2) Two summative evaluations using a state-approved educator evaluation system with not more than 1 summative evaluation being unsatisfactory.

(3) Passing scores on approved content readiness exams under the certification requirements.

(4) [Repealed.]

(c) The Department shall promulgate rules and regulations to implement this section.

(70 Del. Laws, c. 459, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 62C; 72 Del. Laws, c. 294, §§ 18-20; 75 Del. Laws, c. 77, §§ 31-36, 44; 80 Del. Laws, c. 297, § 3; 81 Del. Laws, c. 43, § 3; 81 Del. Laws, c. 202, § 12; 81 Del. Laws, c. 282, § 5; 83 Del. Laws, c. 79, § 7.)

## § 1264. Procedure for teachers participating in an alternative routes for teacher licensure and certification program to contest licensure and certification decisions [Repealed].

(70 Del. Laws, c. 459, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 62D; 72 Del. Laws, c. 294, §§ 21, 22; 75 Del. Laws, c. 77, § 37; 81 Del. Laws, c. 202, § 13; repealed by 81 Del. Laws, c. 282, § 6, effective June 28, 2018.)

## § 1265. Report to General Assembly on alternative routes to certification, including the Teach for America program [Repealed].

(78 Del. Laws, c. 259, § 1; repealed by 81 Del. Laws, c. 202, § 14, effective Jan. 29, 2018.)

## § 1266. Requirements for an alternative routes to certification programs for teachers of students with disabilities.

In order to be State approved, an alternative routes to certification program for teachers of students with disabilities must include all of the following:

(1) Delivery of high-quality professional development to a teacher that is sustained, intensive, and classroom focused.

(2) The requirement that a teacher participates in intensive supervision that consists of structured guidance and regular, ongoing support or teacher mentoring.

(3) The requirement that a teacher participate for no more than 3 years.

(4) The requirement that a teacher demonstrate satisfactory progress toward standard certification.

(5) Provision of regular reports to the Department, made in accordance with rules and regulations that the Department promulgates, that the requirements under this section are being met.

(6) a. An assessment of the ARTC program participant's ability to apply pedagogical skills to meet the needs of the participant's students.

b. The Department shall create a committee of stakeholders including teachers, principals, local education agency administrators, representatives of institutions of higher education, representatives of the Delaware State Education Association (DSEA), representatives of the Delaware Association of School Administrators (DASA), and national experts, to gather input and make recommendations regarding the options for an ARTC program to assess the pedagogical skills of their participants.

(81 Del. Laws, c. 202, § 15; 83 Del. Laws, c. 79, § 8.)

# Subchapter VII

# Educator Evaluations

## § 1270. The Delaware Performance Appraisal System II.

(a) An educator holding an initial license pursuant to § 1210 of this title must receive a Delaware Performance Appraisal System II (DPAS II) evaluation annually. An educator holding a continuing license pursuant to § 1211 of this title or an advanced license pursuant to § 1213 of this title must receive a Delaware Performance Appraisal System II (DPAS II) evaluation at least every 2 academic years. For purposes of this subchapter only, the term "educator" shall also include specialists who practice in Delaware public schools, whether or not they are licensed and certified by the Department. The evaluation must be consistent with the Delaware Professional Teaching Standards and the Delaware Administrators' Standards, and must otherwise be in accordance with the criteria and requirements of this section.

(b) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to administer the Delaware Performance Appraisal System II (DPAS II). The DPAS II must include an overall rating and a student-improvement component rating, and must identify what constitutes satisfactory performance and unsatisfactory performance on the overall evaluation and on each component of the evaluation. For the purposes of § 1273 of this title, DPAS II must also include a definition of "pattern of ineffective teaching" and define "pattern of ineffective administration" as it relates to unsatisfactory performance on the overall DPAS II evaluation.

(c) (1) DPAS II must have no more than 5 components and must have a strong focus on student improvement, with 1 component dedicated exclusively to student improvement. All components must be weighted equally beginning in the 2017-18 academic year.

(2) For all Part A and Part B goals, the educator, as well as the administrator, may propose measures to be used to provide data to judge progress towards the goals. The proposed measures must be approved by the administrator, and not result in additional assessments for students. With regard to Part B goals, the measures must be selected from a list of the standardized measures approved by the Department.

(3) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide by the Parents' Declaration of Responsibilities under § 157 of this title, and other factors that may adversely affect the evaluation. If a student has missed more than 15% of the class time, the student's performance shall only be used with the agreement of the teacher under this chapter.

(d) A local school district may develop and implement other assessment tools that measure annual student improvement, including assessments in other content areas. Assessment tools developed and implemented pursuant to this subsection must be approved by the Secretary and must be funded with local funds.

(e) Nothing in this section prevents a local school district from administering other evaluations in addition to the Delaware Performance Appraisal System II, provided that administration of additional evaluations is reported to the Department.

(f) A local school district, vocational-technical school district or charter school may make application to the Department for a waiver of the provisions of the DPAS II evaluation system, which shall be granted, subject to the provisions of rules and regulations promulgated

pursuant to this subchapter, if the request for a waiver is based on a locally developed evaluation process that is demonstrated to be the product of the collective bargaining process pursuant to Chapter 40 of this title and community review and is as rigorous and as educationally sound as DPAS II, provides for evaluating educator performance by measuring student growth using multiple measures over the course of a curricular year, and contains a mechanism for certifying evaluators and for quality control.

(g) The Department shall implement the Delaware Teacher Growth and Support System through a pilot program in no less than 3 local education agencies for the 2021-2022 academic year. During the 2022-2023 academic year, additional nonparticipating local education agencies may join the pilot program. The pilot program shall weigh all performance areas equally, shall incorporate professional growth plans for teachers, and shall meet the following requirements for each participating local education agency:

(1) Any such pilot program shall be conducted with the consent of the local education agency and organization representing the local education agency's educators for collective bargaining purposes, if applicable.

(2) The performance area dedicated to student improvement shall contain a Part I and a Part II. Part I shall contain at least 1 individual professional learning goal created by the teacher and administrator that is focused on the continuous improvement of skills aligned to the Delaware Teacher Growth and Support System teacher observation rubric. Part II shall contain at least 2 individual student improvement goals selected by the teacher and administrator that demonstrate the teacher's contribution to student growth for the teacher's current cohort of students. If the teacher and administrator do not agree, the administrator's decision is final. Each "Part II" goal shall be based upon a measure that has been approved by the Department. Measures may be created by a local education agency but must be approved by the Department prior to use. The administrator shall assess the progress toward goals, regardless of whether the teacher has satisfied the requirements of § 1403(a) of this title, is on a directed professional growth plan, or has a satisfactory rating on that teacher's most recent performance evaluation.

(3) Notwithstanding any other provision of law, rule or regulation to the contrary, grades 3 through 8 and high school state assessments required under § 151 of this title shall not be required as a measure of student growth as part of a teacher's evaluation.

(4) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide by the Parents' Declaration of Responsibilities under § 157 of this title, and other factors that may adversely affect the evaluation. If a student has missed more than 15% of the class time, the student's performance shall only be used with the agreement of the teacher under this chapter.

(5) a. Local education agencies that participated in the 2021-2022 school year pilot may continue to use the Delaware Teacher Growth and Support System during the 2022-2023 academic year. Evidence collected and feedback provided under this subsection shall be used as part of a teacher's evaluation cycle and to assign an official summative rating for the 2022-2023 academic year. Any local education agency that participated in the 2021-2022 school year pilot that does not continue to use the Delaware Growth and Support System during the 2022-2023 school year shall apply to the Department for approval to revert back to the Delaware Performance Appraisal System II (DPAS II) or an approved alternate evaluation system.

b. Any such decision regarding continued use of the Delaware Teacher Growth and Support System during the 2022-2023 school year shall be made with the consent of the school district and organization representing the district's educators for collective bargaining purposes. Approval granted under this subsection shall be for the 2022-2023 school year only.

c. For the 2022-2023 school year any local education agency that makes the decision not to continue with the Delaware Teacher Growth and Support System shall implement DPAS II or an approved alternate evaluation system in accordance with this section.

(6) Beginning with the 2023-2024 academic year, the Delaware Teacher Growth and Support System will replace the Delaware Performance Appraisal System II for all licensed and certified teachers.

(h) (1) Notwithstanding any provision of this section, the Delaware Performance Appraisal System II under this section is modified for the 2021-2022 and 2022-2023 academic school years. Educators must engage in an observation and feedback cycle to provide coaching, and support to encourage all of the following:

a. Relationship building.

b. Student engagement in learning.

c. Standards-aligned curriculum implementation.

(2) The observation and feedback cycle under paragraph (h)(1) of this section must include all of the following:

a. An initial goal setting process.

b. Classroom observation:

1. Experienced teachers shall receive a minimum of 1 announced or unannounced observation within the observation and feedback cycle.

2. Novice teachers shall receive a minimum of 2 announced or unannounced observations within the observation and feedback cycle.

c. An end-of-year conference between the educator and evaluator.

(3) The evaluator shall record feedback provided to an educator under this subsection in the Data Service Center platform and must include all of the following:

a. Component and Criterion level ratings as developed for the 2020-2021 school year and shared by the Department in a guidance document.

b. Any narrative language related to recommendations or commendations on the educator's performance.

(4) The only forms that an educator must complete under this subsection are the following:

a. The goal setting form.

b. A verification form, created by the Department, to ensure that the educator's observation and feedback cycle has been completed.

(5) Evidence collected and feedback provided during observations under this subsection may be used as part of the evaluation cycle and to assign a summative rating for the 2021-2022 and 2022-2023 academic years.

(6) [Repealed.]

(i) (1) The Department shall revise the student improvement component of evaluations under this section to ensure an evaluation system that is equitable, flexible, and focused on meaningful student progress. The revised measure of student improvement under this paragraph (i)(1) must take into consideration all of the following:

a. Student absence. If a student has missed more than 15% of the class time, that student's performance may only be used with the agreement of the educator being evaluated under this chapter.

b. Student mobility.

c. Student chronic noncompliance with school rules.

d. A parent's chronic failure to abide by the Parents' Declaration of Responsibilities.

e. Other factors that the Department identifies that may adversely affect an evaluation.

(2) For purposes of this subsection, "school" means a school district or charter school.

(3) The Department shall implement a pilot program for the revised student improvement component under paragraph (i)(1) of this section as follows:

a. At least 3 schools for the 2025-2026 academic year.

b. At least 6 additional schools for the 2026-2027 academic year.

c. This pilot program must be conducted with the consent of all of the following:

1. Each participating school.

2. If applicable, the organization representing the participating school's educators for collective bargaining purposes.

d. This pilot program must include teachers, specialists, and administrators and focus on refining the goal-setting process, ensuring alignment with professional growth and increasing flexibility in student improvement measures.

e. All participants in this pilot program must receive summative evaluations but the student improvement component will not factor into overall ratings for participating educators or schools.

(4) Beginning with the 2027-2028 academic year, the Department shall implement the revised student improvement component under paragraph (i)(1) of this section statewide for all licensed and certified educators.

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 295, § 2; 73 Del. Laws, c. 44, §§ 10, 11; 73 Del. Laws, c. 84, § 2; 74 Del. Laws, c. 13, §§ 8-12; 75 Del. Laws, c. 77, § 38; 78 Del. Laws, c. 53, § 46; 79 Del. Laws, c. 221, § 1; 80 Del. Laws, c. 429, §§ 1-4; 83 Del. Laws, c. 5, § 1; 83 Del. Laws, c. 116, §§ 1, 4; 83 Del. Laws, c. 282, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 189, § 1.)

## § 1270A. Delaware Teacher Growth and Support System

(a) Teachers holding an initial license pursuant to § 1210 of this title, a continuing license pursuant to § 1211 of this title, or an advanced license pursuant to § 1213 of this title must receive an annual evaluation through the Delaware Teacher Growth and Support System. The evaluation must be consistent with the Delaware Professional Teaching Standards and must otherwise be in accordance with the criteria and requirements of this section.

(b) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to administer the Delaware Teacher Growth and Support System. The Delaware Teacher Growth and Support System must include an overall rating and a student-improvement rating and must identify what constitutes satisfactory performance and unsatisfactory performance on the overall evaluation and on each performance area of the evaluation. For the purposes of § 1273 of this title, Delaware Teacher Growth and Support System must also include a definition of "pattern of ineffective teaching" as it relates to unsatisfactory performance on the overall Delaware Teacher Growth and Support System evaluation.

(c) (1) The Delaware Teacher Growth and Support System will have no more than 5 performance areas, as determined by the Department, with a required strong focus on student improvement, with 1 performance area dedicated to student improvement. All performance areas must be weighted equally.

(2) The performance area dedicated to student improvement shall contain a Part I and a Part II. Part I shall contain at least 1 individual professional learning goal created by the teacher and administrator that is focused on the continuous improvement of skills aligned

to the Delaware Teacher Growth and Support System teacher observation rubric. Part II shall contain at least 2 individual student improvement goals created by the teacher and administrator that demonstrate the teacher's contribution to student growth for his or her current cohort of students. If the teacher and administrator do not agree, the administrator's decision is final. Each "Part II" goal shall be based upon a measure that has been approved by the Department. Measures may be created by a local education agency but must be approved by the Department prior to use. The administrator shall assess the progress toward goals, regardless of whether the teacher has satisfied the requirements of § 1403(a) of this title, is on a directed growth plan, or has earned a satisfactory rating on his or her most recent performance evaluation.

(3) Notwithstanding any other provision of law, rule or regulation to the contrary, grades 3 through 8 and high school state assessments required under § 151 of this title shall not be required as a measure of student growth as part of a teacher's evaluation.

(4) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide by the Parents' Declaration of Responsibilities under § 157 of this title, and other factors that may adversely affect the evaluation. If a student has missed more than 15% of the class time, the student's performance shall only be used with the agreement of the teacher under this chapter.

(d) A local education agency may develop and implement other assessment tools that measure annual student improvement, including assessments in other content areas. Assessment tools developed and implemented pursuant to this subsection must be approved by the Secretary and must be funded with local funds.

(e) Nothing in this section prevents a local education agency from administering other evaluations in addition to the Delaware Teacher Growth and Support System, provided that administration of additional evaluations is reported to the Department.

(f) A local education agency may make application to the Department for a waiver of the provisions of the Delaware Teacher Growth and Support System, which shall be granted, subject to the provisions of rules and regulations promulgated pursuant to this subchapter, if the request for a waiver is based on a locally developed evaluation process that is demonstrated to be the product of the collective bargaining process pursuant to Chapter 40 of this title and community review and is as rigorous and as educationally sound as the Delaware Teacher Growth and Support System, provides for evaluating educator performance by measuring student growth using multiple measures over the course of a curricular year, and contains a mechanism for certifying evaluators and for quality control.

(70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 116, § 2.)

## § 1270B. Delaware Performance Appraisal System II.

(a) For purposes of this subchapter only, Delaware Performance Appraisal System II applies only to specialists and administrators who practice in Delaware public schools. An administrator or specialist holding an initial license pursuant to § 1210 of this title must receive a Delaware Performance Appraisal System II evaluation annually. An administrator or specialist holding a continuing license pursuant to § 1211 of this title or an advanced license pursuant to § 1213 of this title must receive a Delaware Performance Appraisal System II evaluation at least every 2 academic years. The evaluation must be consistent with the Delaware Framework for Specialists and the Delaware Administrators' Standards and must otherwise be in accordance with the criteria and requirements of this section.

(b) The Department, with the consent of the State Board of Education, shall promulgate rules and regulations to administer the Delaware Performance Appraisal System II. The Delaware Performance Appraisal System II must include an overall rating and a student-improvement component rating, and must identify what constitutes satisfactory performance and unsatisfactory performance on the overall evaluation and on each component of the evaluation. For the purposes of § 1273 of this title, Delaware Performance Appraisal System II must also include a definition of "pattern of ineffective practice" and define "pattern of ineffective administration" as it relates to unsatisfactory performance on the overall Delaware Performance Appraisal System II evaluation.

(c) (1) Delaware Performance Appraisal System II must have no more than 5 components and must have a strong focus on student improvement, with 1 component dedicated to student improvement. All components must be weighted equally.

(2) For all Part I and Part II goals, the specialist, as well as the administrator, may propose measures to be used to provide data to judge progress towards the goals. The proposed measures must be approved by the administrator and not result in additional assessments for students. With regard to Part II goals, the measures must be selected from a list of the standardized measures that may be created by a school district or charter school but must be approved by the Department. If the specialist and administrator do not agree, the administrator's decision is final.

(3) The measure of student improvement must take into consideration student absence, student mobility, student chronic noncompliance with school rules, chronic failure by parents to abide by the Parents' Declaration of Responsibilities under § 157 of this title, and other factors that may adversely affect the evaluation. If a student has missed more than 15% of the class time, the student's performance shall only be used with the agreement of the teacher specialist or administrator under this chapter.

(d) A local education agency may develop and implement other assessment tools that measure annual student improvement, including assessments in other content areas. Assessment tools developed and implemented pursuant to this subsection must be approved by the Secretary and must be funded with local funds.

(e) Nothing in this section prevents a local education agency from administering other evaluations in addition to the Delaware Performance Appraisal System II, provided that administration of additional evaluations is reported to the Department.

(f) A local education agency may make application to the Department for a waiver of the provisions of the Delaware Performance Appraisal System II evaluation system, which shall be granted, subject to the provisions of rules and regulations promulgated pursuant to this subchapter, if the request for a waiver is based on a locally developed evaluation process that is demonstrated to be the product of the collective bargaining process pursuant to Chapter 40 of this title and community review and is as rigorous and as educationally sound as the Delaware Performance Appraisal System II, provides for evaluating specialist or administrator performance by measuring student growth using multiple measures over the course of a curricular year, and contains a mechanism for certifying evaluators and for quality control.

(83 Del. Laws, c. 116, § 3; 84 Del. Laws, c. 233, § 22.)

## § 1271. Certification of professional evaluators; monitoring evaluations.

(a) The Department shall develop rules and regulations pursuant to this subchapter to credential professional evaluators for the Delaware Performance Appraisal System II, including appropriate training for evaluators. The Department shall ensure that all evaluators are properly trained and credentialed.

(b) To maintain a high standard of quality for professional evaluations, the Department shall develop recommendations for an ongoing DPAS II monitoring system to be implemented by the Department. The monitoring system must include a process by which an educator may challenge the fairness of the process used and/or the conclusions reached in an evaluation.

(72 Del. Laws, c. 294, § 2; 74 Del. Laws, c. 13, §§ 13, 14.)

## § 1272. Improvement plans; professional development.

(a) If the overall rating of an educator's DPAS II evaluation is unsatisfactory, the district shall develop and assign an improvement plan to the educator and provide a reasonable amount of time for the educator to complete the improvement plan. A district shall also make recommendations for improvement if an educator's performance on an individual component of the evaluation is unsatisfactory. An improvement plan must identify the deficiencies in an educator's performance and the professional development activities required to improve the deficiencies to a satisfactory level. An improvement plan pursuant to this section must be developed as part of a collaborative process between the district and the educator where possible, with the district having the final authority to develop and assign the plan. The Department shall develop guidelines for improvement plans required pursuant to this section.

(b) In an effort to promote continuous professional growth and to improve educator performance, the Department shall also develop guidelines for professional development when an educator receives a satisfactory DPAS II evaluation. The guidelines must incorporate specific professional development activities designed to enhance knowledge and skill in areas recommended by an evaluator.

(72 Del. Laws, c. 294, § 2; 74 Del. Laws, c. 13, § 15.)

## § 1273. Incompetency — A pattern of ineffective teaching.

A pattern of ineffective teaching shall be defined pursuant to § 1270 of this title, provided that the local school district has complied with § 1272(a) of this title. Notwithstanding any case law to the contrary, when a pattern of ineffective teaching is established, a local school district may move to terminate a teacher (as defined by § 1401 of this title) for incompetency pursuant to § 1411 or § 1420 of this title. Nothing herein shall be construed to limit a local school district's ability to terminate a teacher for incompetency under § 1411 or § 1420 of this title where supported by factors other than a pattern of ineffective teaching, and nothing herein shall be construed to require additional factors beyond a pattern of ineffective teaching to constitute incompetency for purposes of termination.

(72 Del. Laws, c. 294, § 2.)

## § 1274. Disclosure.

If an educator licensed under this chapter is seeking an educator position in this State, the educator shall disclose the results of that educator's most recent 3 DPAS II evaluations or alternative evaluations permitted under § 1270(f) of this title, if applicable, to a prospective employing district. Upon the request of the prospective employing district, a present or previous employing district of the educator shall confirm the results of the educator's previous DPAS II evaluations. No action in law or equity may be brought or maintained against a local school district or an employee thereof for action taken in compliance with this section.

(72 Del. Laws, c. 294, § 2; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 53, § 47.)

## § 1275. DPAS II Advisory Committee.

(a) The Secretary shall convene and provide administrative staff to the Delaware Performance Appraisal System II Advisory Committee. The Committee shall consist of the following members:

(1) Three public school teachers appointed by the Delaware State Education Association.

(2) Three public school administrators appointed by the Delaware Association for School Administrators.

(3) One public school superintendent or his or her designee, appointed by the School Chiefs' Association.

(4) A member of a local school board appointed by the Delaware State School Board Association.

(5) A parent with a child or children in public school selected by the Delaware Parent-Teacher Association.

(6) A representative of higher education appointed by the Governor from an institution that offers a teacher preparation program authorized by the Department.

(7) A representative from the Office of the Governor.

(8) The Chair of the Education Committee of the Delaware House of Representatives, or the Chair's designee.

(9) The Chair of the Education Committee of the Delaware Senate, or the Chair's designee.

(10) One ex-officio, nonvoting, representative from the Department, appointed by the Secretary.

(11) One ex-officio, nonvoting, representative from the State Board of Education, appointed by the President of the State Board of Education.

(b) The Committee shall meet at least once a quarter each year.

(c) Annually the Committee shall designate a Chairperson and a Vice Chairperson from amongst its membership.

(d) The Committee shall review data produced by the Delaware Performance Appraisal System II to advise the State's efforts to ensure fidelity of system implementation statewide, the accuracy and reliability of the data collected by the Department, and the State's use of the data to improve educator quality and provide meaningful and professional development opportunities.

(e) The Committee shall review any aspects of the State's ESEA flexibility application which involve the educator evaluation system and any renewal, extensions, or amendments to the application that deal with educator evaluation prior to submission to the U.S. Department of Education.

(f) The Department shall provide the Committee with data produced by the Delaware Performance Appraisal System II, as necessary for the Committee to fulfill its responsibilities pursuant to subsection (d) of this section and to make recommendations regarding educator quality, professional development, and system design and implementation.

(g) The Committee may provide comments in writing to the Governor, Secretary of Education, the State Board of Education, and the General Assembly on subsections (d), (e), and (f) of this section.

(h) The Delaware Performance Appraisal System II Advisory Committee shall review any proposed regulations to be promulgated pursuant to this subchapter and shall submit written comments concerning the same to the Secretary and to the State Board prior to the State Board's consideration of any proposed regulations.

(74 Del. Laws, c. 13, § 16; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 289, §§ 1, 2; 80 Del. Laws, c. 16, § 1.)

## Subchapter VIII

## Educator Preparation Programs

### § 1280. Educator preparation program approval.

(a) Consistent with § 122 of this title, no individual, public or private educational association, corporation, or institution, including any institution of post-secondary education, may offer an educator preparation program for the training of educators to be licensed in this State without first having procured the assent of the Department for the offering of educator preparation programs. A program approval process based on standards adopted under this section must be established for educator preparation program approval, phased in according to timelines determined by the Department, and fully implemented for educator preparation programs in the State. Each program must be approved by the Department based upon significant, objective, and quantifiable performance measures.

(b) (1) Each educator preparation program approved by the Department shall establish rigorous entry requirements as prerequisites for admission into the program. At a minimum, each program shall require applicants to satisfy either of the following:

a. Have a grade point average of at least a 3.0 on a 4.0 scale or a grade point average in the top fiftieth percentile for coursework completed during the most recent 2 years of the applicant's general education, whether secondary or post-secondary.

b. Demonstrate mastery of general knowledge, including the ability to read, write, and compute, by achieving a minimum score on a standardized test normed to the general college-bound population, such as Praxis, Scholastic Aptitude Test (SAT), or American College Test (ACT), as approved by the Department.

(2) Each educator preparation program may waive the admission requirements in this subsection for up to 10% of the students admitted. Programs shall implement strategies to ensure that students admitted under a waiver receive assistance to demonstrate competencies to successfully meet requirements for program completion.

(c) Each educator preparation program approved by the Department shall incorporate all of the following:

(1) A clinical residency component, supervised by high-quality educators, as defined by the Department. The clinical residency must consist of at least 10 weeks of full-time student teaching. Clinical experiences must also be interwoven throughout and aligned with program curriculum.

(2) Instruction for prospective elementary school teachers on age-appropriate mathematics content.

(3) Instruction for prospective elementary school teachers, early childhood teachers, special education teachers, and reading specialists must include a multi-componential instructional focus on all of following components of evidence-based reading instruction:

a. Language acquisition.

b. Literacy development.

c. Phonological processing.

d. Phonics and word recognition development.

e. Spelling.

f. Fluency and automaticity development.

g. Vocabulary development.

h. Text comprehension development.

i. Assessment administration and interpretation.

j. Letter formation.

k. Orthographic processing.

*l.* Morphological awareness.

m. Structure of language.

n. Language-based learning disabilities.

o. Written expression.

p. Interventions for struggling readers.

(4) Ongoing evaluation of students, consisting of no less than an annual evaluation, aligned to the state-approved educator evaluation system, as set forth in § 1270 of this title.

(d) (1) Each educator preparation program approved by the Department shall establish rigorous exit requirements. At a minimum, the prospective educator must achieve passing scores on both a content-readiness exam and an assessment of the prospective educator's ability to apply pedagogical skills to meet the needs of the prospective educator's students.

(2) The Department shall create a committee of stakeholders including teachers, principals, local education agency administrators, representatives of institutions of higher education, representatives of the Delaware State Education Association (DSEA), representatives of the Delaware Association of School Administrators (DASA), and national experts, to gather input and make recommendations regarding the options for an educator preparation program to assess the pedagogical skills of their participants.

(e) Educator preparation programs shall collaborate with the Department to collect and report data on the performance and effectiveness of program graduates. At a minimum, the data must measure performance and effectiveness of program graduates by student achievement. The effectiveness of each graduate must be reported for a period of 5 years following graduation for each graduate who is employed as an educator in the State. Data must be reported on an annual basis. The Department shall make the data available to the public.

(f) (1) The Department shall promulgate rules and regulations governing educator preparation programs under this subchapter in collaboration with Delaware educators.

(2) The Department regulations must require a minimum number of hours of training or professional development that instructors in an educator preparation program must complete in evidence-based reading instruction under paragraph (c)(3) of this section, if providing literacy instruction for any of the following concentration or certification areas:

a. Early childhood.

b. Elementary.

c. Special education.

d. Reading specialists.

(3) a. As part of the approval and renewal process for educator preparation programs under subsection (a) of this section, the Department shall perform an audit of a program's compliance with the reading instruction requirements under paragraphs (c)(3) and (f)(2) of this section. For this audit, the Department may observe classrooms and review work samples of program candidates.

b. If an audit finds that an educator preparation program is not compliant with the reading instruction requirements, all of the following apply:

1. The audit findings must specifically identify each area in which the program is not compliant.

2. The Department must require that the program take corrective action in each area identified under paragraph (f)(3)b.1. of this section.

c. If an audit finds that an educator preparation program is compliant with all reading instruction requirements, the Department shall award the program a specific distinction.

d. The Department must use the information gained from these audits to identify how teacher preparation in reading instruction can be improved and when possible, revise the regulations under paragraph (f)(1) of this section to implement these improvements.

e. The Department must include the audit findings under paragraphs (f)(3)a. through (f)(3)c. of this section in the reports published under subsection (e) of this section.

(g) An educator preparation program must maintain compliance with paragraphs (c)(3) and (f)(2) of this section beginning the first time the program is accredited after June 30, 2023.

(79 Del. Laws, c. 42, § 4; 83 Del. Laws, c. 79, § 9; 83 Del. Laws, c. 80, § 1; 84 Del. Laws, c. 284.)

## § 1281. Year-long residency programs.

(a) There is established a year-long residency program, the purpose of which is to increase retention and diversity of quality educators in Delaware public schools.

(b) For purposes of this section:

(1) "Resident" means a student enrolled in an education preparation program who is selected for participation in a year-long residency program authorized under this section.

(2) "Year-long residency program" means a partnership between a district or charter school and an educator preparation program to provide residents a year-long, practice-based learning experience working directly with students, in a manner that mirrors the experience of teachers in that school.

(c) (1) Subject to appropriations, the Department shall develop a competitive grant process to support districts and charters in developing and supporting year-long residency programs.

(2) Annual appropriations for the year-long residency programs do not revert to the General Fund at the end of the fiscal year, but shall remain available to the Department for disbursement pursuant to this section.

(3) The Department shall award successful applicants funding on at least a 15-month basis, July 1 through September 30 of the following year.

(4) Awards for the upcoming fiscal year or multiple fiscal years shall be declared by the January prior.

(5) Funds awarded under this section to provide a stipend for residents may be used by a resident for any purpose.

(6) Applicants for the award may apply for a program of support for residents — including stipends for residents, benefits, substitutes, cooperating teacher stipends, and professional development.

(d) Applications for funding under this section must include a description of all of the following:

(1) A shared vision and partnership between the applicant and an educator preparation program to provide a high-quality experience for residents.

(2) A process for recruiting residents with demonstrated cultural competency and residents from diverse backgrounds.

(3) A selection process for cooperating teachers who will coach residents, including a job description and a support system for mentors.

(4) A plan to collect and provide all data required by the Department to evaluate the effectiveness of the program.

(5) A plan beyond the grant award to sustain the partnership.

(e) In evaluating applications, the Department shall give additional weight to applicants that commit to any of the following:

(1) Selecting residents who are pursuing credentials in a critical needs area.

(2) Placing residents in a school that serves a student population with a significant number of low-income or English-learner students.

(f) The Department shall convene, in an open forum, stakeholders representing school districts, charter schools, teacher preparation programs, teachers, and nonprofit organizations to provide input on methods to increase retention and diversity of quality educators in Delaware public schools and the development of a fair, robust rubric for evaluation of residency grant applications. The Department of Education shall finalize the rubric and implement it as part of the application process.

(g) Residents must commit to work in a qualifying Delaware school for at least 3 years after receiving their teaching credentials.

(h) The Department shall adopt rules and regulations to implement this section.

(83 Del. Laws, c. 117, § 1.)

# Part I
# Free Public Schools

## Chapter 13
## Salaries and Working Conditions of School Employees

### § 1301. Definitions.

As used in this chapter:

(1) "District" means a reorganized school district, or the school district of the City of Wilmington.

(2) "Preparation," "no degree," "bachelor's degree," "bachelor's degree plus 30 graduate credits," "master's degree," "master's degree plus 30 graduate credits," "doctor's degree," "doctor's degree or equivalent," "supervisor," "administrative assistant," "director," "assistant superintendent," "chief school officer," "principal," and any other classification shall have meaning as defined by the certifying board unless provided otherwise in this chapter.

(3) In interpreting the salary, the salary schedule set forth in § 1305(a) of this title, in the case of trades and industry teachers, "bachelor's degree" means 2 years of college or technical training, plus 6 years of trade experience; "bachelor's degree plus 15 graduate credits" means $2^1/_2$ years of college or technical training, plus 6 years of trade experience; "bachelor's degree plus 30 graduate credits" means 3 years of college or technical training, plus 6 years of trade experience; "master's degree" means a bachelor's degree, plus 6 years of trade experience or a bachelor's degree, plus 30 graduate credits, plus 4 years of trade experience; "master's degree plus 15 graduate credits," "master's degree plus 30 graduate credits," "master's degree plus 45 graduate credits" and "doctor's degree" shall have meaning as defined in paragraph (2) of this section.

(46 Del. Laws, c. 48, § 1; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1301; 50 Del. Laws, c. 602, § 1; 52 Del. Laws, c. 344; 54 Del. Laws, c. 43, § 1; 56 Del. Laws, c. 143, § 4; 57 Del. Laws, c. 113; 61 Del. Laws, c. 409, § 121; 61 Del. Laws, c. 519, § 42; 72 Del. Laws, c. 294, § 35.)

### § 1302. Application of chapter.

This chapter applies to every school district, the Department of Education and all employees who teach in state institutions pursuant to unit allocations as set forth in § 1703 of this title.

(14 Del. C. 1953, § 1302; 50 Del. Laws, c. 224, § 1; 50 Del. Laws, c. 602, § 1; 52 Del. Laws, c. 344, § 2; 54 Del. Laws, c. 43, § 2; 57 Del. Laws, c. 113; 71 Del. Laws, c. 180, § 63.)

### § 1303. State supported uniform salary schedules and classifications.

The salary schedules and classifications set forth in this chapter shall be permanent state-supported uniform salary schedules and classifications which shall govern, subject to § 1304 of this title and Chapter 17 of this title, the amounts of the salaries that shall be paid by each district and the Department of Education to the employees covered by the schedules. Funds received by charter schools through the Department of Education associated with staff members who qualify for salary supplements under § 1309 or § 1324(c) of this title shall be paid to said employee.

(46 Del. Laws, c. 148, §§ 1-3; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1303; 50 Del. Laws, c. 602, § 1; 56 Del. Laws, c. 292, § 7; 71 Del. Laws, c. 180, § 63A; 85 Del. Laws, c. 62, § 308.)

### § 1304. Salaries in excess of state supported uniform salary schedules.

Nothing contained in this chapter shall prevent any local board from paying an additional amount of salary to any employee when such additional amount is derived from local funds or from Division III appropriations.

(46 Del. Laws, c. 48, § 10; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1304; 50 Del. Laws, c. 602; 56 Del. Laws, c. 292, § 8.)

### § 1305. Basic salary schedule for teachers, specialists, nurses, principals, superintendents, and other administrative and supervisory employees [For application of this section, see 85 Del. Laws, c. 324, § 8(m)(6)].

(a) The annual salaries of employees paid under this section and who are employed on a 10-month contract, shall be based on the following indexed schedule:

| Step | No Degree | Bach. Degree | Bach. Degree Plus 15 Grad. Credits | Bach. Degree Plus 30 Grad. Credits | Mast. Degree | Mast. Degree Plus 15 Grad. Credits | Mast. Degree Plus 30 Grad. Credits | Mast. Degree Plus 45 Grad. Credits | Doctor's Degree | Yrs of Exp. |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 0.96171 | 1.00000 | 1.03829 | 1.07662 | 1.13408 | 1.17241 | 1.21071 | 1.24911 | 1.28744 | 0 |
| 2 | 0.97122 | 1.00962 | 1.04795 | 1.08624 | 1.14370 | 1.18203 | 1.22032 | 1.25865 | 1.29695 | 1 |
| 3 | 0.97985 | 1.01916 | 1.05746 | 1.09579 | 1.15325 | 1.19154 | 1.22987 | 1.26827 | 1.30657 | 2 |
| 4 | 1.01436 | 1.05265 | 1.09098 | 1.12938 | 1.18684 | 1.22513 | 1.26346 | 1.30176 | 1.34009 | 3 |
| 5 | 1.04314 | 1.07857 | 1.11308 | 1.14851 | 1.20021 | 1.23468 | 1.27778 | 1.31611 | 1.35441 | 4 |
| 6 | 1.07857 | 1.11308 | 1.14851 | 1.18302 | 1.23468 | 1.27015 | 1.30462 | 1.34009 | 1.37456 | 5 |
| 7 | 1.11308 | 1.14851 | 1.18302 | 1.21750 | 1.27015 | 1.30462 | 1.34009 | 1.37456 | 1.40904 | 6 |
| 8 | 1.14851 | 1.18302 | 1.21750 | 1.25296 | 1.30462 | 1.34009 | 1.37456 | 1.40904 | 1.44450 | 7 |
| 9 | 1.18302 | 1.21750 | 1.25296 | 1.28744 | 1.39185 | 1.42633 | 1.46169 | 1.49627 | 1.53163 | 8 |
| 10 | 1.21750 | 1.25296 | 1.28744 | 1.32191 | 1.42633 | 1.46169 | 1.49627 | 1.53163 | 1.56610 | 9 |
| 11 | 1.25296 | 1.28949 | 1.32191 | 1.35738 | 1.46169 | 1.49627 | 1.53163 | 1.56610 | 1.60069 | 10 |
| 12 | | | 1.35738 | 1.39185 | 1.49627 | 1.53163 | 1.56610 | 1.60069 | 1.63605 | 11 |
| 13 | | | 1.39380 | 1.42633 | 1.53163 | 1.56610 | 1.60069 | 1.63605 | 1.67052 | 12 |
| 14 | | | | 1.46169 | 1.56610 | 1.60069 | 1.63605 | 1.67052 | 1.70500 | 13 |
| 15 | | | | 1.49793 | 1.60069 | 1.63605 | 1.67052 | 1.70500 | 1.74046 | 14 |
| 16 | | | | | 1.63605 | 1.67222 | 1.70500 | 1.74046 | 1.77494 | 15 |
| 17 | | | | | | | 1.74018 | 1.77671 | 1.81012 | 16 |

In addition to the indices specified in the schedule contained in this subsection, the following shall apply to certain individuals paid in accordance with this schedule who were employed by a school board in Delaware on June 30, 1994:

(1) An employee with no degree who was paid in accordance with the 8-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.227 for the fiscal year ending June 30, 1995, at an index of 1.264 for the fiscal year ending June 30, 1996, at an index of 1.300 for the fiscal year ending June 30, 2000, at an index rate of 1.2926 for the fiscal year ending June 30, 2005, and at an index rate of 1.3219 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(2) An employee with no degree who was paid in accordance with the 9-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.264 for the fiscal year ending June 30, 1995, at an index of 1.300 for the fiscal year ending June 30, 2000, at an index rate of 1.2926 for the fiscal year ending June 30, 2005, and at an index rate of 1.3219 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(3) An employee with no degree who was paid in accordance with the 10-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.264 for the fiscal year ending June 30, 1995, at an index of 1.300 for the fiscal year ending June 30, 2000, at an index rate of 1.2926 for the fiscal year ending June 30, 2005, and at an index rate of 1.3219 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(4) An employee with a Bachelor’s Degree who was paid in accordance with the 8-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.264 for the fiscal year ending June 30, 1995, at an index of 1.300 for the fiscal year ending June 30, 1996, at an index of 1.336 for the fiscal year ending June 30, 2000, at an index of 1.3277 for the fiscal year ending June 30, 2005, and at an index of 1.3574 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(5) An employee with a Bachelor’s Degree who was paid in accordance with the 9-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.300 for the fiscal year ending June 30, 1995, at an index of 1.336 for the fiscal year ending June 30, 2000, at an index rate of 1.3277 for the fiscal year ending June 30, 2005, and at an index rate of 1.3574 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(6) An employee with a Bachelor’s Degree who was paid in accordance with the 10-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.300 for the fiscal year ending June 30, 1995, at an index of 1.336 for the fiscal year ending June 30, 2000, at an index rate of 1.3277 for the fiscal year ending June 30, 2005, and at an index rate of 1.3574 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(7) An employee with a Bachelor’s Degree plus 15 credits who was paid in accordance with the 10-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.373 for the fiscal year ending June 30, 1995, at an index of 1.409 for the fiscal year ending June 30, 2000, at an index rate of 1.3989 for the fiscal year ending June 30, 2005, and at an index rate of 1.4263 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(8) An employee with a Bachelor’s Degree plus 15 credits who was paid in accordance with the 11-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.373 for the fiscal year ending June 30, 1995, at an index of 1.409 for the fiscal year ending June 30, 2000, at an index of 1.3989 for the fiscal year ending June 30, 2005, and at an index rate of 1.4263 for the fiscal year ending June 30, 2006, and for subsequent fiscal years.

(b) The base salary amount for this section, from the first day of the first full pay cycle of the fiscal year, through the last day of the pay cycle that contains the last day of the fiscal year, shall be $ 39,370. The Bachelor's Degree, 0-year experience point on the index is defined as the base and has an index value of 1.000. This amount is intended to be the equivalent of 70 percent of a recommended average total competitive starting salary. All other salary amounts shall be determined by multiplying the base salary amount by the index value that corresponds with the appropriate training and experience cell, and then rounding to the nearest whole dollar.

(c) The index values assigned in subsection (a) of this section are intended to be constant. Future modification to this index should be linked to specifically stated policy goals.

(d) All persons who are employed for more than 10 months per year and are paid in accordance with subsections (a) and (b) of this section shall receive one tenth of the amount computed in subsection (b) of this section in salary for each additional month of employment each year.

(e) Beginning in Fiscal Year 2011 and each succeeding fiscal year, salary derived from subsections (a) and (b) of this section for 10 months' employment shall mean a total of 188 full work days to be utilized as follows:

(1) 180 days or equivalent hours devoted to actual school sessions for pupils;

(2) 2 days devoted to start-up/closing; and

(3) 6 days devoted solely to professional development.

(f) Beginning in fiscal year 2001, salary derived from subsections (a) and (b) of this section for 10 months' employment shall mean a total of 187 full workdays to be utilized as follows:

(1) 180 days devoted to actual school sessions for pupils;

(2) 2 days devoted to start-up/closing;

(3) 5 days devoted solely to professional development.

(g) Beginning in fiscal year 2002 and each succeeding fiscal year, salary derived from subsections (a) and (b) of this section for 10 months' employment shall mean a total of 188 full workdays to be utilized as follows:

(1) 180 days devoted to actual school sessions for pupils;

(2) 2 days devoted to start-up/closing;

(3) 6 days devoted solely to professional development.

(h) The Department of Education with the approval of the State Board of Education may reduce the number of hours devoted to actual school sessions for pupils and/or educators for just cause or upon showing unusual circumstances.

(i) A full workday shall be defined by the Department of Education with the approval of the State Board of Education.

(j) Beginning in fiscal year 2001, local school districts shall provide a local salary supplement for each full workday in excess of 185 workdays. This supplement must be equal to or greater than the per diem local salary supplement in effect during fiscal year 2000 for each grade and step. To the extent that a local school district is unable to provide a local salary supplement, it may make application under subsection (h) of this section.

(k) In addition to the base salary derived from subsections (a) and (b) of this section, an employee paid in accordance with this section is eligible to earn additional salary supplements for gaining skills and knowledge that lead to more effective instruction. The Professional Standards Board, with approval of the State Board of Education, shall designate through regulation the specific professional development activities and specific areas of skills and knowledge that an employee can undertake and/or obtain in order to receive a skills and knowledge salary supplement. The supplement must be in the form of an additional salary amount spread evenly across an employee's contract period similar to base salary or be paid as a single payment. The supplement must be no less than 2% of the base salary derived from subsections (a) and (b) of this section and no more than 6% of this base salary, except as provided for in subsection (m) of this section. The Professional Standards Board, with approval of the State Board of Education, shall designate the specific percentage for each specific skills and knowledge supplement through regulations promulgated to implement the provisions of this section. The percentage must be uniform across the State. Also, the Professional Standards Board shall, with approval of the State Board of Education, designate which of the supplements, if any, shall be permanent and which of the supplements, if any, shall require renewal or requalification on a periodic basis. The provisions of this subsection shall become effective in fiscal year 2001. The supplements described in this subsection are subject to an annual appropriation. The Department of Education shall provide for funding the supplement provisions of this subsection in its annual budget.

(*l*) (1) In addition to the base salary derived from subsections (a) and (b) of this section, the following employees shall receive a salary supplement equal to 12% of the employee's base salary:

a. A teacher who has achieved certification from the National Board for Professional Teaching Standards, who is employed as a teacher.

b. A nationally certified school nurse from the National Board for Certification of School Nurses (NBCSN), who is employed as a school nurse.

c. A nationally certified school counselor from the National Board for Certified Counselors (NBCC) or the National Board of Professional Teaching Standards, who is employed as a school counselor.

d. A nationally certified school social worker holding a certified school social work specialist (C-SSWS) credential from the National Association of Social Workers, who is employed as a school social work specialist.

e. Any other position identified by Department regulations.

(2) In addition to the base salary derived from subsections (a) and (b) of this section, the following employees shall receive a salary supplement equal to 6% of the employee's base salary:

a. A speech pathologist or audiologist with a certificate of clinical competency, who is employed as a speech pathologist or audiologist.

b. A music therapist, who is board-certified from the Certification Board for Music Therapists and is employed as a music therapist.

c. A school-based licensed occupational therapist, who is employed as an occupational therapist.

d. A school-based physical therapist who has passed the National Physical Therapy Exam, who is employed as a physical therapist.

e. A licensed school psychologist, who is employed as a school psychologist.

f. Any other position identified by Department regulations.

(3) The Professional Standards Board, with the approval of the State Board of Education, may authorize stipends pursuant to this subsection in fiscal year 2000. The supplement shall be in the form of an additional salary amount spread evenly across an employee's contract period similar to base salary. Funding for National Board certification described in this subsection is subject to an annual appropriation. The Department of Education shall provide for funding the supplement provisions of this subsection in its annual budget.

(4) For those employees who have achieved certification from the National Board for Professional Teaching Standards (NBPTS) and who serve as teacher or lead mentors, the mentor stipend payment for such service will be excluded from the 15% salary supplement limit established in subsection (o) of this section.

(m) An employee paid in accordance with this section may earn multiple salary supplements pursuant to subsections (*l*) and (m) of this section. The supplements must be computed as a percentage of the base salary derived from subsections (a) and (b) of this section; the percentages may not to be computed on a salary that includes a previously earned supplement amount.

(n) In addition to the base salary derived from subsections (a) and (b) of this section and any supplements provided pursuant to subsections (*l*) and (m) of this section, an employee paid in accordance with this section is eligible to earn additional salary supplements for accepting additional responsibility assignments that impact student achievement. The Professional Standards Board has the authority to review and make recommendations regarding additional responsibility supplements for administrators. The Professional Standards Board, with the approval of the State Board of Education, shall designate through regulation the specific assignments that an employee may accept in order to receive a state-funded salary supplement. The supplement must be in the form of an additional salary amount spread evenly across an employee's contract period similar to base salary or be paid as a single payment. The supplement must be no less than $750 and no more than $5,000. In addition to the state-specified assignments designated by the Professional Standards Board and State Board pursuant to Chapter 12 of this title, a local school district, with the approval of the Standards Board and the State Board, and through regulatory action of the local board, may designate specific academic assignments that an employee may accept in order to receive a state-funded salary supplement. An assignment designated pursuant to this subsection must be academic in nature and may not include extracurricular activities or noninstructional supervisory responsibilities. The state-funded salary supplements described in this subsection are subject to an annual appropriation. The Department of Education shall provide for funding the supplement provisions of this subsection in its annual budget.

(o) To ensure that the professional development activities designated for remuneration in subsections (*l*), (m) and (o) of this section are of high quality and will lead to improvements in teacher effectiveness and improvements in student achievement, the Professional Standards Board, with the approval of the State Board of Education, shall identify activities that will permit an educator to be eligible for both skills and knowledge supplements and additional responsibility supplements. Salary supplements defined in this act must not exceed 15% of the State share for an employee covered by the provisions of this act. The Standards Board shall annually review these supplements and promulgate and adopt recommendations pursuant to § 1203 of this title as necessary.

(p) Beginning with fiscal year 2005, movement into the Bachelors Plus 15 and Bachelors Plus 30 columns on the salary schedule contained in subsection (a) of this section shall be approved only if the credits earned are matriculated graduate credits earned toward a Master's Degree. Beginning with fiscal year 2004, movement into the Masters Plus 15, Masters Plus 30 and Masters Plus 45 columns on the salary schedule contained in subsection (a) of this section shall be approved if:

(1) The credits earned through a graduate-level course of study are clearly related to the individual's professional responsibilities and otherwise approved pursuant to Chapter 12 of this title;

(2) The credits are towards a second Master's Degree; or

(3) If the credits earned are matriculated graduate credits earned towards a Doctorate Degree.

No employee shall be moved leftward on the salary schedule contained in subsection (a) of this section due to the provisions contained in this subsection. Furthermore, any employee entitled to rightward movement on the salary scale on the basis of in-service or undergraduate credits approved prior to the beginning of Fiscal Year 2005 shall continue to be entitled to such movement in the event of any future application for placement submitted after the beginning of Fiscal Year 2005.

(q) For purposes of the state educator program, a retired educator engaged in mentoring activities shall be entitled to the same stipends as otherwise provided for nonretired educator mentors. Such retired educators shall be considered a casual employee under § 5502(a)(3) of Title 29 for purposes of pensions.

(r) A school-based speech-language pathologist who has achieved and holds a current certificate of clinical competence in speech-language pathology issued by the American Speech-Language and Hearing Association and who holds a current state license to practice from the Delaware Board of Speech Pathologists, Audiologists and Hearing Aid Dispensers, shall receive a base salary level of Masters Plus 30 credits. A school-based speech-language pathologist who has completed additional course work separate from the speech-language pathologist's master's degree may apply for rightward movement on the indexed schedule under subsection (a) of this section. A school-based speech-language pathologist who, as of September 28, 2018, has a master's degree, a current state license to practice, and has worked full-time as a speech-language pathologist for 20 or more years but who does not have a certificate of clinical competence, shall receive a base salary level of Masters Degree Plus 30 Grad. Credits and may apply for rightward movement on the indexed schedule under subsection (a) of this section.

(s) A school-based audiologist who holds a current certificate of clinical competence in audiology issued by the American Speech-Language and Hearing Association, a current state license to practice from the Delaware Board of Speech Pathologists, Audiologists and Hearing Aid Dispensers, but who does not hold a doctorate of audiology shall receive the higher of either a base salary level of Masters Plus 30 credits or the audiologist's current pay grade. A school-based audiologist who holds a current certificate of clinical competence in audiology issued by the American Speech-Language and Hearing Association, a current state license to practice from the Delaware Board of Speech Pathologists, Audiologists and Hearing Aid Dispensers, and who holds a doctorate of audiology shall receive a base salary level of doctor's degree. A school-based audiologist who has completed additional course work separate from the audiologist's master's degree may apply for rightward movement on the indexed scale under subsection (a) of this section. A school-based audiologist who, as of September 28, 2018, has a master's degree, a current state license to practice, and has worked full-time as an audiologist for 20 or more years but who does not have a certificate of clinical competence, shall receive a base salary level of Masters Degree Plus 30 Grad. Credits and may apply for rightward movement on the indexed scale under subsection (a) of this section.

(t) A school-based physical therapist who has achieved a passing score on the national physical therapy examination issued by the Federation of State Boards of Physical Therapy and who holds a current state license to practice from the Delaware Examining Board of Physical Therapists and Athletic Trainers and holds a master's degree in physical therapy but does not hold a doctorate of physical therapy shall receive the higher of either a base salary level of Masters Plus 30 credits or the physical therapist's current pay grade. A school-based physical therapist who has achieved a passing score on the national physical therapy examination issued by the Federation of State Boards of Physical Therapy and who holds a current state license to practice from the Delaware Examining Board of Physical Therapists and Athletic Trainers, and who holds a doctorate of physical therapy shall receive a base salary level of doctor's degree. A school-based physical therapist who has completed additional course work separate from the physical therapy master's degree may apply for rightward movement on the indexed scale under subsection (a) of this section.

(u) *Graduate degrees. —*

(1) Any employees paid under this section who earned a master's degree or doctoral degree from an accredited institution of higher education prior to their initial date of hire as an educator must receive credit for that degree under the schedule in subsection (a) of this section regardless of the subject matter of the degree. This paragraph applies to educators hired after August 12, 2024.

(2) To receive credit for a master's or doctoral degree under the schedule in subsection (a) of this section, such a degree earned after the employee's initial date of hire as an educator must be directly related to an area or specialty in which the educator is employed.

(3) The Secretary of Education, or the Secretary's designee, has authority to review and approve requests to recognize any master's or doctoral degree for purposes of this section on an individual basis at the request of the local school district or charter school. Such review is in the sole discretion of the Secretary.

(46 Del. Laws, c. 48, § 1; 47 Del. Laws, c. 195, § 1; 48 Del. Laws, Sp. Sess., c. 489, § 1; 14 Del. C. 1953, § 1305; 50 Del. Laws, c. 261, § 1; 50 Del. Laws, c. 602, § 1; 51 Del. Laws, c. 57, § 3; 52 Del. Laws, c. 344, § 3; 53 Del. Laws, c. 123; 54 Del. Laws, c. 43, § 3; 55 Del. Laws, c. 409, § 1; 56 Del. Laws, c. 143, § 1; 56 Del. Laws, c. 470, § 1; 57 Del. Laws, c. 333, § 1; 59 Del. Laws, c. 34; 60 Del. Laws, c. 31, § 1; 61 Del. Laws, c. 407, § 2; 61 Del. Laws, c. 409, § 105(a); 62 Del. Laws, c. 68, §§ 42(e), 106; 62 Del. Laws, c. 277, § 11(f); 63 Del. Laws, c. 80, § 11(f); 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(ii); 64 Del. Laws, c. 220, § 6(a); 64 Del. Laws, c. 334, § 11(j)(1); 65 Del. Laws, c. 87, § 11(k)(1); 65 Del. Laws, c. 230, § 3; 65 Del. Laws, c. 348, § 12(r)(1); 66 Del. Laws, c. 85, § 12(p)(1); 66 Del. Laws, c. 303, § 12(m)(1); 67 Del. Laws, c. 47, § 12(o)(1); 67 Del. Laws, c. 281, § 8(o)(1); 68 Del. Laws, c. 290, § 8(m)(1); 69 Del. Laws, c. 64, § 8(m)(1); 69 Del. Laws, c. 291, § 8(i)(1), (2); 70 Del. Laws, c. 118, § 8(i)(1); 70 Del. Laws, c. 425, § 8(i)(1); 71 Del. Laws, c. 132, § 8(m)(1); 71 Del. Laws, c. 180, § 64; 71 Del. Laws, c. 354, § 8(n)(1); 72 Del. Laws, c. 94, § 8(n)(1), (2); 72 Del. Laws, c. 294, §§ 27, 28, 30; 72 Del. Laws, c. 395, § 8(n)(1); 73 Del. Laws, c. 74, §§ 8(n)(1), 344, 345; 73 Del. Laws, c. 312, §§ 8(m)(1), 257; 73 Del. Laws, c. 317, §§ 1-3; 74 Del. Laws, c. 68, §§ 265, 266, 268; 74 Del. Laws, c. 307, §§ 8(m)(1), (2), 304, 308(a); 75 Del. Laws, c. 89, §§ 8(m)(1), (2), 337, 340, 341; 75 Del. Laws, c. 208, § 1; 75 Del. Laws, c. 350, § 8(m)(1); 76 Del. Laws, c. 80, § 8(m)(1); 77 Del. Laws, c. 84, § 8(m)(1); 77 Del. Laws, c. 86, § 26; 77 Del. Laws, c. 327, §§ 8(m)(1), 318(a)-(c); 78 Del. Laws, c. 78, § 8(m)(1), (6), (12), (13); 78 Del. Laws, c. 290, § 8(m)(5)(i), (ii); 79 Del. Laws, c. 78, § 8(m)(5)(i), (ii); 79 Del. Laws, c. 290, § 8(m)(5)(i), (ii), (6)(i), (ii); 80 Del. Laws, c. 79, § 8(m)(5)(i), (ii), (7); 80 Del. Laws, c. 298, § 8(m)(5)(i); 81 Del. Laws, c. 58, § 8(m)(5)(i); 81 Del. Laws, c. 280, § 8(m)(6)(i), (ii); 81 Del. Laws, c. 444, § 1; 82 Del. Laws, c. 64, § 8(m)(6)(i); 82 Del. Laws, c. 85, § 41; 83 Del. Laws, c. 54, § 8(m)(6)(i); 83 Del. Laws, c. 325, § 8(m)(6)(i), (ii); 83 Del. Laws, c. 462, § 1; 83 Del. Laws, c. 510, § 1; 84 Del. Laws, c. 81, § 8(m)(6)(i); 84 Del. Laws, c. 136, § 1; 84 Del. Laws, c. 295, § 8(m)(6)(i); 84 Del. Laws, c. 364; 85 Del. Laws, c. 62, §§ 8(m)(6)(i), (ii), 306; 85 Del. Laws, c. 186, § 4; 85 Del. Laws, c. 324, § 8(m)(6)(i); 85 Del. Laws, c. 465, § 1.)

## § 1306. Salary schedule for chief school officers.

(a) A superintendent who is the chief school officer of a district and who holds a certificate appropriate for the position shall receive as a salary the amount for which that superintendent qualifies under § 1316 of this title and the schedule set forth in § 1305(a), (b) and (d) of this title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined either in accordance with the following schedule, or by multiplying the appropriate index value specified in the second schedule by the annual salary provided under § 1305(a), (b) and (d) of this title, whichever is greater:

| Number of Division I Units of Pupils in the School District | | | |
|---|---|---|---|
| Less Than 71 | 71-149 | 150-249 | 250 Plus |
| $6,450 | $8,370 | $10,293 | $12,219 |
| Less Than 200 | 200-399 | 400 Plus | |
| .30 | .40 | .50 | |

(b) Each reorganized school district may employ 1 superintendent to be paid from state funds in accordance with subsection (a) of this section. Such superintendent shall not be charged against the allotment of any personnel provided by this chapter or Chapter 17 of this title.

(c) In the event any school district is appropriated state funds for salaries of a number of administrative or supervisory personnel in excess of that specifically required by this section and § 1307 of this title, the number of administrative assistants provided under subsection (b) of this section for such district shall be reduced by a like number, but not less than 2.

(46 Del. Laws, c. 48, § 1; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1306; 49 Del. Laws, c. 339, § 1; 50 Del. Laws, c. 602, § 1; 52 Del. Laws, c. 344, § 4; 55 Del. Laws, c. 427, §§ 1, 2; 56 Del. Laws, c. 131, § 1; 56 Del. Laws, c. 292, § 9; 57 Del. Laws, c. 333, § 2; 58 Del. Laws, c. 192, § 1; 58 Del. Laws, c. 304, § 1; 59 Del. Laws, c. 34; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, §§ 11(f), 131(a); 62 Del. Laws, c. 423, § 48(a); 63 Del. Laws, c. 80, §§ 11(f), 112; 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(iii); 64 Del. Laws, c. 220, § 6(b); 64 Del. Laws, c. 334, § 11(j)(2); 65 Del. Laws, c. 348, § 12(r)(2); 66 Del. Laws, c. 85, § 12(p)(2); 66 Del. Laws, c. 303, § 12(m)(2); 70 Del. Laws, c. 186, § 1.)

## § 1307. Salary schedule for principals subordinate to a chief school officer.

A principal who is subordinate to a chief school officer in a district shall receive as a salary the amount for which that principal qualifies under § 1316 of this title and the schedule set forth in § 1305(a), (b) and (d) of this title plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined either in accordance with the following schedule or by multiplying the appropriate index value specified in the 2nd schedule by the amount provided under § 1305(a), (b) and (d) of this title, whichever is greater.

(1) Full-time principals:

| Years of Administrative Experience | Number of Teachers | | | | |
|---|---|---|---|---|---|
| | 15-19 | 20-29 | 30-39 | 40-59 | 60 Plus |
| 0 | $851 | $1,101 | $1,350 | $1,726 | $2,103 |
| 1 | 1,101 | 1,350 | 1,601 | 1,976 | 2,352 |
| 2 | 1,350 | 1,601 | 1,851 | 2,228 | 2,602 |
| 3 | 1,601 | 1,851 | 2,103 | 2,478 | 2,853 |
| 4 | 1,851 | 2,103 | 2,352 | 2,728 | 3,103 |
| 5 | 1,969 | 2,246 | 2,518 | 2,930 | 3,341 |
| 6 | 2,079 | 2,378 | 2,671 | 3,116 | 3,560 |
| 7 | 2,183 | 2,502 | 2,816 | 3,292 | 3,767 |
| 8 | 2,373 | 2,702 | 3,025 | 3,516 | 4,005 |
| 9 | 2,563 | 2,902 | 3,234 | 3,740 | 4,243 |

| Years of Administrative Experience | Number of Division I Units | | |
|---|---|---|---|
| | 15-24 | 25-59 | 60 Plus |
| 0 | .08 | .09 | .10 |
| 1 | .09 | .10 | .11 |
| 2 | .10 | .11 | .12 |
| 3 | .11 | .12 | .13 |
| 4 | .12 | .13 | .14 |

(2) During the fiscal year beginning July 1, 1988, and annually thereafter, a reorganized school district may employ 1 full-time principal for each administrative unit in a school building or combination of school buildings having 15 or more Division I state units of pupils who shall be paid from state funds for 12 months in accordance with this section, and in accordance with the rules and regulations of the Department with the approval of the State Board of Education. Division I state units in excess of 15 in 1 school building qualifying for a full-time principal shall not be counted toward entitlement for a principal for a combination of buildings.

(3) During the fiscal year beginning July 1, 2000, and annually thereafter, a school district may employ 1 full-time assistant principal in a school which enrolls 30 or more Division I units of pupils or 65% of a unit for schools which enrolls 25 but less than 30 Division I units of pupils; and the school district may employ a second assistant principal when the enrollment reaches 55 Division I units or 65% of a unit when enrollment reaches 50 units but less than 55 units; subsequent assistant principals may be employed on the basis of 1 assistant principal for each 20 Division I units of pupils beyond the first 55 for which the principal and the first 2 assistant principals are authorized. Any fractional units provided herein must be assigned to the school which generated the fractional unit. This section and § 1321(e)(4) of this title notwithstanding, $^1/_2$ the total number of assistant principals in a reorganized school district may be classified as supervisors. Assistant principals shall not be charged against the allotment of classroom teachers or other personnel provided by these units. All assistant principals shall be paid from state funds for 12 months per year the amount for which they are eligible under § 1305(a), (b) and (d) of this title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined either in accordance with the following schedule or by multiplying the amount provided under § 1305(a), (b) and (d) of this title by the appropriate index value specified in the second schedule, whichever is greater.

| Years of Administrative Experience | Amount |
|---|---|
| 0 | $ 725 |
| 1 | 850 |
| 2 | 976 |
| 3 | 1,101 |
| 4 | 1,226 |
| 5 | 1,285 |
| 6 | 1,343 |
| 7 | 1,400 |
| 8 | 1,487 |
| 9 | 1,582 |

| Years of Administrative Experience | Index |
|---|---|
| 0 | .04 |
| 1 | .05 |
| 2 | .06 |
| 3 | .07 |
| 4 | .08 |

(46 Del. Laws, c. 48, § 1; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1307; 50 Del. Laws, c. 602, § 1; 52 Del. Laws, c. 344, § 5; 54 Del. Laws, c. 68, §§ 1, 2; 56 Del. Laws, c. 292, § 10; 57 Del. Laws, c. 64; 57 Del. Laws, c. 333, §§ 3, 4; 57 Del. Laws, c. 576; 58 Del. Laws, c. 192, § 1; 58 Del. Laws, c. 304, § 1; 59 Del. Laws, c. 34; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, §§ 11(f), 131(b), (c); 62 Del. Laws, c. 423, § 48(b), (c); 63 Del. Laws, c. 80, §§ 11(f), 112; 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(iv), (v); 64 Del. Laws, c. 220, § 6(a); 64 Del. Laws, c. 334, § 11(j)(3), (4); 65 Del. Laws, c. 348, § 12(r)(3); 66 Del. Laws, c. 85, § 12(p)(3); 66 Del. Laws, c. 303, § 12(m)(3); 67 Del. Laws, c. 47, § 12(o)(2), (3); 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 65; 72 Del. Laws, c. 395, § 387; 74 Del. Laws, c. 307, § 322; 75 Del. Laws, c. 89, § 358; 75 Del. Laws, c. 350, § 368.)

## § 1308. Salary schedules for administrative secretaries, financial secretaries, senior secretaries, secretaries and clerks [For application of this section, see 85 Del. Laws, c. 324, § 8(m)(6)].

(a) Each administrative assistant I, II, and III who works and is paid for 12 months per year shall be paid in accordance with the following schedule:

| Step | Administrative Assistant I* | Administrative Assistant II* | Administrative Assistant III* | Years of Experience |
|---|---|---|---|---|
| 1 | 24,622 | 26,141 | 27,038 | 0 |
| 2 | 25,280 | 26,754 | 27,659 | 1 |
| 3 | 25,887 | 27,364 | 28,279 | 2 |
| 4 | 26,493 | 27,976 | 28,898 | 3 |
| 5 | 27,098 | 28,590 | 29,590 | 4 |
| 6 | 27,705 | 29,229 | 30,288 | 5 |
| 7 | 28,310 | 29,920 | 30,992 | 6 |
| 8 | 28,914 | 30,611 | 31,689 | 7 |
| 9 | 29,594 | 31,301 | 32,390 | 8 |
| 10 | 30,278 | 31,990 | 33,089 | 9 |
| 11 | 30,961 | 32,685 | 33,789 | 10 |
| 12 | 31,645 | 33,375 | 34,487 | 11 |
| 13 | 32,328 | 34,063 | 35,189 | 12 |
| 14 | 33,013 | 34,755 | 35,887 | 13 |
| 15 | 33,697 | 35,447 | 36,586 | 14 |
| 16 | 34,382 | 36,134 | 37,289 | 15 |
| 17 | 35,063 | 36,824 | 37,988 | 16 |
| 18 | 35,748 | 37,518 | 38,687 | 17 |
| 19 | 36,431 | 38,205 | 39,387 | 18 |
| 20 | 37,116 | 38,900 | 40,088 | 19 |
| 21 | 37,798 | 39,589 | 40,786 | 20 |
| 22 | 38,497 | 40,296 | 41,502 | 21 |
| 23 | 39,213 | 41,015 | 42,230 | 22 |
| 24 | 39,944 | 41,749 | 42,979 | 23 |
| 25 | 40,688 | 42,501 | 43,742 | 24 |

* Annual Salary in Whole Dollars.

(b) For purposes of implementing the salary schedule contained in subsection (a) of this section, the 18-year step on the salary schedule is effective for administrative secretaries on July 1, 1989; the 19-year step will be effective for the fiscal year beginning July 1, 1990; and the 20-year step will be effective for the fiscal year beginning July 1, 1991. The 17-year step is effective for clerks, secretaries, senior secretaries, and financial secretaries on July 1, 1989; the 18-year step will be effective for the fiscal year beginning July 1, 1990; the 19-year step will be effective for the fiscal year beginning July 1, 1991; and the 20-year step will be effective for the fiscal year beginning July 1, 1992. In accordance with classification changes effective July 1, 2024, for purposes of this section, administrative secretary is equivalent to administrative assistant III, senior secretary and financial secretary are equivalent to administrative assistant II; and clerk and secretary are equivalent to administrative assistant I.

(c) One twelfth of the salary rate set forth under subsection (a) of this section shall be deducted for each month that the employee is not employed.

(d) These same classifications and pay rates shall apply to the Department of Education, except that the Department shall be authorized to revise the schedule annually to enable the Department to pay salary supplements up to the equivalent of the average of the 3 highest salaries for like positions paid by school districts.

(e) During the fiscal year beginning July 1, 1972, a reorganized school district may employ personnel to be paid pursuant to this section in a number equal to 1 of each full 10 state units of pupils for the first 100 such full state units of pupils and 1 additional for each additional full 12 state units of pupils.

(f) The total number of secretarial employees to which a reorganized school district is entitled shall be as specified in subsection (e) of this section, but the number that may be assigned to each classification beginning July 1, 1989, shall be according to the following and in the order specified:

(1) Up to 8 percent of the total administrative assistant allocation in each district or a minimum of 2 positions per district, whichever is larger, may be assigned as “administrative assistant III.”

(2) Up to 40 percent of the total administrative assistant allocation in each district or a minimum of 3 per district plus 1 for each school enrolling 15 or more units of pupils, whichever is greater, may be classified as “administrative assistant II.”

(3) [Repealed.]

(4) The balance of the total administrative assistant allocation in each district shall be classified as “administrative assistant I.”

(46 Del. Laws, c. 48, § 2; 47 Del. Laws, c. 195, § 1; 48 Del. Laws, Sp. Sess., c. 489, § 2; 14 Del. C. 1953, § 1308; 56 Del. Laws, c. 143, § 2; 56 Del. Laws, c. 292, § 11; 56 Del. Laws, c. 470, § 2; 57 Del. Laws, c. 333, §§ 5, 6; 58 Del. Laws, c. 189, § 2; 58

Del. Laws, c. 305, §§ 2, 6, 7; 59 Del. Laws, c. 34; 60 Del. Laws, c. 31, § 1; 61 Del. Laws, c. 407, §§ 8, 15; 61 Del. Laws, c. 409, § 102(a); 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, § 11(f); 63 Del. Laws, c. 80, § 11(f); 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(vi); 64 Del. Laws, c. 220, § 6(a); 64 Del. Laws, c. 334, § 11(j)(5); 65 Del. Laws, c. 87, § 11(k)(2); 65 Del. Laws, c. 348, § 12(r)(4); 66 Del. Laws, c. 85, § 12(p)(4); 66 Del. Laws, c. 303, § 12(m)(4), (5); 67 Del. Laws, c. 47, § 12(o)(4)-(7); 67 Del. Laws, c. 281, § 8(o)(2); 68 Del. Laws, c. 84, § 8(m)(1); 68 Del. Laws, c. 290, § 8(m)(2); 69 Del. Laws, c. 64, § 8(m)(2); 69 Del. Laws, c. 291, § 8(i)(3); 70 Del. Laws, c. 118, § 8(i)(2); 70 Del. Laws, c. 425, § 8(i)(2); 71 Del. Laws, c. 132, § 8(m)(2); 71 Del. Laws, c. 180, § 66; 71 Del. Laws, c. 354, § 8(n)(2); 72 Del. Laws, c. 94, § 8(n)(3); 72 Del. Laws, c. 395, § 8(n)(2); 73 Del. Laws, c. 74, § 8(n)(2); 73 Del. Laws, c. 312, § 8(m)(2); 74 Del. Laws, c. 307, § 8(m)(3); 75 Del. Laws, c. 89, § 8(m)(3); 75 Del. Laws, c. 350, § 8(m)(2); 76 Del. Laws, c. 80, § 8(m)(2); 77 Del. Laws, c. 84, § 8(m)(2); 77 Del. Laws, c. 327, § 8(m)(2); 78 Del. Laws, c. 78, § 8(m)(7), (14); 78 Del. Laws, c. 290, § 8(m)(5)(iii); 79 Del. Laws, c. 78, § 8(m)(5)(iii); 79 Del. Laws, c. 290, § 8(m)(5)(iii), (6)(iii); 80 Del. Laws, c. 79, § 8(m)(5)(iii); 80 Del. Laws, c. 298, § 8(m)(5)(iii); 81 Del. Laws, c. 58, § 8(m)(5)(iii); 81 Del. Laws, c. 280, § 8(m)(6)(iii); 82 Del. Laws, c. 64, § 8(m)(6)(iii); 83 Del. Laws, c. 54, § 8(m)(6)(iii); 83 Del. Laws, c. 325, § 8(m)(6)(iii); 84 Del. Laws, c. 81, § 8(m)(6)(iii); 84 Del. Laws, c. 295, § 8(m)(6)(iii)(a); 85 Del. Laws, c. 62, § 8(m)(6)(iii); 85 Del. Laws, c. 324, § 8(m)(6)(iii).)

## § 1309. Administrative assistant classifications and salary supplement for additional training [For application of this section, see 84 Del. Laws, c. 295, § 8(m)(6)].

(a) The Department of Education shall establish rules and regulations for the assignment of an administrative assistant classification to personnel employed pursuant to § 1308 of this title who are not otherwise classified.

(b) An administrative assistant I, II, or III shall receive as a salary the amount for which the employee qualifies under § 1308(a) of this title, plus an annual amount for additional training as defined by the Department of Education as follows:

---

Professional Secretary Certificate $662
(Completion of 2 years of college or successful completion of a national examination
or equivalent certification program approved by the Department of Education.)
Certified Secretary Certificate $991
(Eligibility for professional secretary certificate plus completion of 12 semester hours of
college courses specified by the Department of Education and 5 years of successful experience.)
Bachelor's Degree Certificate $1,320
(Completion of a bachelor's degree from an accredited college.)

(14 Del. C. 1953, § 1309; 57 Del. Laws, c. 333, § 7; 58 Del. Laws, c. 192, § 1; 58 Del. Laws, c. 304, § 1; 59 Del. Laws, c. 34; 60 Del. Laws, c. 31, § 1; 61 Del. Laws, c. 409, § 103; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, § 11(f); 63 Del. Laws, c. 80, § 11(f); 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 220, § 6(b); 64 Del. Laws, c. 334, § 11(j)(6); 65 Del. Laws, c. 348, § 12(r)(5); 66 Del. Laws, c. 85, § 12(p)(5); 69 Del. Laws, c. 291, § 8(i)(4); 71 Del. Laws, c. 180, § 67; 84 Del. Laws, c. 295, § 8(m)(6)(iii)(b).)

## § 1310. Salary schedules for school nurses.

(a) All nurses who hold appropriate certificates shall be paid in accordance with § 1305 of this title effective July 1, 1979.

(b) A reorganized school district may employ personnel to be paid for 10 months per year from state funds pursuant to this section in a number equal to 1 for each 40 state units of pupils, except that in schools for the physically handicapped within the district the allocation shall be in accordance with the rules and regulations adopted by the Department with the approval of the State Board of Education; provided further, that each reorganized school district shall ensure that it has at least 1 school nurse per facility. To the extent that the funding formula outlined above does not provide for 1 school nurse per facility, each reorganized school district shall meet this requirement out of funding provided under § 1707 or § 1716 of the title, or out of discretionary local current operating expense funds. Districts shall qualify for partial funding at the rate of 30% of the fractional part of 40 state units of pupils.

(46 Del. Laws, c. 48, § 3; 47 Del. Laws, c. 195, § 1; 48 Del. Laws, Sp. Sess., c. 489, § 3; 14 Del. C. 1953, § 1310; 50 Del. Laws, c. 261, § 4; 50 Del. Laws, c. 602, § 1; 52 Del. Laws, c. 344, § 8; 54 Del. Laws, c. 43, § 6; 55 Del. Laws, c. 409, § 4; 56 Del. Laws, c. 143, § 3; 56 Del. Laws, c. 292, § 13; 56 Del. Laws, c. 470, § 3; 57 Del. Laws, c. 333, § 8; 58 Del. Laws, c. 189, § 3; 58 Del. Laws, c. 305, §§ 3, 8, 9; 58 Del. Laws, c. 553; 59 Del. Laws, c. 34; 60 Del. Laws, c. 31, § 1; 61 Del. Laws, c. 407, § 3; 61 Del. Laws, c. 409, § 106; 62 Del. Laws, c. 36, § 1; 62 Del. Laws, c. 68, §§ 42(e), 105; 62 Del. Laws, c. 86, § 39; 70 Del. Laws, c. 118, § 317; 70 Del. Laws, c. 210, § 90; 70 Del. Laws, c. 290, §§ 38, 39; 71 Del. Laws, c. 180, § 68; 75 Del. Laws, c. 350, § 382.)

## § 1311. Salary schedule for school custodians [For application of this section, see 84 Del. Laws, c. 295, § 8(m)(6)].

(a) Custodians who have the qualifications required by the certifying board and who work and are paid for 12 months per year shall be paid in accordance with the following schedule:

| Step* | Custodian* | Assistant Chief Custodian* | Chief Custodian* | Skilled Maintenance/ Craftsperson* | Yrs of Exp. |
|---|---|---|---|---|---|
| 1 | 25,035 | 25,838 | 27,521 | 28,800 | 0 |
| 2 | 25,473 | 26,277 | 27,960 | 29,463 | 1 |
| 3 | 25,911 | 26,715 | 28,417 | 30,119 | 2 |
| 4 | 26,348 | 27,155 | 28,910 | 30,777 | 3 |
| 5 | 26,788 | 27,591 | 29,405 | 31,436 | 4 |
| 6 | 27,224 | 28,027 | 29,901 | 32,095 | 5 |
| 7 | 27,665 | 28,525 | 30,390 | 32,751 | 6 |
| 8 | 28,136 | 29,022 | 30,883 | 33,409 | 7 |
| 9 | 28,632 | 29,513 | 31,379 | 34,068 | 8 |
| 10 | 29,124 | 30,006 | 31,873 | 34,727 | 9 |
| 11 | 29,619 | 30,499 | 32,365 | 35,385 | 10 |
| 12 | 30,111 | 30,996 | 32,856 | 36,044 | 11 |
| 13 | 30,614 | 31,504 | 33,356 | 36,720 | 12 |
| 14 | 31,129 | 32,024 | 33,868 | 37,411 | 13 |
| 15 | 31,655 | 32,556 | 34,389 | 38,120 | 14 |
| 16 | 32,190 | 33,094 | 34,919 | 38,843 | 15 |

* — Annual Salary in Whole Dollars.

(b) [Repealed.]

(c) One twelfth of the salary rate set forth under subsection (a) of this section shall be deducted for each month that the employee is not employed.

(46 Del. Laws, c. 48, § 4; 47 Del. Laws, c. 195, § 1; 48 Del. Laws, Sp. Sess., c. 489, § 4; 14 Del. C. 1953, § 1311; 50 Del. Laws, c. 261, § 5; 50 Del. Laws, c. 602, § 1; 51 Del. Laws, c. 199, § 1; 51 Del. Laws, c. 279, § 1; 52 Del. Laws, c. 344, § 9; 54 Del. Laws, c. 43, § 7; 55 Del. Laws, c. 409, § 5; 56 Del. Laws, c. 143, § 3; 56 Del. Laws, c. 292, § 13; 56 Del. Laws, c. 470, § 4; 57 Del. Laws, c. 333, §§ 9, 10; 58 Del. Laws, c. 192, § 1; 58 Del. Laws, c. 304, § 1; 59 Del. Laws, c. 34; 60 Del. Laws, c. 33, §§ 1, 2; 61 Del. Laws, c. 407, § 3; 61 Del. Laws, c. 409, § 106; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, § 11(f); 63 Del. Laws, c. 80, § 11(f); 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(vii); 64 Del. Laws, c. 220, § 6(a), (b); 64 Del. Laws, c. 334, § 11(j)(7), (8); 65 Del. Laws, c. 87, § 11(k)(3); 65 Del. Laws, c. 348, § 12(r)(6), (7); 66 Del. Laws, c. 85, § 12(p)(6), (7); 66 Del. Laws, c. 303, § 12(m)(6); 67 Del. Laws, c. 47, § 12(o)(8); 67 Del. Laws, c. 281, § 8(o)(3); 68 Del. Laws, c. 84, § 8(m)(2); 68 Del. Laws, c. 290, § 8(m)(3); 69 Del. Laws, c. 64, § 8(m)(3); 69 Del. Laws, c. 291, § 8(i)(5), (6); 70 Del. Laws, c. 118, § 8(i)(3); 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 425, § 8(i)(3); 71 Del. Laws, c. 132, §§ 8(m)(3), 377; 71 Del. Laws, c. 180, § 69; 71 Del. Laws, c. 354, §§ 8(n)(3), 374, 375; 72 Del. Laws, c. 94, § 8(n)(4); 72 Del. Laws, c. 395, § 8(n)(3); 73 Del. Laws, c. 74, § 8(n)(3); 73 Del. Laws, c. 312, § 8(m)(3); 74 Del. Laws, c. 307, § 8(m)(4); 75 Del. Laws, c. 89, § 8(m)(4); 75 Del. Laws, c. 350, § 8(m)(3); 76 Del. Laws, c. 80, § 8(m)(3); 77 Del. Laws, c. 84, § 8(m)(3); 77 Del. Laws, c. 327, § 8(m)(3); 78 Del. Laws, c. 78, § 8(m)(8), (15); 78 Del. Laws, c. 290, § 8(m)(5)(iv); 79 Del. Laws, c. 78, § 8(m)(5)(iv); 79 Del. Laws, c. 290, § 8(m)(5)(iv), (6)(iv); 80 Del. Laws, c. 298, § 8(m)(5)(iv); 81 Del. Laws, c. 58, § 8(m)(5)(iv); 81 Del. Laws, c. 280, § 8(m)(6)(iv); 82 Del. Laws, c. 64, § 8(m)(6)(iv); 83 Del. Laws, c. 54, § 8(m)(6)(iv); 83 Del. Laws, c. 325, § 8(m)(6)(iv); 84 Del. Laws, c. 81, § 8(m)(6)(iv); 84 Del. Laws, c. 295, § 8(m)(6)(iv); 84 Del. Laws, c. 298, § 28; 85 Del. Laws, c. 62, § 8(m)(6)(iv); 85 Del. Laws, c. 324, § 8(m)(6)(iv).)

## § 1312. Experience.

(a) In the case of a teacher, principal or superintendent, or other administrative employee, the term “years of experience” in determining salary in accordance with § 1305 of this title means years of service in any public school or regularly organized private school. Ninety-one days in any school year shall constitute 1 year of experience, but not more than 1 year of experience may be credited for any 1 calendar year. Years of service in the armed forces shall also be counted as years of experience in accordance with the rules and regulations adopted by the Department of Education in this respect. A graduate of a 5-year preservice program that includes an extensive clinical component in the fifth year, or a graduate of a 4-year preservice program who graduates with a grade point average (GPA) of 3.75 or higher on a 4.0 scale, or the equivalent, must be granted 1 year of experience in addition to any other experience granted in accordance with this section.

(b) A graduate who has completed a year-long Delaware institute of higher education residency program, and has met all other requirements under § 1281 of this title, must be granted 1 year of experience credit in addition to any other experience granted under this section.

(c) In the case of a person employed as a teacher of trades and industries, or as a coordinator of distributive education, work experience shall be allowed on a year for year basis for full-time work experience in the trade of the teaching subject for those years of work experience beyond years counted toward qualification for certification under rules and regulations of the Department of Education. One hundred and thirty-one working days in any school year shall constitute 1 year of work experience but not more than 1 year of experience may be credited for any 1 calendar year.

(d) In the case of a Department of Education employee who is required to meet certification requirements as specified in the Manual for the Certification of Professional Public School Personnel but is employed in the non-instructional areas of transportation, finance/ business management, human resources/personnel management, purchasing, community/public relations, administrative services, pupil services, audiology, occupational therapist, physical therapist, psychologist, speech language pathologist, human relations, nurse, social work/services, information technology or a specialized assignment comparable to these areas, work experience shall be allowed on a year for year basis for full-time work experience in a directly related position in public or private business in accordance with rules established by the Department of Education. Nothing in this section shall be construed as changing or modifying the certification requirements relating to these noninstructional positions.

(e) In the case of personnel whose salaries are based wholly or in part upon § § 1306, 1307, 1308, 1309, 1310, 1311, 1321, 1322, 1324, and 1336 of this title, experience shall be evaluated by the Department of Education, taking into consideration the number of months and the nature of the services rendered.

(f) Beginning with the fiscal year ending June 30, 1998, experience for all public education employees shall be credited according to the provisions of subsections (a) through (e) of this section. No employee shall be entitled to retroactive payment of salary as a result of any changes in experience resulting from the provisions of subsections (a) through (e) of this section.

(g) In the case of a teacher or specialist with at least 4 years of full-time experience as a Title 1 or instructional paraprofessional in a public school who held a valid paraprofessional permit by the Department of Education or an equivalent agency in another state prior to becoming a teacher or specialist, the teacher or specialist is given 1 year of experience credit on the salary schedule under § 1305 of this title for every 2 years of full-time experience as such a paraprofessional in a public school. Credit for years of experience as a Title 1 or instructional paraprofessional for teachers or specialists on the salary schedule under § 1305 of this title must start upon the date of completion and approval of an application to the employer.

(46 Del. Laws, c. 48, §§ 1-4; 47 Del. Laws, c. 195, § 1; 48 Del. Laws, Sp. Sess., c. 489, §§ 2-4; 14 Del. C. 1953, § 1312; 50 Del. Laws, c. 602, § 1; 52 Del. Laws, c. 344, § 10; 53 Del. Laws, c. 177; 58 Del. Laws, c. 262, §§ 4-6; 59 Del. Laws, c. 34; 71 Del. Laws, c. 132, §§ 353, 355; 71 Del. Laws, c. 180, § 69; 72 Del. Laws, c. 294, § 36; 78 Del. Laws, c. 290, § 8(m)(5)(viii); 82 Del. Laws, c. 242, § 358; 84 Del. Laws, c. 157, § 1; 84 Del. Laws, c. 519, § 1; 85 Del. Laws, c. 187, § 1.)

## § 1313. Employment requirements [For application of this section, see 85 Del. Laws, c. 186, § 8].

(a) A person may not be an employee or contractor within a public school in any position requiring licensure and certification, or a permit if the person does not meet licensure and certification, or permit requirements established under Chapter 12 of this title, except pursuant to a license or permit extension or emergency certificate issued pursuant to Chapter 12. A person's salary may not be reduced because that person is employed under a license or permit extension or emergency certificate.

(b) The Department of Education has the authority to require reimbursement of any funds disbursed to a district or charter school used to pay an employee without licensure, certification, or a permit, who holds a position requiring licensure, certification, or a permit, if the district or charter school intentionally retains the employee for more than 90 calendar days after the initial hire. The Department may only seek reimbursement for the period of time a school district or charter school retains the employee after the 90 calendar-day grace period after the initial hire and may only do so not less than 30 days after the Department has properly notified the employee and employer.

(c) The Department of Education has the authority to require reimbursement of any funds disbursed to a district or charter school used to pay an employee that works in a school under an expired license, certification, or permit provided that the Department has notified the employee and employer prior to the expiration of the license, certification, or permit. The Department may not require reimbursement of funds if the Department is the cause of a delay in issuing a license, certification, or permit.

(d) In the event reimbursement is requested by the Department, the district or charter school may not require reimbursement from the employee unless the employee has intentionally provided false information or has failed to provide the Department with documentation necessary for a license, certificate, or permit.

(e) When school districts or charter schools utilize contractual options to provide services for which a license, certificate, or permit is required, the vendor or contractor making the person available to be assigned to a school is responsible for ensuring compliance with the provisions of this section. If a vendor or contractor knowingly assigns a person who does not meet the requirements of this section to a school, district, or charter school, the Department may report the vendor or contractor to the Department of Finance, Division of Revenue for revocation of the vendor's or contractor's business license. School districts and charter schools are encouraged to include provisions containing the requirements of this section in contracts for the provision of relevant school services.

(f) Whenever the Department sends notification to an employee regarding the deficiency of an application or the issuance or expiration of a license, certificate, or a permit, the Department must also notify the employer. The employer may appeal a Department decision to require reimbursement of funds. The appeal will be heard by the State Board of Education whose decision will be final.

(46 Del. Laws, c. 48, § 5; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1313; 50 Del. Laws, c. 261, § 10; 50 Del. Laws, c. 602, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 69; 72 Del. Laws, c. 294, § 38; 85 Del. Laws, c. 186, § 5.)

## § 1314. Limitation on salary decreases.

The salary paid from state funds to any person covered by this chapter shall not be reduced by reason of the application of any salary schedule contained in this chapter, except in the case of a change to a lower classification.

(46 Del. Laws, c. 48, § 5; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1314; 50 Del. Laws, c. 602, § 1; 51 Del. Laws, c. 57, § 1; 52 Del. Laws, c. 344, § 11; 53 Del. Laws, c. 422; 54 Del. Laws, c. 43, § 8; 55 Del. Laws, c. 409, § 6; 56 Del. Laws, c. 470, § 5; 57 Del. Laws, c. 333, § 11; 59 Del. Laws, c. 34.)

## § 1315. Rules and regulations.

The Department of Education may make such rules and regulations as it deems appropriate to make the application of the salary schedules contained in this chapter uniform throughout the State.

(46 Del. Laws, c. 48, § 9; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1315; 50 Del. Laws, c. 602, § 1; 71 Del. Laws, c. 180, § 69.)

## § 1316. Determination of number of employees and months of employment.

The Department of Education shall determine the number and months of employment in a school year of the personnel employed in each district whose salaries may be paid out of state funds under any salary schedule contained in this chapter, except teachers whose salaries are paid for 10 months per year and except such numbers and months of employment of personnel otherwise specified by law.

(46 Del. Laws, c. 48, § 9; 47 Del. Laws, c. 195, § 1; 14 Del. C. 1953, § 1316; 50 Del. Laws, c. 602, § 1; 56 Del. Laws, c. 292, § 14; 71 Del. Laws, c. 180, § 69.)

## § 1317. Method of salary payments

Effective the 2027-2028 school year, all employees of school districts, charter schools, and higher education (Delaware State University and Delaware Technical Community College), including employees working less than 12 months, shall be paid in bi-weekly payments throughout the year.

(14 Del. C. 1953, § 1317; 50 Del. Laws, c. 103, § 2; 50 Del. Laws, c. 602, § 1; 54 Del. Laws, c. 177; 71 Del. Laws, c. 354, § 32; 85 Del. Laws, c. 324, § 8(p).)

## § 1318. Sick leave and absences for other reasons; accumulation of annual leave.

(a) Teachers and other school employees shall be allowed 10 days of sick leave per year with full pay; those teachers and other school employees employed 11 months a year shall be allowed 11 days of sick leave per year with full pay; and those teachers and other school employees employed 12 months a year shall be allowed 12 days of sick leave per year with full pay. Any unused days of such leave shall be accumulated to the employee's credit without limit.

(b) (1) In the case of a death in the immediate family of the employee, there shall be no reduction of salary of said employee for an absence not to exceed 5 working days.

(2) For purposes of this section, "immediate family" means any of the following:

a. The employee's spouse or domestic partner.

b. The employee's parent, stepparent, or child.

c. The parent, stepparent, or child of the employee's spouse or domestic partner.

d. The employee's grandparent or grandchild.

e. The employee's sibling.

f. The spouse of the employee's child.

g. A relative who resides in the employee's household.

h. A minor child for whom the employee has assumed and carried out parental responsibilities.

(3) This absence shall be in addition to other leaves granted the employee.

(c) (1) In the case of a serious illness of a member of the employee's immediate family that requires the employee's personal attention, an employee may use accrued sick leave.

(2) An employee who needs sick leave under this subsection shall inform that employee's own immediate supervisor of the fact and reason in advance, when possible, or otherwise before the expiration of the first hour of absence or as soon thereafter as practicable.

(3) The failure of an employee to comply with paragraph (c)(2) of this section may be cause for denial of pay for the period of absence.

(4) Before approving pay for sick leave, the supervisor may, at that supervisor's discretion, require either a doctor's certificate or a written statement signed by the employee setting forth the reason for the absence.

(5) In the case of an absence of more than 5 consecutive days, a doctor's certificate is required as a condition of approval.

(d) (1) In case of the death of a near relative, there shall be no deduction in the salary of the employee for an absence not to exceed 1 working day.

(2) An absence under paragraph (d)(1) of this section may be used on the day of the funeral or the day before or the day after the funeral.

(3) For purposes of this subsection, “near relative” means any of the following:

a. The employee’s first cousin, aunt, uncle, niece, nephew, brother-in-law, sister-in-law, or grandparent-in-law.

b. Any friend living in the employee’s household.

(e) In the case of the observance of recognized religious holidays, an employee may be absent without loss of pay on no more than 3 calendar days per year. The days so lost are to be counted in the sick leave of the employee.

(f) (1) An employee may be absent without loss of pay no more than 5 days per fiscal year for personal reasons of the employee. These absences are included in the employee’s sick leave. The procedure for granting or denying a request to be absent for personal reasons is as follows:

a. Requests to be absent for personal reasons may be approved by building level administrators, provided that the building level administrator cannot ask the employee the reason for the request.

b. Requests that are being considered for denial shall be forwarded to the chief school officer or the local education agency human resources administrator designated for processing such requests. The chief school officer and the human resources administrator may ask the employee the reason for the request, provided that the employee is not required to provide the reason for the request.

c. A request to be absent for personal reasons may only be denied if school operational requirements cannot be met.

(2) a. An employee may be absent without loss of pay for any of the following reasons:

1. To appear under subpoena to testify, unless the employee is 1 of the parties in the proceeding or the subpoena arises from other employment or activities of the employee.

2. To report to serve on a jury.

b. The time an employee is absent under this paragraph (f)(2) is not an absence for personal reasons under paragraph (f)(1) of this section and does not count toward the days provided under paragraph (f)(1) of this section.

c. An employee shall notify the building level administrator in advance of the need to be absent under this paragraph (f)(2) and provide a copy of the subpoena or jury duty notification.

(g) An employee retired subsequent to June 1, 1969, after serving in covered employment under Chapter 55 of Title 29, shall, on retirement, be paid for each unused sick leave day, not to exceed 90 days. The total amount paid shall be based upon that portion of the salary computed in accordance with state schedules, regardless of the source of funding, and shall be based upon 50% of the per diem rate of pay in effect at the time of retirement. Effective July 1, 1986, in the event of the death of a teacher or other school employee, payment shall be made to that teacher’s or other school employee’s estate at the rate of 1 day’s pay for each day of unused sick leave not to exceed 90 days. Effective July 1, 1991, for school employees of the Department of Education and school district boards of education the per diem rate shall be $^{1}/_{185}$ in the fiscal year beginning July 1, 1999; $^{1}/_{187}$ in the fiscal year beginning July 1, 2000; $^{1}/_{188}$ for the fiscal year beginning July 1, 2001; and each succeeding fiscal year, of the annual salary based on state salary schedule for those employed 10 months; for those employed 11 months the per diem rate shall be $^{1}/_{204}$ in the fiscal year beginning July 1, 1999; $^{1}/_{206}$ in the fiscal year beginning July 1, 2000; $^{1}/_{207}$ for the fiscal year beginning July 1, 2001; and each succeeding fiscal year, of the annual salary based on state salary schedule; and for those employed 12 months, the per diem rate shall be $^{1}/_{222}$ of the annual salary based on state salary schedule. The local employing agency shall certify the number of days to which the employee shall be entitled. This section also applies to retired Delaware State Police who return to state service as a teacher or other school employee, and who otherwise meet the eligibility requirements for retirement under the Delaware State Employees’ Pension Plan to the extent such person did not utilize the 75-day maximum following retirement from the Delaware State Police.

(h) The maximum amount of annual leave which any employee shall be permitted to accumulate shall be 42 days. At the end of each fiscal year, the accumulated annual leave of each employee shall equal not more than 42 days. Where, prior to the end of a fiscal year, an employee has accumulated more than 42 days of annual leave, such annual leave shall be adjusted to 42 days at the end of such fiscal year.

(i) Effective September 1, 1991, the per diem rates used to pay retiring employees for accrued annual leave shall be identical to the per diem rates for sick leave contained in subsection (g) of this section.

(j) Any absence not covered under subsections (a) through (f) or (*l*) of this section is considered unexcused.

(k) A duly elected president of the Delaware State Education Association, as defined in Chapter 40 of this title, who requests a leave of absence without pay from a school board shall be granted a leave of absence by said school board from service for the duration of the elected term. Said employee shall be eligible to purchase health insurance for said employee's own self and eligible dependents and other state benefits at that employee’s cost during said leave of absence. Other duly elected officers of the Delaware State Education Association shall be granted 45 release days by the employing board to represent the Association for education-related business. The Association shall be responsible for the costs of substitute teachers when utilized to provide coverage for the elected officer. In addition, when the Association determines the need and makes a request for the hiring of a teaching partner, the duly elected officer shall be granted no less than 60 or more than 100 release days by the employing school board to represent the Association for education-related business. The teaching partner will be hired on a full-time and annual basis to ensure continuity of instruction during periods of time when the Association officer is engaging in education-related business as a representative of the Association. Release time granted pursuant to this

section shall be in addition to other leaves granted the employee by this section. The Association shall be responsible for the cost incurred related to the hiring of the teaching partner.

(*l*) An employee is entitled to a maximum of 5 days of paid bereavement leave under the same circumstances set forth in § 5125 of Title 29.

(14 Del. C. 1953, § 1318; 50 Del. Laws, c. 436, § 1; 50 Del. Laws, c. 602, § 1; 51 Del. Laws, c. 44; 55 Del. Laws, c. 147; 56 Del. Laws, c. 39; 56 Del. Laws, c. 287; 57 Del. Laws, c. 238; 58 Del. Laws, c. 120; 58 Del. Laws, c. 306, § 5f; 58 Del. Laws, c. 549; 59 Del. Laws, c. 456, § 1; 59 Del. Laws, c. 503, § 1; 62 Del. Laws, c. 35, § 1; 62 Del. Laws, c. 154, § 1; 62 Del. Laws, c. 345, § 1; 63 Del. Laws, c. 167, § 1; 66 Del. Laws, c. 96, § 1; 67 Del. Laws, c. 117, § 1; 68 Del. Laws, c. 84, §§ 186, 187; 69 Del. Laws, c. 64, § 272; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 425, § 351; 71 Del. Laws, c. 136, § 1; 71 Del. Laws, c. 180, § 69; 72 Del. Laws, c. 215, § 1; 72 Del. Laws, c. 294, § 39; 72 Del. Laws, c. 395, § 352; 73 Del. Laws, c. 74, § 346; 73 Del. Laws, c. 312, § 258; 74 Del. Laws, c. 68, § 270; 74 Del. Laws, c. 307, §§ 308(c), 309; 75 Del. Laws, c. 89, § 343; 75 Del. Laws, c. 298, § 1; 75 Del. Laws, c. 350, § 354; 81 Del. Laws, c. 117, § 1; 84 Del. Laws, c. 19, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 122, § 1; 84 Del. Laws, c. 331, § 1; 84 Del. Laws, c. 514, § 23.)

## § 1318A. Donated leave program.

(a) For purposes of this section:

(1) “Catastrophic illness” means any illness or injury to an employee or an employee’s family member which is diagnosed by a physician and certified by the physician as rendering the employee or employee’s family member unable to work, or, in the case of a family member who does not work, the medical equivalent of “unable to work,” for a period greater than 5 calendar weeks. Separate periods of disability lasting 7 consecutive work days or more each, and totaling more than 5 calendar weeks, resulting from the same or a related illness or injury and occurring within any 12-month consecutive period, are considered the same period of disability.

(2) “Child” means an immediate descendant by blood or adoption and of any age.

(3) “Donated leave program” means a program that meets all of the following:

a. Is one in which 1 or more employees of a public school district may transfer accrued, unused sick leave days to 1 or more other employees of the same public school district.

b. Is established by the public school district as a local Board of Education policy or pursuant to the terms of a collective bargaining agreement negotiated under the terms of Chapter 40 of this title.

c. Is consistent with the provisions set forth in subsection (b) of this section.

(4) “Family member” means an employee’s spouse, child, or parent who resides with the employee and who requires the personal attendance of the employee during the spouse’s, child’s, or parent’s catastrophic illness.

(b) Any donated leave program must comply with all of the following requirements:

(1) Employees wishing to donate accrued sick leave must donate in increments of whole days.

(2) Donated days are available only for recipients within the public school district for a catastrophic illness of a recipient or a recipient’s family member.

a. Donated leave may be used by the recipient for subsequent absence because of personal medical treatments or personal illness directly related to the recipient’s catastrophic illness as certified by the physician.

b. Paragraph (b)(2)a. of this section is limited to an absence that occurs because of a recipient’s catastrophic illness not a family member’s catastrophic illness.

(3) The local school district shall convert the donated leave available for use by a recipient into cash value at the donor’s rate of pay, shall re-convert the cash value to hours of leave at the recipient’s rate of pay, and shall then credit the recipient’s account.

(4) The recipient of the donated leave shall have been an employee with the local school district for at least 6 months before that employee is eligible for donated leave time.

(5) a. Except as provided in paragraph (b)(5)b. of this section, when the donated leave is for the catastrophic illness of a recipient, the recipient must have used all of the recipient’s own sick days and personal days and half of the recipient’s annual leave, where applicable. Except as provided in paragraph(b)(5)b. of this section, when the donated leave is for the catastrophic illness of a family member, the recipient must have used all of the recipient’s own sick days, personal days, and annual leave.

b. If a recipient is not eligible for annual leave, the recipient must have used all of the recipient’s personal days and all but 3 of the recipient’s sick days.

(6) The recipient shall have established medical justification for such receipt, which must be renewed every 30 days during any absence.

(7) No potential donor nor any other person shall sell any accrued leave which might otherwise be donated under this section.

(8) The liability of the State under this program shall be limited to paying the state share of salary, benefits and other employment costs paid to employees for sick leave properly utilized pursuant to a donated leave program established pursuant to and in compliance with this section and § 4002 of this title, if applicable.

(9) Any recipient of this program is subject to a 1-work-year cap with the number of days equal to 188 days for a 10-month employee; 207 days for 11-month employees; and 222 days for a 12-month employee.

(10) If a long-term disability program is available to employees, a period of disability defined herein shall be limited to the waiting or elimination period defined in the policy.

(11) Not prohibit participation by employees based on inclusion in or exclusion from a certified bargaining unit.

(c) The Department of Education is authorized to operate a donated leave program. Such donated leave program shall conform, to the extent practicable, to the provisions of § 5956 of Title 29.

(d) Donated leave received by an employee of a public school district under this section is to run concurrently with any leave available under the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq.

(71 Del. Laws, c. 136, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 354, § 390; 72 Del. Laws, c. 294, § 44; 72 Del. Laws, c. 395, § 353; 72 Del. Laws, c. 440, §§ 1-5; 73 Del. Laws, c. 74, § 347; 73 Del. Laws, c. 312, § 259; 73 Del. Laws, c. 321, § 15; 74 Del. Laws, c. 68, § 269; 74 Del. Laws, c. 307, § 308(b); 74 Del. Laws, c. 402, §§ 1-3; 75 Del. Laws, c. 89, § 342; 81 Del. Laws, c. 187, § 1; 84 Del. Laws, c. 277, §§ 1, 3.)

## § 1318B. Leave for bone marrow or organ donation.

(a) *Definitions.* — As used in this section:

(1) "Bone marrow" means the soft material that fills the human bone cavities;

(2) "Bone marrow donor" means a person from whose body bone marrow is taken to be transferred to the body of another person;

(3) "Organ" means a human organ that is capable of being transferred from the body of a person to the body of another person;

(4) "Organ donor" means a person from whose body an organ is taken to be transferred to the body of another person.

(b) In any calendar year, a teacher or school employee is entitled to the following leave in order to serve as a bone marrow donor or organ donor:

(1) No more than 7 days of leave to serve as a bone marrow donor;

(2) No more than 30 days of leave to serve as an organ donor.

(c) A teacher or school employee may use the leave provided by this section without loss or reduction of pay, leave to which the teacher or employee is otherwise entitled, credit for time or service, or performance or efficiency rating.

(d) This section applies to teachers and school employees who are included in a collective bargaining unit, unless a collective bargaining agreement contains provisions dealing with leave for bone marrow donation and organ donation.

(73 Del. Laws, c. 104, § 2.)

## § 1319. Records of absences; proof.

Each employing board shall keep an accurate record of the absences from duty and reasons therefor of all employees for whatsoever reason, and may require a statement from the employee when absent because of illness to the effect that the employee was unable to perform that employee's own duties during the period of absence. The board may request a physician's certificate if in its judgment this is necessary.

(14 Del. C. 1953, § 1319; 50 Del. Laws, c. 436, § 1; 50 Del. Laws, c. 602, § 1; 70 Del. Laws, c. 186, § 1.)

## § 1320. Deduction for unexcused absence.

For each day's absence for reasons other than those permitted under § 1318 of this title, there shall be deducted $^1/_{185}$ in the fiscal year beginning July 1, 1999; $^1/_{187}$ in the fiscal year beginning July 1, 2000; $^1/_{188}$ for the fiscal year beginning July 1, 2001; and each succeeding fiscal year, of the annual salary; $^1/_{204}$ in the fiscal year beginning July 1, 1999; $^1/_{206}$ in the fiscal year beginning July 1, 2000; $^1/_{207}$ for the fiscal year beginning July 1, 2001; and each succeeding fiscal year, of the annual salary; $^1/_{222}$ for an employee who is employed for 12 months, for each day of unexcused absence.

(14 Del. C. 1953, § 1320; 50 Del. Laws, c. 436, § 1; 50 Del. Laws, c. 602, § 1; 57 Del. Laws, c. 333, § 12; 68 Del. Laws, c. 84, § 188; 69 Del. Laws, c. 64, § 273; 72 Del. Laws, c. 294, § 40; 72 Del. Laws, c. 395, § 354; 73 Del. Laws, c. 74, § 348; 73 Del. Laws, c. 312, § 260; 74 Del. Laws, c. 68, § 271; 74 Del. Laws, c. 307, § 308(d); 75 Del. Laws, c. 89, § 344.)

## § 1321. Salary schedules for certain professional personnel employed by the Department of Education; employment formulae and salary schedules for certain professional personnel employed by the school districts.

(a) A professional employee of the Department of Education having the qualifications required by the certifying board shall receive as an annual salary the amount for which that professional employee's qualifies under § 1316 of this title and the schedule set forth in § 1305(a), (b) and (d) of this title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined in accordance with either the following schedule or by multiplying the amount provided under § 1305(a), (b) and (d) of this title by the index value specified in the second schedule that corresponds with the appropriate classification and experience level, whichever is greater.

**STATE BOARD OF EDUCATION AND STATE BOARD FOR VOCATIONAL EDUCATION**

| Yrs. Admin. Exper. | Teacher/Other | Educ. Spec. | Supervisor/ Educ. Assoc. | Assist. Supt./ Assoc. Supt. | Deputy Supt. | State Supt. |
|---|---|---|---|---|---|---|
| 0 | To be paid as | $750 | $2,628 | $6,966 | $12,040 | Total salary shall |
| 1 | provided for | 1,126 | 3,003 | 7,454 | 12,571 | be as specified |
| 2 | in § 1305 of | 1,503 | 3,379 | 7,962 | 13,102 | in the annual |
| 3 | this title and as | 1,878 | 3,753 | 8,470 | 13,652 | Budget Act. |
| 4 | shown below. | 2,253 | 4,129 | 8,979 | 14,229 | |
| 5 | | 2,467 | 4,521 | 9,488 | 14,807 | |
| 6 | | 2,664 | 4,883 | 9,996 | 15,383 | |
| 7 | | 2,850 | 5,225 | 10,504 | 15,959 | |
| 8 | | 3,150 | 5,596 | 11,009 | 16,535 | |
| 9 | | 3,450 | 5,967 | 11,514 | 17,114 | |

**STATE BOARD OF EDUCATION AND STATE BOARD FOR VOCATIONAL EDUCATION**

| Yrs. Admin. Exper. | Teacher/Other | Educ. Spec. | Supervisor/ Educ. Assoc. | Assist. Supt./ Assoc. Supt. | Deputy Supt. | State Supt. |
|---|---|---|---|---|---|---|
| 0 | To be paid as | .04 | .08 | .37 | .55 | Total salary shall |
| 1 | provided for | .05 | .09 | | | be as specified |
| 2 | in § 1305 of | .06 | .10 | | | in the annual |
| 3 | this title and as | .07 | .11 | | | Budget Act. |
| 4 | shown below. | .08 | .12 | | | |

The Department of Education shall be authorized to revise the salary to be paid to any of its professional personnel, which shall enable the Department to pay salary supplements up to the equivalent, but in no case to exceed the average of the 3 highest salaries for like positions paid by school districts. The Department of Education shall be authorized to designate up to 19 positions within its authorized full-time complement to function as team leaders or directors. In recognition of the administrative or management responsibility assigned to these positions, such individuals shall receive up to $7,210 more than the amount that a similarly qualified and experienced education associate would be entitled to receive in accordance with the provisions of this chapter.

The Department shall annually conduct a performance review of each of its professional employees and establish the salary to be paid to each employee which shall not be less than the amount shown in the above schedule nor shall it exceed the allowable maximum salary determined by the above method. The Department shall annually present its revised salary schedule to the State Treasurer who shall pay the additional amount required for each employee because of the application of the revised schedule for the General Fund, notwithstanding any other laws of this State.

(b) One twelfth of the additional amount set forth in the schedule in subsection (a) of this section shall be deducted for each month that the employee is not employed.

(c) Each teacher, specialist, supervisor, administrative assistant, director and assistant superintendent employed by a district and having the qualifications required by the certifying board shall receive as an annual salary the amount for which such teacher, specialist, supervisor, administrative assistant, director and assistant superintendent qualifies under § 1305(a), (b) and (d) of this title, plus an annual amount for administrative responsibility. The amount for administrative responsibility is to be determined, either in accordance with the following schedule or by multiplying the amount provided under § 1305(a), (b) and (d) of this title by the index value specified in the second schedule that corresponds with the appropriate classification and experience level, whichever is greater.

**SCHOOL DISTRICTS**

| Years of Administrative Experience | Teachers, Specialists | Supervisor | Administrative Assistants | Director | Assistant Superintendent |
|---|---|---|---|---|---|
| 0 | To be paid as | $1,350 | $1,726 | $1,851 | $3,103 |
| 1 | provided for in § | 1,601 | 1,976 | 2,478 | 3,728 |
| 2 | 1305 of this title. | 1,851 | 2,228 | 3,103 | 4,353 |
| 3 | | 2,103 | 2,478 | 3,728 | 4,980 |
| 4 | | 2,352 | 2,728 | 4,353 | 5,605 |
| 5 | | 2,518 | 2,930 | 4,710 | 6,080 |
| 6 | | 2,671 | 3,116 | 5,039 | 6,518 |
| 7 | | 2,816 | 3,292 | 5,350 | 6,932 |
| 8 | | 3,025 | 3,516 | 5,850 | 7,479 |
| 9 | | 3,234 | 3,740 | 6,350 | 8,026 |

**SCHOOL DISTRICTS**

| Years of Administrative Experience | Teachers, Specialists | Supervisor | Administrative Assistants | Director | Assistant Superintendent |
|---|---|---|---|---|---|
| 0 | To be paid as | .07 | .08 | .22 | .27 |
| 1 | provided for in § | .08 | .09 | | |
| 2 | 1305 of this title. | .09 | .10 | | |
| 3 | | .10 | .11 | | |
| 4 | | .11 | .12 | | |

(d) One twelfth of the additional amount set forth in the schedule in subsection (c) of this section shall be deducted for each month that the employee is not employed.

(e) During the fiscal year beginning July 1, 1970, and annually thereafter a reorganized school district may employ the following personnel:

(1) Assistant superintendents for a period of 12 months per year at the rate of 1 for each full 300 state units of pupils not to exceed a total of 2 per reorganized school district;

(2) Directors for a period of 12 months per year at the rate of 1 for the first full 200 state units of pupils and 1 for each additional full 100 state units of pupils not to exceed a total of 6 per reorganized school district;

(3) Administrative assistants for a period of 12 months per year at the rate of 1 per reorganized school district;

(4) Supervisors for a period of 11 months during the fiscal year 1982 and thereafter at the rate of 1 for each full 150 state units of pupils. Those districts with less units than needed for a supervisor, the Department of Education shall provide support for the fractional part of the first supervisor;

(5) *Specialist.* — Visiting teachers for a period of 10 months per year at the rate of 1 for each full 250 state units of pupil. For districts that do not qualify for a visiting teacher, fractional units shall be provided to allow for such personnel;

(6) *Specialist.* — Driver education teachers for a period of 10 months per year at the rate of 1 for each full 125 10th grade students in the district or $^{1}/_{5}$ of a teacher for each full 25 tenth grade students in the district;

(7) Supervisors of transportation for a period of 12 months per year at the rate of 1 such supervisor per 7,500 or more enrolled pupils. For districts that do not qualify for a transportation supervisor, fractional units shall be provided to allow for such personnel.

(8) Supervisors of school lunch for a period of 12 months per year, such supervisors to be paid at the salary of "supervisors" as set forth in subsection (c) of this section at the rate of:

a. One such supervisor in any district having less than 500 units having 4 or more schools with school lunch programs;

b. One in any district having 500 units or more, 1 such supervisor for every 500 full units. In addition, each such school district shall employ such additional supervisors so that the total number of such supervisors equals 1 supervisor for each 300 full units to be paid out of revenue receipts from cafeteria funds.

(9) School districts are authorized to receive cash for any official administrative position that the district qualifies for under the provisions of paragraph (e)(1), (2), (3), (4), (7) or (8) of this section. This option shall apply only if the district has not filled the position at any time during the fiscal year. The value of this cash option will be the corresponding value of doctorate plus 10 years of experience on the schedule in § 1305 of this title plus the amount for state administrative supplement from the salary schedule in § 1321(c), at 9 years' experience for the administrative type involved. If a position is gained as a result of unit growth and this option is utilized for that position, the district will receive $^{3}/_{4}$ of the above funds. Districts wishing to exercise this option must make application to the Department of Education for that use, provided that the State Board may review any objection to the Department decision.

Funds received as a result of this section may be used for any Division I or Division II purpose. Funds received as a result of this section may not be used to supplement state salaries authorized in this chapter for any employee;

(10) *Specialist.* — Related services positions which include physical therapists, occupational therapists, speech language pathologists, school psychologists or other related services specialists as identified in department regulation will be funded for a period of 12 months per year at a rate of 1 for every group of 3.0 children who are counted as complex; and for a period of 11 months at a rate of 1 for every group of 5.5 children counted as intensive; and for a period of 10 months at a rate of 1 for every group of 57 children counted in the K-3, grades 4-12 (regular education) and the basic units;

(11) *Deaf-blind program personnel.* — Four related service units are assigned to the state-wide deaf-blind program for appropriate therapists and other personnel for 12 months per year.

a. Whenever the Department with the approval of the State Board of Education designates a particular school district to serve as the administrative agency for a statewide program for deaf-blind pupils that district may employ specialists as herein authorized to serve the entire statewide program. Specialists so employed shall be paid according to the salary authorized for teachers in § 1305 of this title. The school district authorized to employ such specialists and the coordinator may provide additional salary to

such personnel according to § 1304 of this title and shall recover funds so expended from the school districts responsible for the day-to-day instruction of the deaf-blind persons according to Chapter 6 of this title. Salary authorized by § 1304 of this title may be provided according to Chapter 6 of this title.

b. If the option to purchase services under this section is exercised, then the dollar value of each full-time equivalent shall be the number of dollars set in the state-supported salary schedule for a teacher holding a master's degree with 10 years of experience and employed for 12 months. The calculation of this funding shall be for the current school year. Expenditures of this nature may be used for the purchase of personal services. Any school district wishing to use funds under this option shall first make application to the Department of Education for such use and proceed to exercise the option only after approval by the Department of Education; provided, that the State Board may review any objection to the Department's decision.

c. *Coordinator.* — Whenever the Department with the approval of the State Board of Education designates a particular school district to serve as administrator for the statewide program for deaf-blind pupils that district may employ a statewide coordinator at the principal's rank and salary;

(12) *Specialists.* — All related services units are earned at the district or charter school level. Preschool, basic, intensive and complex related services units earned shall be used to support related services needs of students in those units. Districts may use earned units to hire any related services staff necessary or alternatively choose to provide all or part of those services through a contractual arrangement with a public or private agency. When providing services by contract, the dollar value of the contract shall not exceed the authorized salary for a teacher at the master's level plus 10 years and employed for a period of 12 months per year as provided for in § 1305 of this title, divided by the number of months in the terms of the contract. Partial unit funding is provided based on the dollar value of the unit. Any school district wishing to use funds under the contractual option set forth in this section shall make application to the Department of Education for that use, provided that the State Board may review any objection to the Department decision;

(13) *Teachers, class aides and other personnel.* — For units deemed basic, intensive or complex, units must be used to hire teachers, class aides, related services personnel or for contractual services for these or other student-related services. All earned units generated by students receiving special education services shall be used to support these students;

(14) *Supervisor of buildings and grounds for a period of 12 months per year at the rate of 1 per reorganized school district.* — For a school district to have a building and grounds supervisor, it must have 95 or more building units as defined by the State Board of Education. Supervisors so employed shall be paid in accordance with subsection (c) of this section. This position is included in the total number of custodial personnel allowed;

(15) Beginning with the fiscal year commencing July 1, 2005, any position generated by paragraph (e)(5) of this section shall qualify the local school district to receive the state share of the Division III Equalization unit amount as defined in § 1707 of this title for each position; and

(16) Beginning with the fiscal year commencing July 1, 2011, 40% of positions generated at a rate of 1 for every group of 57 children counted in the K-3, grades 4-12 (regular education) and the basic units under for paragraph (e)(10) of this section shall qualify the local school district to receive the state share of the Division III Equalization unit amount as defined in § 1707 of this title.

The personnel employed pursuant to this subsection shall not be charged against the allotment of classroom teachers provided by these units of pupils, the provisions of § 1705 of this title notwithstanding.

(f) In school districts which contract with the federal government to operate schools, the units of pupils in such schools shall be counted for entitlement of that school district under this section.

(g) Whenever units in addition to state units are counted for entitlement under subsection (f) of this section, the salaries for such additional personnel shall be paid from state and federal funds on a prorated basis.

(h) Vocational agriculture teachers may be employed for 12 months and paid in accordance with § 1305 of this title.

(i) Allocations of personnel specified in this section shall apply, the provisions of § 1006 of this title notwithstanding.

(14 Del. C. 1953, § 1321; 50 Del. Laws, c. 632, § 1; 51 Del. Laws, c. 57, § 2; 52 Del. Laws, c. 344, § 12; 54 Del. Laws, c. 272, § 1; 56 Del. Laws, c. 131, §§ 2, 3; 56 Del. Laws, c. 177, § 1; 56 Del. Laws, c. 292, § 15; 56 Del. Laws, c. 309; 56 Del. Laws, c. 434, §§ 1, 2; 57 Del. Laws, c. 113; 57 Del. Laws, c. 333, §§ 13, 14, 16; 57 Del. Laws, c. 401; 57 Del. Laws, c. 656; 58 Del. Laws, c. 189, § 1; 58 Del. Laws, c. 305, §§ 1, 4, 5; 58 Del. Laws, c. 526; 59 Del. Laws, c. 34; 59 Del. Laws, c. 498, §§ 1, 2; 60 Del. Laws, c. 571, §§ 5, 6; 61 Del. Laws, c. 516, § 5; 61 Del. Laws, c. 546, § 1; 62 Del. Laws, c. 68, §§ 42(e), 134; 62 Del. Laws, c. 86, § 33; 62 Del. Laws, c. 143, § 1; 62 Del. Laws, c. 277, §§ 11(f), 131(d), (e); 62 Del. Laws, c. 423, § 48(d), (e); 63 Del. Laws, c. 80, § 11(f), 112; 63 Del. Laws, c. 322, §§ 130, 138, 147(a); 63 Del. Laws, c. 396, §§ 1, 2; 64 Del. Laws, c. 49, §§ 1-4; 64 Del. Laws, c. 90, § 11(d)(viii), (ix); 64 Del. Laws, c. 220, § 6(a); 64 Del. Laws, c. 334, § 11(j)(9), (10); 65 Del. Laws, c. 348, §§ 12(r)(8), 265; 65 Del. Laws, c. 381, § 3; 66 Del. Laws, c. 85, § 12(p)(8), (9); 66 Del. Laws, c. 303, §§ 12(m)(7), (8), 286(c); 68 Del. Laws, c. 27, § 1; 68 Del. Laws, c. 126, §§ 2-6; 68 Del. Laws, c. 290, §§ 224, 232; 69 Del. Laws, c. 64, §§ 276, 277; 69 Del. Laws, c. 291, § 300; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 425, §§ 278, 345; 71 Del. Laws, c. 132, §§ 354, 356, 367, 374; 71 Del. Laws, c. 180, §§ 69A, 70, 70A, 71-75; 71 Del. Laws, c. 354, § 373; 72 Del. Laws, c. 94, §§ 334-337, 384; 72 Del. Laws, c. 395, §§ 356, 386; 74 Del. Laws, c. 187, § 1; 75 Del. Laws, c. 89, § 376; 75 Del. Laws, c. 155, §§ 2-4; 75 Del. Laws, c. 350, § 378; 78 Del. Laws, c. 5, §§ 14-24; 78 Del. Laws, c. 78, § 315; 78 Del. Laws, c. 290, § 357; 81 Del. Laws, c. 280, § 368(a); 82 Del. Laws, c. 242, § 358; 83 Del. Laws, c. 325, §§ 380, 381; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 81, § 363; 84 Del. Laws, c. 295, § 383.)

## § 1322. Salary schedule for school food service employees [For application of this section, see 85 Del. Laws, c. 324, § 8(m)(6)].

(a) School food service managers who work on a program of at least 7 hours per day of the 10-month school year (185 days) shall receive annual salaries in accordance with the following schedule:

**SCHOOL FOOD SERVICE MANAGERS***

**Number of Pupils in School Served by Cafeteria**

| Step | Below 351 | 351-500 | 501-800 | 801-1200 | 1201-1600 | 1601-2000 | 2000+ | Yrs of Exp. |
|---|---|---|---|---|---|---|---|---|
| 1 | 24,429 | 25,556 | 26,680 | 27,803 | 28,911 | 30,275 | 30,950 | 0 |
| 2 | 24,992 | 26,115 | 27,244 | 28,365 | 29,417 | 30,440 | 31,460 | 1 |
| 3 | 25,556 | 26,680 | 27,803 | 28,911 | 29,929 | 30,950 | 31,971 | 2 |
| 4 | 26,115 | 27,244 | 28,365 | 29,417 | 30,440 | 31,460 | 32,482 | 3 |
| 5 | 26,680 | 27,803 | 28,911 | 29,951 | 30,950 | 31,971 | 32,993 | 4 |
| 6 | 27,244 | 28,365 | 29,417 | 30,440 | 31,460 | 32,482 | 33,503 | 5 |
| 7 | 27,803 | 28,911 | 29,929 | 30,950 | 31,971 | 32,993 | 34,057 | 6 |
| 8 | 28,365 | 29,417 | 30,440 | 31,460 | 32,482 | 33,503 | 34,622 | 7 |
| 9 | 28,911 | 29,929 | 30,950 | 31,971 | 32,993 | 34,057 | 35,187 | 8 |
| 10 | 29,417 | 30,440 | 31,460 | 32,482 | 33,503 | 34,622 | 35,750 | 9 |
| 11 | 29,929 | 30,950 | 31,971 | 32,993 | 34,057 | 35,187 | 36,310 | 10 |
| 12 | 30,440 | 31,460 | 32,482 | 33,503 | 34,622 | 35,750 | 36,871 | 11 |
| 13 | 30,950 | 31,971 | 32,993 | 34,057 | 35,187 | 36,310 | 37,437 | 12 |
| 14 | 31,460 | 32,482 | 33,503 | 34,622 | 35,750 | 36,871 | 38,000 | 13 |
| 15 | 31,971 | 32,993 | 34,057 | 35,187 | 36,310 | 37,437 | 38,567 | 14 |
| 16 | 32,482 | 33,503 | 34,622 | 35,750 | 36,871 | 38,000 | 39,132 | 15 |
| 17 | 33,006 | 34,077 | 35,195 | 36,324 | 37,447 | 38,571 | 39,707 | 16 |
| 18 | 33,542 | 34,666 | 35,785 | 36,909 | 38,036 | 39,154 | 40,295 | 17 |
| 19 | 34,091 | 35,271 | 36,386 | 37,505 | 38,634 | 39,748 | 40,891 | 18 |
| 20 | 34,647 | 35,889 | 36,996 | 38,113 | 39,245 | 40,351 | 41,496 | 19 |

* — Annual Salary in Whole Dollars.

Salaries provided for in this schedule shall be paid to the school food service manager of a single cafeteria. A food service manager responsible for the preparation of food for more than 1 cafeteria shall receive $400 for each additional cafeteria. A manager of satellite cafeteria or cafeterias shall receive the salary provided for in this schedule less $200. A satellite cafeteria is defined as one where no basic food preparation takes place. A manager who manages more than 1 cafeteria shall receive the salary provided in this scale using the total school enrollments of all cafeterias managed. The salaries listed in this schedule for school food service managers shall be increased for additional training as defined by the State Board of Education as follows:

| | |
|---|---|
| One Year of College | $452 |
| Two Years of College | $682 |
| Bachelor’s Degree | $1,360 |

(b) In the case of a school food service manager who is employed for less than full time as defined in subsection (a) of this section, the salary shall be computed on the basis of the fractional part of the hourly assignment.

(c) School lunch cooks and school lunch general workers shall be paid no less than the minimum hourly wage in accordance with the federal statutes. School lunch cooks and school lunch general workers who work on the basis of a formula of 7 hours of labor per 100 meals (including adjusting of a la carte meals) shall receive minimum hourly wages in accordance with the following schedule:

SCHOOL LUNCH COOKS AND GENERAL WORKERS

| Step | General Worker | Cook/Baker | Years of Experience |
|---|---|---|---|
| 1 | 16.09 | 17.07 | 0 |
| 2 | 16.24 | 17.21 | 1 |
| 3 | 16.44 | 17.36 | 2 |
| 4 | 16.54 | 17.48 | 3 |
| 5 | 16.68 | 17.65 | 4 |
| 6 | 16.89 | 17.84 | 5 |
| 7 | 17.06 | 17.97 | 6 |
| 8 | 17.18 | 18.08 | 7 |
| 9 | 17.26 | 18.20 | 8 |
| 10 | 17.38 | 18.34 | 9 |
| 11 | 17.51 | 18.52 | 10 |
| 12 | 17.75 | 18.66 | 11 |
| 13 | 17.89 | 18.83 | 12 |
| 14 | 18.05 | 18.98 | 13 |
| 15 | 18.20 | 19.11 | 14 |
| 16 | 18.34 | 19.28 | 15 |
| 17 | 18.53 | 19.49 | 16 |
| 18 | 18.69 | 19.60 | 17 |
| 19 | 18.87 | 19.69 | 18 |
| 20 | 19.04 | 19.84 | 19 |
| 21 | 19.23 | 19.95 | 20 |
| 22 | 19.41 | 20.09 | 21 |

(d) The salaries prescribed in subsections (a) and (b) of this section for school lunch manager and district managers shall be paid from state funds. The wages prescribed in subsection (c) of this section for school lunch cooks and general workers shall be paid from funds derived from local school lunch operations and deposited by the local school district with the State Treasurer and from moneys derived from the General Fund of the State. A minimum of 25% of the salary prescribed in subsection (c) of this section for school lunch cooks and general workers shall be paid by the State from funds not derived from local school lunch operations. Only those funds designated for wages are to be so deposited.

(14 Del. C. 1953, § 1322; 51 Del. Laws, c. 157, § 1; 52 Del. Laws, c. 344, § 13; 54 Del. Laws, c. 43, § 9; 55 Del. Laws, c. 409, § 7; 56 Del. Laws, c. 143, § 3; 56 Del. Laws, c. 470, §§ 6, 7; 57 Del. Laws, c. 333, §§ 15, 21-23; 58 Del. Laws, c. 192, § 1; 58 Del. Laws, c. 304, § 1; 59 Del. Laws, c. 34; 59 Del. Laws, c. 473, §§ 1, 2; 60 Del. Laws, c. 31, § 1; 61 Del. Laws, c. 407, §§ 3, 4; 61 Del. Laws, c. 409, §§ 106, 107; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, § 11(f); 63 Del. Laws, c. 80, § 11(f); 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(x), (xi); 64 Del. Laws, c. 220, § 6(a), (b); 64 Del. Laws, c. 334, § 11(j)(11), (12); 65 Del. Laws, c. 87, § 11(k)(4), (5); 65 Del. Laws, c. 299, § 1; 65 Del. Laws, c. 348, § 12(r)(9), (10); 66 Del. Laws, c. 85, § 12(p)(10)-(12); 66 Del. Laws, c. 303, § 12(m)(9), (10); 67 Del. Laws, c. 47, § 12(o)(9), (10); 67 Del. Laws, c. 281, §§ 8(o)(4), (5); 68 Del. Laws, c. 84, § 8(m)(3), (4); 68 Del. Laws, c. 290, §§ 8(m)(4), (5); 69 Del. Laws, c. 64, § 8(m)(4), (5); 69 Del. Laws, c. 291, § 8(i)(7), (8); 70 Del. Laws, c. 118, §§ 8(i)(4), (5); 70 Del. Laws, c. 425, §§ 8(i)(4), (5); 71 Del. Laws, c. 132, § 8(m)(4), (5); 71 Del. Laws, c. 180, § 76; 71 Del. Laws, c. 354, § 8(n)(4), (5); 72 Del. Laws, c. 94, § 8(n)(5), (6); 72 Del. Laws, c. 294, § 42; 72 Del. Laws, c. 395, § 8(n)(4), (5); 73 Del. Laws, c. 74, § 8(n)(4), (5); 73 Del. Laws, c. 312, § 8(m)(4), (5); 74 Del. Laws, c. 307, § 8(m)(5), (6); 75 Del. Laws, c. 77, § 41; 75 Del. Laws, c. 89, § 8(m)(5), (6); 75 Del. Laws, c. 350, §§ 8(m)(4), (5); 76 Del. Laws, c. 80, §§ 8(m)(4), (5); 77 Del. Laws, c. 84, § 8(m)(4), (5); 77 Del. Laws, c. 327, § 8(m)(4), (5); 78 Del. Laws, c. 78, § 8(m)(9), (10), (16) and (17); 78 Del. Laws, c. 290, § 8(m)(5)(v), (vi); 79 Del. Laws, c. 78, § 8(m)(5)(v), (vi); 79 Del. Laws, c. 290, § 8(m)(5)(v), (vi), (6)(v), (vi); 80 Del. Laws, c. 298, § 8(m)(5)(v), (vi); 81 Del. Laws, c. 58, § 8(m)(5)(v), (vi); 81 Del. Laws, c. 280, § 8(m)(6)(v), (vi); 82 Del. Laws, c. 64, § 8(m)(6)(v), (vi); 83 Del. Laws, c. 54, § 8(m)(6)(v); 83 Del. Laws, c. 325, § 8(m)(6)(v), (vi); 84 Del. Laws, c. 81, § 8(m)(6)(v), (vi); 84 Del. Laws, c. 295, § 8(m)(6)(v), (vi); 85 Del. Laws, c. 62, § 8(m)(6)(v), (vi); 85 Del. Laws, c. 324, § 8(m)(6)(v), (vi).)

## § 1323. Maternity leave.

Repealed by 71 Del. Laws, c. 180, § 77, effective July 31, 1997.

## § 1324. Salary schedule for paraprofessionals [For application of this section, see 85 Del. Laws, c. 324, § 8(m)(6)].

(a) Each service and instructional paraprofessional actually working and paid 10 months per year shall receive annual salaries in accordance with the following schedule, provided that the Step 1 of the salary schedule for Service Paraprofessionals to be equivalent to at least 85 percent of the Step 1 for Instructional Paraprofessionals, in accordance with the Public Education Compensation Committee report dated May 15, 2007:

| Step | Service Paraprofessionals* | Instructional Paraprofessionals* | Years of Experience |
|---|---|---|---|
| 1 | 25,798 | 29,032 | 0 |
| 2 | 26,778 | 30,154 | 1 |
| 3 | 27,800 | 31,327 | 2 |
| 4 | 28,868 | 32,551 | 3 |
| 5 | 29,981 | 33,827 | 4 |
| 6 | 31,146 | 35,162 | 5 |
| 7 | 32,362 | 36,558 | 6 |
| 8 | 33,634 | 38,013 | 7 |
| 9 | 34,959 | 39,532 | 8 |
| 10 | 36,343 | 41,120 | 9 |

* — Annual Salary in Whole Dollars.

(b) All paraprofessionals employed under (former) subsection (a) of this section (now repealed) who are employed for more than 10 months per year shall receive $^{1}/_{10}$ of the amount specified in subsection (a) of this section in salary for each additional month of employment each year.

(c) Instructional or service paraprofessionals, paid under this section who have received an associate degree, completed a minimum of 60 semester credits or have successfully passed a comprehensive testing mechanism to be defined by the Department of Education, shall receive an annual salary supplement in the amount of $1,000. Any instructional or service paraprofessionals, paid under this section who have received a bachelor's degree or higher shall receive an annual salary supplement in the amount of $2,000. Any paraprofessional who is eligible for both salary supplements shall receive the higher of the 2.

(d) The funds received by charter schools, through the Department of Education, associated with staff members who qualify for the salary supplement described in subsection (c) of this section shall be paid to such employees in accordance with subsection (c) of this section.

(e) The following shall apply to individuals paid in accordance with this schedule who were employed by a school board in Delaware on June 30, 2012:

(1) An instructional paraprofessional who was paid in accordance with step 1 or 2 for the fiscal year ending June 30, 2012, shall be paid at step 1 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(2) An instructional paraprofessional who was paid in accordance with step 3 or 4 for the fiscal year ending June 30, 2012, shall be paid at step 2 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(3) An instructional paraprofessional who was paid in accordance with step 5 or 6 for the fiscal year ending June 30, 2012, shall be paid at step 3 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(4) An instructional paraprofessional who was paid in accordance with step 7 or 8 for the fiscal year ending June 30, 2012, shall be paid at step 4 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(5) An instructional paraprofessional who was paid in accordance with step 9, 10 or 11 for the fiscal year ending June 30, 2012, shall be paid at step 5 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(6) An instructional paraprofessional who was paid in accordance with step 12, 13 or 14 for the fiscal year ending June 30, 2012, shall be paid at step 6 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(7) An instructional paraprofessional who was paid in accordance with step 15, 16 or 17 for the fiscal year ending June 30, 2012, shall be paid at step 7 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(8) An instructional paraprofessional who was paid in accordance with step 18, 19 or 20 for the fiscal year ending June 30, 2012, shall be paid at step 8 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(9) An instructional paraprofessional who was paid in accordance with step 21, 22 or 23 for the fiscal year ending June 30, 2012, shall be paid at step 9 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(10) An instructional paraprofessional who was paid in accordance with step 24, 25 or 26 for the fiscal year ending June 30, 2012, shall be paid at step 10 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(f) The following shall apply to individuals paid in accordance with this schedule who were employed by a school board in Delaware on June 30, 2012:

(1) A service paraprofessional who was paid in accordance with step 1 or 2 for the fiscal year ending June 30, 2012, shall be paid at step 1 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(2) A service paraprofessional who was paid in accordance with step 3 or 4 for the fiscal year ending June 30, 2012, shall be paid at step 2 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(3) A service paraprofessional who was paid in accordance with step 5, 6 or 7 for the fiscal year ending June 30, 2012, shall be paid at step 3 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(4) A service paraprofessional who was paid in accordance with step 8 or 9 for the fiscal year ending June 30, 2012, shall be paid at step 4 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(5) A service paraprofessional who was paid in accordance with step 10, 11 or 12 for the fiscal year ending June 30, 2012, shall be paid at step 5 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(6) A service paraprofessional who was paid in accordance with step 13 or 14 for the fiscal year ending June 30, 2012, shall be paid at step 6 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(7) A service paraprofessional who was paid in accordance with step 15, 16 or 17 for the fiscal year ending June 30, 2012, shall be paid at step 7 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(8) A service paraprofessional who was paid in accordance with step 18, 19 or 20 for the fiscal year ending June 30, 2012, shall be paid at step 8 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(9) A service paraprofessional who was paid in accordance with step 21, 22 or 23 for the fiscal year ending June 30, 2012, shall be paid at step 9 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(10) A service paraprofessional who was paid in accordance with step 24, 25 or 26 for the fiscal year ending June 30, 2012, shall be paid at step 10 under the schedule contained herein for the fiscal year ending June 30, 2013, and shall earn an experience step in subsequent fiscal years.

(g) For all instructional and service paraprofessionals beginning employment after July 1, 2012, experience credit, if any, pursuant to § 1312(e) of this title will be determined consistent with subsections (e) and (f) of this section.

(14 Del. C. 1953, § 1324; 53 Del. Laws, c. 397; 55 Del. Laws, c. 276; 56 Del. Laws, c. 143, § 3; 56 Del. Laws, c. 470, § 7; 57 Del. Laws, c. 333, § 17; 58 Del. Laws, c. 192, § 1; 58 Del. Laws, c. 304, § 1; 59 Del. Laws, c. 34; 60 Del. Laws, c. 31, § 1; 60 Del. Laws, c. 571, § 3; 61 Del. Laws, c. 190, § 1; 61 Del. Laws, c. 407, § 5; 61 Del. Laws, c. 409, § 108; 61 Del. Laws, c. 516, § 4; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, § 11(f); 63 Del. Laws, c. 80, §§ 11(f), 118; 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(xii); 64 Del. Laws, c. 220, § 6(a); 64 Del. Laws, c. 334, § 11(j)(13); 65 Del. Laws, c. 87, § 11(k)(6); 65 Del. Laws, c. 348, § 12(r)(11); 65 Del. Laws, c. 381, § 4; 66 Del. Laws, c. 85, § 12(p)(13); 66 Del. Laws, c. 303, § 12(m)(11); 67 Del. Laws, c. 47, § 12(o)(11); 67 Del. Laws, c. 281, § 8(o)(6); 68 Del. Laws, c. 84, § 8(m)(5); 68 Del. Laws, c. 126, § 7; 68 Del. Laws, c. 290, § 8(m)(6); 69 Del. Laws, c. 64, § 8(m)(6); 69 Del. Laws, c. 291, § 8(i)(9); 70 Del. Laws, c. 118, § 8(i)(6); 70 Del. Laws, c. 425, § 8(i)(6); 71 Del. Laws, c. 132, § 8(m)(6); 71 Del. Laws, c. 180, § 78; 71 Del. Laws, c. 354, § 8(n)(6); 72 Del. Laws, c. 94, § 8(n)(7); 72 Del. Laws, c. 395, § 8(n)(6); 73 Del. Laws, c. 74, § 8(n)(6); 73 Del. Laws, c. 312, § 8(m)(6); 74 Del. Laws, c. 307, § 8(m)(7); 75 Del. Laws, c. 89, §§ 8(m)(7), 424; 75 Del. Laws, c. 155, § 5; 75 Del. Laws, c. 350, § 8(m)(6); 76 Del. Laws, c. 80, §§ 8(m)(6), 359; 77 Del. Laws, c. 84, § 8(m)(6); 77 Del. Laws, c. 327, § 8(m)(6); 78 Del. Laws, c. 5, §§ 25, 26; 78 Del. Laws, c. 78, § 8(m)(11), (17); 78 Del. Laws, c. 290, § 8(m)(5)(vii), (ix); 79 Del. Laws, c. 78, § 8(m)(5)(vii); 79 Del. Laws, c. 290, § 8(m)(5)(vii), (6)(vii); 80 Del. Laws, c. 79, § 8(m)(5)(vii); 80 Del. Laws, c. 298, § 8(m)(5)(vii); 81 Del. Laws, c. 58, § 8(m)(5)(vii); 81 Del. Laws, c. 280, § 8(m)(6)(vii); 82 Del. Laws, c. 64, § 8(m)(6)(vii); 83 Del. Laws, c. 54, § 8(m)(6)(vi); 83 Del. Laws, c. 325, § 8(m)(6)(vii); 84 Del. Laws, c. 81, § 8(m)(6)(vii); 84 Del. Laws, c. 295, § 8(m)(6)(vii); 84 Del. Laws, c. 519, § 1; 85 Del. Laws, c. 62, § 8(m)(6)(vii); 85 Del. Laws, c. 324, § 8(m)(6)(vii).)

## § 1325. Sabbatical leave.

Sabbatical leave may be granted to any properly certified professional employee under the following conditions and provisions:

(1) After 7 years of service as a fully certified professional employee defined as a teacher, nurse, supervisor, director, principal, superintendent, coordinator, psychologist and any other professional position in public education in this State, provided that at least 5 consecutive years of such service shall have been in the employ of the school board from which leave of absence is sought, unless such board in its discretion shall allow a shorter period of time;

(2) For purposes of professional improvement or for the recovery of health after prolonged illness;

(3) The period of leave shall not be shorter than $^1/_2$ school term or longer than 1 full school term;

(4) While on leave the employee shall not be allowed to engage in full-time gainful employment, except by written agreement with the leave-granting board. However, this provision shall not preclude the employee from receiving grants such as scholarships, gifts, fellowships, part-time employment, or other grants of aid as frequently provided by colleges, universities, governmental agencies, corporations, trusts or other individuals to students or other persons engaged in study or travel for purposes of professional improvement;

(5) The professional employee shall agree in writing to return to service to the leave-granting board for a period of at least 1 full school year following the completion of the employee's leave;

(6) Request for sabbatical leave shall be presented in writing to said leave-granting board at a regular meeting of such board before April 1 for leave to begin at the opening of the next term, and before November 1 for leave to begin at the opening of the second semester of the term;

(7) At the end of any such period of leave of absence the employee shall present evidence of that employee's own professional improvement in such terms as shall have been agreed upon between said employee and said leave-granting board at the time when such leave was granted. Such evidence may consist of college transcripts, degrees earned or written reports by the recipient of the leave of absence;

(8) Said leave-granting board shall accept the employee into full-time employment upon that employee's return from leave and assign the employee to the position from which that employee left or to a similar position. In no case may assignment be made so as to invalidate the employee's certification status or to bring about a demotion in position or salary;

(9) For purposes of salary increments and pension eligibility and computation, a year of leave shall be considered a year of experience in covered employment under the provisions of local or state salary and pension programs, except that not more than 2 years of leave shall be applied toward salary increments and pension credits to any person. Failure of an employee to return to service of said leave-granting board shall be cause for forfeiture of salary increments and pension credits for the period of the leave.

(10) School boards may set a limit on the number of employees who may be granted leave each year, provided that, in any district having fewer than 20 professional employees, 1 eligible applicant may be granted leave each year;

(11) The leave-granting district shall provide to the employee granted leave, under paragraphs (1)-(10) of this section, compensation equal to $^1/_2$ the salary to which the employee would have been entitled under full-time employment; provided, however, that in no case shall the compensation paid exceed $10,000 for a full school year leave or $5,000 for a $^1/_2$ school year. The State shall continue to pay the state share of other employment costs as specified in § 6340 of Title 29 for the employee on sabbatical leave.

(12) Sabbatical leave authorized under this section, at state expense, shall be limited to 1 full year leave or 2 half-year leaves per local school district during a fiscal year. Nothing in this section, however, shall prevent a school district from granting additional sabbatical leaves if the district pays the salary and other employment costs for the employee who is on leave.

(14 Del. C. 1953, § 1325; 53 Del. Laws, c. 227; 54 Del. Laws, c. 262; 66 Del. Laws, c. 303, § 321; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 354, § 361.)

## § 1326. Salary schedule for substitute teachers.

(a) Effective January 1, 2022, each substitute teacher shall be paid in accordance with the following classification schedule:

*Class A. —*

A substitute teacher who holds or is eligible to hold a valid Delaware educator license or valid educator license from another state; or such a license that has expired shall be paid $124 per day.

*Class B. —*

A substitute teacher who holds a bachelor's degree or is a student currently enrolled in an accredited institution of higher education, who has earned at least 60 credits, and is enrolled in a program that will culminate in the student becoming eligible for a teaching license in the State of Delaware shall be paid $99 per day.

*Class C. —*

A substitute teacher who does not meet the requirements for Class A or Class B classification shall be paid $79 per day.

Any funding provided to district and charter schools by the Department of Education for substitute payments shall be at the rate set forth in this section in addition to current year other employment costs.

(b) Effective January 1, 2023, each substitute teacher shall be paid in accordance with the following classification schedule:

*Class A. —*

A substitute teacher who holds or is eligible to hold a valid Delaware educator license or valid educator license from another state; or such a license that has expired shall be paid $140 per day.

*Class B. —*

A substitute teacher who holds a bachelor's degree or is a student currently enrolled in an accredited institution of higher education, who has earned at least 60 credits, and is enrolled in a program that will culminate in the student becoming eligible for a teaching license in the State of Delaware shall be paid $112 per day

*Class C. —*

A substitute teacher who does not meet the requirements for Class A or Class B classification shall be paid $89 per day.

Any funding provided to district and charter schools by the Department of Education for substitute payments shall be at the rate set forth in this section in addition to current year other employment costs.

(c) Effective January 1, 2024, each substitute teacher shall be paid in accordance with the following classification schedule:

*Class A. —*

A substitute teacher who holds or is eligible to hold a valid Delaware educator license or valid educator license from another state; or such a license that has expired shall be paid $158 per day.

*Class B. —*

A substitute teacher who holds a bachelor's degree or is a student currently enrolled in an accredited institution of higher education, who has earned at least 60 credits, and is enrolled in a program that will culminate in the student becoming eligible for a teaching license in the State of Delaware shall be paid $126 per day.

*Class C. —*

A substitute teacher who does not meet the requirements for Class A or Class B classification shall be paid $100 per day.

Any funding provided to district and charter schools by the Department of Education for substitute payments shall be at the rate set forth in this section in addition to current year other employment costs.

(d) Effective January 1, 2025, each substitute teacher shall be paid in accordance with the following classification schedule:

*Class A. —*

A substitute teacher who holds or is eligible to hold a valid Delaware educator license or valid educator license from another state; or such a license that has expired shall be paid $179 per day

*Class B. —*

A substitute teacher who holds a bachelor's degree or is a student currently enrolled in an accredited institution of higher education, who has earned at least 60 credits, and is enrolled in a program that will culminate in the student becoming eligible for a teaching license in the State of Delaware shall be paid $143 per day.

*Class C. —*

A substitute teacher who does not meet the requirements for Class A or Class B classification shall be paid $113 per day.

Any funding provided to district and charter schools by the Department of Education for substitute payments shall be at the rate set forth in this section in addition to current year other employment costs.

(14 Del. C. 1953, § 1326; 56 Del. Laws, c. 418, § 2; 59 Del. Laws, c. 34; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 181, § 1; 62 Del. Laws, c. 277, § 11(f); 63 Del. Laws, c. 80, § 11(f); 64 Del. Laws, c. 220, § 6(b); 65 Del. Laws, c. 87, § 11(k)(7); 65 Del. Laws, c. 348, § 12(r)(12); 66 Del. Laws, c. 85, § 12(p)(14); 66 Del. Laws, c. 303, § 12(m)(12); 67 Del. Laws, c. 47, § 12(o)(12); 67 Del. Laws, c. 281, § 8(o)(7); 68 Del. Laws, c. 84, § 8(m)(6); 68 Del. Laws, c. 290, § 8(m)(7); 69 Del. Laws, c. 64, § 8(m)(7); 69 Del. Laws, c. 291, § 8(i)(10); 70 Del. Laws, c. 118, § 8(i)(7); 70 Del. Laws, c. 425, § 8(i)(7); 71 Del. Laws, c. 132, § 8(m)(7); 71 Del. Laws, c. 354, § 8(n)(7); 72 Del. Laws, c. 94, § 8(n)(8); 72 Del. Laws, c. 395, § 8(n)(7); 76 Del. Laws, c. 80, § 345; 77 Del. Laws, c. 84, § 406; 77 Del. Laws, c. 327, § 8(m); 78 Del. Laws, c. 290, § 29; 81 Del. Laws, c. 215, § 1; 82 Del. Laws, c. 64, § 367; 82 Del. Laws, c. 242, § 361; 83 Del. Laws, c. 270, § 11.)

## § 1327. Leave of absence for person in military service.

(a) If a regularly appointed and employed principal, teacher or other employee of a school district is called to the service of or voluntarily enters the armed forces of the United States of America or the National Guard of this State when in continuous active service, the school board shall grant to such principal, teacher or other employee a leave of absence which shall cover the period of military service, not to exceed 3 years, or until the term of service to which he or she has been called is terminated, and upon the completion of the leave of absence reinstate such principal, teacher or other employee in the position which he or she held at the time that the leave of absence was granted. The contract with such principal, teacher or other employee shall continue in force under the same conditions as if the principal, teacher or other employee had been in the continuous service of the board during the period of the leave of absence; provided, such regularly appointed and employed principal, teacher or other employee has received a certificate of satisfactory completion of military service.

(b) Any principal, teacher or other school employee taking a leave of absence authorized by subsection (a) of this section who, as a member of the Delaware National Guard or a United States military reserve organization, has been ordered to active duty to augment active forces for any operational mission, shall continue to receive the principal's, teacher's or other school employee's state compensation during the initial period of active duty prescribed by the military, to be reduced by any military compensation received. While on such leave of absence, for a period not to exceed 2 years, the employee and the employee's dependents shall continue to receive benefits provided under any applicable group health insurance plan offered by the school district, provided that the employee continues to pay any employee-share premium for such plan. The Department of Human Resources shall develop any rules and regulations necessary to implement the provisions of this subsection. These rules shall make it the responsibility of the employee to initiate the claim and supply the required military pay information. The State shall be responsible for collecting information relating to state compensation. Claims shall be filed within 90 days of release from active duty or passage of this legislation, whichever is later.

(c) For the purpose of subsection (b) of this section state compensation shall be limited to the state share of the base salary as calculated from the appropriate salary schedule, administrative supplements and all other stipends. Military compensation shall include base salary, basic allowance for quarters (BAQ), basic allowance for subsistence (BAS), hazardous duty pay and all other supplemental compensation multiplied by the ratio of state compensation to total compensation.

(d) The person who may be appointed to replace the principal, teacher or other employee shall be appointed only for the period covered by the leave of absence.

(14 Del. C. 1953, § 1327; 56 Del. Laws, c. 292, § 18; 68 Del. Laws, c. 21, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 429, § 1; 74 Del. Laws, c. 190, § 1; 74 Del. Laws, c. 421, § 1; 75 Del. Laws, c. 88, § 20(2); 75 Del. Laws, c. 234, § 1; 81 Del. Laws, c. 66, § 9.)

## § 1328. Teachers of grades 1-12 inclusive entitled to duty-free period.

In all reorganized school districts each teacher in grades 1-12, inclusive, shall have, during each school day, a duty-free period for at least 30 consecutive minutes but this section shall not bar the allowance of a longer or additional duty-free period each day.

(14 Del. C. 1953, § 1328; 59 Del. Laws, c. 93, § 1.)

## § 1329. Employment contracts.

(a) The Department of Education and the boards of education of the reorganized school districts may sign individual employment contracts involving state funds only with those professional employees whose base salary is that provided for in §§ 1305, 1310 and 1336 of this title. The salary amounts in the contracts so authorized shall be for 1 fiscal year, provided that contracts for administrative personnel covered in subsection (b) of this section shall not be so limited.

(b) Nothing in this title shall be construed as prohibiting the board and any assistant principal, principal, supervisor, administrative assistant, director, assistant superintendent or superintendent from entering into an employment contract for a period of up to 5 years.

(c) Salary amounts in individual contracts provided for in subsection (a) or (b) of this section shall not be contracted for, agreed upon or effective prior to enactment of the Budget Appropriation Bill.

(14 Del. C. 1953, § 1329; 57 Del. Laws, c. 263, § 2; 58 Del. Laws, c. 346; 58 Del. Laws, c. 552; 64 Del. Laws, c. 20, §§ 1, 2; 71 Del. Laws, c. 180, § 79; 82 Del. Laws, c. 242, § 359.)

## § 1330. Work week for certain employees.

The work week for the employees of the Department of Education shall be $37^{1}/_{2}$ hours per week.

(14 Del. C. 1953, § 1330; 57 Del. Laws, c. 333, § 20; 71 Del. Laws, c. 180, § 80.)

## § 1331. Statewide Programs for the Deaf, Hard of Hearing and Deaf-Blind including the Delaware School for the Deaf; special staff.

(a) In addition to staff otherwise authorized, the Delaware School for the Deaf may employ supportive staff as follows:

(1) *Specialist.* — Resource teacher for a period of 10 months at the rate of 1 for each 60 children enrolled in the Delaware School for the Deaf;

(2) Interpreter/tutors for a period of 10 months at the rate of 1 for each 4 pupils enrolled in the Delaware School for the Deaf and served in the regular education classroom.

(3) *Specialist.* — Literacy (English and American Sign Language) for a period of 10 months at the rate of 1 for every 60 children enrolled in the Delaware School for the Deaf.

(b) Interpreter/tutors are to be certified according to standards prescribed by the Department with the approval of the State Board of Education and paid according to the salary schedule contained in § 1305(a) of this title.

(c) In addition to subsection (a) of this section, the Statewide Programs for the Deaf, Hard of Hearing and Deaf-Blind may employ an early intervention teacher who will work with parents and families in New Castle, Kent and Sussex Counties.

(1) The teacher shall be a certified teacher of the deaf/hard of hearing.

(2) Provision for salary of the teacher and for expenses required for this job shall be made a part of the appropriation for the Delaware School for the Deaf.

(d) In addition to staff otherwise authorized, the Statewide Programs for the Deaf, Hard of Hearing and Deaf-Blind may employ the following:

(1) Director;

(2) Statewide coordinator;

(3) Dean of students (assistant principal rank);

(4) One elementary school leader and one secondary school leader compensated at the assistant principal rank (in lieu of a principal allocated pursuant to § 1307(2) of this title);

(5) Educational audiologist;

(6) Speech therapist;

(7) Residential advisors not to exceed 6;

(8) Residential monitoring aides not to exceed 4.

These shall be considered state unit positions and paid according to this title, with appropriate local supplement.

(60 Del. Laws, c. 628, § 1; 61 Del. Laws, c. 407, § 3; 61 Del. Laws, c. 409, § 106; 61 Del. Laws, c. 513, § 1; 62 Del. Laws, c. 68, § 42(e); 62 Del. Laws, c. 277, § 11; 63 Del. Laws, c. 80, § 11(f); 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(xiii); 64 Del. Laws, c. 220, § 6(a); 64 Del. Laws, c. 334, § 11(j)(14); 65 Del. Laws, c. 87, § 11(k)(8); 65 Del. Laws, c. 348, § 12(r)(13); 71 Del. Laws, c. 132, § 352; 71 Del. Laws, c. 180, § 81; 73 Del. Laws, c. 74, §§ 366-368; 74 Del. Laws, c. 307, § 332; 75 Del. Laws, c. 89, §§ 369, 370; 78 Del. Laws, c. 5, §§ 27-31; 78 Del. Laws, c. 262, § 1; 81 Del. Laws, c. 79, § 19.)

## § 1332. Statewide program for services for students with autism spectrum disorder (ASD).

(a) The Department shall provide training and technical assistance across all public schools within this State on behalf of students with an educational classification of autism spectrum disorder ("ASD"). Educational programming provided under this chapter must have high-quality instruction based on research and evidence-based practice.

(b) The Department must administer statewide support and services for students with an educational classification of ASD.

(c) The Department must employ a statewide director ("Director") to oversee statewide supports and services for ASD. The Director must have the following qualifications and expertise with ASD:

(1) Doctorate degree in psychology, special education, applied behavior analysis ("ABA"), educational leadership, or other related field (master's degree considered with extensive experience).

(2) Minimum 10 years of experience working with individuals with ASD; at least 5 years in a supervisory role in an education setting, as well as experience in program evaluation.

(3) Graduate-level training in evidence-based practices in curriculum, instruction, and behavioral support such as ABA.

(4) Experience planning or leading skill development, as well as implementation of evidence-based practices in educational settings for individuals with ASD.

(5) Successful experience leading the development and implementation of a structured staff and parent professional development program (academic, behavioral, and social-emotional learning).

(6) Knowledge and experience with implementation of evidence-based practice; at least 5 years of experience providing consultation to all school staff, and experience with program development in a school setting (public school preferred).

The Department may include other desirable preferences as needed.

(d) The Department shall pay the Director a salary in an amount for which the Director qualifies under § 1305(a), (b), and (d) of this title plus an amount for administrative responsibility determined in accordance with § 1321(c) of this title. The Director's salary, including "years of experience," shall be determined in accordance with rules and regulations adopted by the Department with the approval of the State Board of Education.

(e) The Department must provide training and technical assistance for all public schools by doing all of the following:

(1) Identifying and promoting evidence-based practices specific to the education of students with an educational classification of ASD supported by the most current research or by expert consensus.

(2) Supporting statewide implementation of evidence-based practices by providing leadership, training, and technical assistance to educators and related service providers who work with students with an educational classification of ASD.

(3) Assisting districts and charter schools with systemwide implementation of training, coaching, and technical assistance in all public schools, for students from birth to age 22 with an educational classification of ASD.

(4) Overseeing and coordinating contracts and professional staff responsible for delivering ASD-related training, coaching, and technical assistance, including specialists employed or contracted under this section.

(5) Consulting and collaborating with stakeholders on policies, programming, curriculum, and initiatives that impact students with an educational classification of ASD, ensuring alignment with current research and state priorities.

(6) Serving as the primary liaison between the Department and other state agencies, committees, advisory groups, and community programs on matters related to educational programming for students with an educational classification of ASD.

(7) Employing 5 training specialists as follows:

a. "Training specialists" must include qualified speech-language pathologists, behavior analysts, and other personnel with expertise in evidence-based instruction for people with ASD in classroom, community, and home-based consultation.

b. Training specialists must serve public school districts and school teams as well as community teams and families.

c. A training specialist must have a master's degree and 3 years of experience working with students with an educational classification of Asd.

d. The duties of a training specialist include providing training and technical assistance for staff working with students with an educational classification of ASD, including classroom consultation; plan development and performance feedback; parent training; and providing training for regular education staff on ASD and evidence-based strategies for inclusion practices.

(8) Purchasing specialized services, as appropriate, instead of hiring staff to provide the education and training required under this section.

(9) Collecting and analyzing data to assess the statewide program needs to include additional training specialists under this section and submitting findings and recommendations every 3 years, with the first submission due on October 1, 2028, to the Education Committees of the General Assembly and making the report available on the Department website.

(f) The Department, with the approval of the State Board of Education, shall adopt such rules and regulations to establish and provide for the following committees:

(1) Peer Review Committee ("PRC") that must review educational procedures and programming for students with an educational classification of ASD.

(2) Statewide Monitoring Review Board ("SMRB"), composed of no less than 7 members, including 2 nonvoting public representatives determined annually by the Department.

a. Annually, the SMRB shall evaluate whether the educational methods and curricula are consistent with evidence-based practices for students with an education classification of ASD, including reviewing and making recommendations on proposed new practices throughout all public schools to ensure opportunities for meaningful and measurable progress and inclusion, as appropriate, are afforded to all such students with an educational classification of ASD.

b. The SMRB shall review data from annual reviews conducted by the Department on educational programming for students with a primary educational classification of ASD throughout all public schools and make recommendations based on its findings to include data measuring these specific recommendations and suggestions for corrective action to ensure consistent quality and equity of services throughout this State.

c. The Department in collaboration with the SMRB shall submit its findings and recommendations, at least annually, to the Education Committees of the General Assembly and make the report available on the Department website.

d. If a public school is found to be out of compliance with the specific recommendations made under this section, the Department and the Director must allow the public school the opportunity for technical assistance and progressive implementation of a corrective action plan for improvement agreed upon by the school and the Director.

(63 Del. Laws, c. 177, § 3; 63 Del. Laws, c. 322, § 11(f), (g); 64 Del. Laws, c. 90, § 11(d)(xiv); 64 Del. Laws, c. 220, § 6(a); 64 Del. Laws, c. 334, § 11(j)(15); 64 Del. Laws, c. 381, § 3; 65 Del. Laws, c. 87, § 11(k)(9); 65 Del. Laws, c. 230, § 4; 65 Del. Laws, c. 348, § 12(r)(14); 66 Del. Laws, c. 85, § 12(p)(15); 66 Del. Laws, c. 303, § 12(m)(13); 66 Del. Laws, c. 421, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 82-85; 73 Del. Laws, c. 265, § 1; 78 Del. Laws, c. 5, §§ 32-36; 81 Del. Laws, c. 395, § 1; 82 Del. Laws, c. 85, § 40; 85 Del. Laws, c. 384, § 1.)

## § 1333. Paid leave for birth of a child or adoption of a child.

(a) Any full-time employee or employee who has been employed by a reorganized school district, charter school or vocational school district for at least 1 year, shall be entitled to 12 weeks of paid leave upon the birth of a child of the employee, or upon the adoption by the employee of a child who is 6 years of age or younger.

(b) The entitlement to leave under subsection (a) of this section shall expire at the end of the 12-month period beginning on the date of such birth or adoption.

(c) Without regard to length of employment, a full-time or part-time employee of a reorganized school district, charter school, or vocational school district shall be entitled to use accumulated sick leave upon the birth of a child of the employee, or upon the adoption of a child who is 6 years of age or younger.

(d) The rights and benefits described in this section shall run concurrently with any rights and benefits available under the Family Medical Leave Act, 29 U.S.C. § 2601 et seq. for the birth and adoption of a child and short-term disability benefit pursuant to § 5253 of Title 29 for the birth of a child.

(e) No state agency, board, department, reorganized school district, charter school, vocational school district or other employing officer or agency of this State may alter or terminate the benefits of or terminate the employment of any full-time employee as a result of taking leave pursuant to this section.

(f) For purposes of this section, the entitlement to leave for the adoption of a child may begin at 1 of the following times, to be determined by the employee:

(1) When the child is placed for adoption with the employee under § 904 of Title 13.

(2) When the employee initiates a petition for adoption in Family Court.

(3) Upon the completion of the adoption process.

(72 Del. Laws, c. 174, § 1; 81 Del. Laws, c. 285, § 1; 85 Del. Laws, c. 283, § 1.)

## § 1334. Annual work year.

For any section in the Delaware Code that makes reference to the annual work year for teachers in terms of days, such reference can be converted to equivalent hours as follows:

188 Regular Days x 7.5 hours = 1,410.0 hours.

(73 Del. Laws, c. 321, § 2.)

## § 1335. Hours per day and per year per salary schedule.

The annual state salaries contained in this chapter are based upon the following:

| Schedule | Hours Per Day | Days Per Year | Hours Per Year |
|---|---|---|---|
| § 1305 | 7.5 inclusive of 1/2 hour lunch | 188 | 1,410.0 |
| § 1308 | 7.5 exclusive of 1/2 hour lunch | 261 | 1,957.5 |
| § 1311 | 8.0 inclusive of 1/2 hour lunch | 261 | 2,088.0 |
| § 1322(a) | 7.0 exclusive of 1/2 hour lunch | 185 | 1,295.0 |
| § 1324 | 7.5 inclusive of 1/2 hour lunch | 185 | 1,387.5 |
| § 1326 | 7.5 | | Not Applicable |

Absent an existing collective bargaining agreement to the contrary, district employees who work less than the specified time shall have their annual salary adjusted accordingly. Upon ratification of a new or extension of an existing collective bargaining agreement, the local district shall establish hours and days worked that are consistent with those specified above.

(73 Del. Laws, c. 321, § 3; 76 Del. Laws, c. 80, § 340.)

## § 1336. Salary schedule for Department of Education early childhood personnel resulting from early childhood governance reorganization [For application of this section, see 85 Del. Laws, c. 324, § 8(m)(6)].

(a) An early childhood employee of the Department of Education who works and is paid for 12 months per year shall be paid in accordance with the following schedule from the first day of the first full pay cycle of the fiscal year through the last day of the pay cycle that contains the last day of the fiscal year:

| Step | Childcare Licensing Specialist* | Childcare Licensing Supervisor* | Administrator* |
|---|---|---|---|
| 1 | 34,978 | 39,555 | 42,087 |
| 2 | 35,667 | 40,335 | 42,915 |
| 3 | 36,356 | 41,111 | 43,746 |
| 4 | 37,044 | 41,894 | 44,577 |
| 5 | 37,733 | 42,675 | 45,408 |
| 6 | 38,421 | 43,455 | 46,238 |
| 7 | 39,195 | 44,332 | 47,172 |
| 8 | 39,968 | 45,209 | 48,107 |
| 9 | 40,743 | 46,087 | 49,040 |
| 10 | 41,517 | 46,964 | 49,975 |
| 11 | 42,292 | 47,840 | 50,910 |
| 12 | 43,153 | 48,817 | 51,947 |
| 13 | 44,012 | 49,789 | 52,984 |
| 14 | 44,874 | 50,766 | 54,024 |
| 15 | 45,733 | 51,739 | 55,062 |
| 16 | 46,593 | 52,714 | 56,099 |

* — Annual Salary in Whole Dollars.

(b) The Department of Education shall be authorized to revise the salary to be paid to any of its personnel, which shall enable the Department to pay salary supplements up to the equivalent, but in no case to exceed the average of the 3 highest salaries for like positions paid by school districts. The Department of Education shall establish rules and regulations for the assignment of early education personnel employed pursuant to § 1336 of this title who are not otherwise classified.

(c) Any employee paid from this section shall receive as a salary the amount for which the employee qualifies under subsection (a) of this section, plus an annual amount for additional education that is clearly related to the individual's responsibilities as defined by the Department of Education as follows:

| Certificate | Education Supplement |
|---|---|
| Bachelors | $0 |
| Bachelor's + 15 | $1,520 |
| Bachelors +30 | $1,720 |
| Master's | $1,920 |
| Master's + 15 | $2,120 |
| Master's + 30 | $2,320 |
| Master's + 45 | $2,520 |
| Doctorate | $2,720 |

(82 Del. Laws, c. 242, § 358; 82 Del. Laws, c. 243, § 28; 83 Del. Laws, c. 57, § 31; 83 Del. Laws, c. 325, § 8(m)(6)(viii); 83 Del. Laws, c. 339, § 28; 84 Del. Laws, c. 81, §§ 8(m)(6)(viii), 372; 84 Del. Laws, c. 295, § 8(m)(6)(viii); 85 Del. Laws, c. 62, § 8(m)(6)(viii); 85 Del. Laws, c. 324, § 8(m)(6)(viii).)

## § 1337. Public Education Compensation Committee.

(a) The Public Education Compensation Committee (hereinafter "Committee") is hereby convened to review Delaware's educator compensation structure and its ability to compete with regional school districts, Delaware's private business sector, and other governmental agencies, in recruiting and retaining qualified and diverse educators, and to develop recommendations to establish a new compensation structure for educators in Delaware, including the following:

(1) Make recommendations that strengthen Delaware's ability to compete with regional school districts in recruiting and retaining qualified and diverse educators.

(2) Make recommendations for competitive base pay for educators at all steps in the compensation structure.

(3) Make recommendations for achieving competitive career level earnings in fewer, more meaningful steps.

(4) Specify how educators can achieve additional opportunities for career advancement, which must be based in part on years of experience but must otherwise be based on acquisition of relevant degrees, certifications, and competencies, the acceptance of leadership responsibilities, and must fairly compensate for additional professional responsibilities.

(5) Make recommendations that include approaches to the acquisition of skills and knowledge that are timely, relevant, and affordable. Recommendations shall include access to additional compensation that may vary depending on the degree, certification, or competency achieved. The Committee must also consider how additional compensation under this section will be approved and administered.

(6) Provide recommendations on the creation of leadership roles through which educators will receive additional compensation for assuming leadership responsibilities. Recommendations should also allow school districts flexibility to determine the number and type of leadership roles. The Committee should consider positions that:

a. Have meaningful adult leadership responsibilities in the areas of curriculum, casework, instruction, student support, family and community engagement, and professional development;

b. Maintain a meaningful connection to student learning; and

c. Are supported by classroom or office coverage during times when the educator is away from the classroom or students.

Recommendations should include language indicating educators serving in leadership roles shall not be assigned additional responsibilities that are not substantially related to their leadership roles and classroom or professional obligations.

(7) Make recommendations for a process that provides additional compensation for professional responsibilities that are not generally required in the classroom, including special education casework. The Committee shall discuss and make recommendations regarding the types of responsibilities that could qualify for additional compensation. The Committee must also consider how additional compensation under this section will be approved and administered.

(8) Make recommendations regarding the applicability of the new system, which would apply to all educators as defined by § 1202 of this title or person paid under §§ 1305, 1306, 1307, 1310 and 1321 of this title. The Committee should provide a timeline and mechanism for transition and implementation.

(9) Review and provide recommendations to increase base levels of pay for education support staff as defined by §§ 1308, 1311, 1322, and 1324 of this title that shall be competitive with other districts in the region.

(10) Identify and consider adopting state pay scales for job categories where 1 does not exist, including bus drivers and information technology employees.

(b) The Committee shall present its recommendations, including a fiscal note and implementing legislation, to the Governor no later than November 15, 2023, so that its recommendations may be considered for inclusion in the Governor's recommended budget for fiscal year 2025 to be presented to the General Assembly in January 2024.

(c) The Committee shall consist of the following members, or a designee selected by the member serving by virtue of position:

(1) The Secretary of Education.

(2) The Controller General.

(3) The Director of the Office of Management and Budget.

(4) The Executive Director of the Delaware State Education Association.

(5) The Executive Director of the Delaware Association of School Administrators.

(6) An educator appointed by the Senate President Pro Tempore.

(7) Two school financial officers appointed by the Governor.

(8) One school superintendent appointed by the Governor.

(9) A charter school administrator appointed by the Speaker of the House.

(10) A representative of the Office of the Governor.

(11) The Chair of the House Education Committee.

(12) The Chair of the Senate Education Committee.

(13) One member of the House minority caucus appointed by the Speaker of the House of Representatives.

(14) One member of the Senate minority caucus appointed by the President Pro Tempore of the Senate.

(d) The Committee will elect a chair from amongst the membership.

(e) The Committee shall seek input from others including educators, parents, school administrators, local school boards, and higher education representatives. The Committee shall hold public meetings in person or virtually to specifically gather input from educators.

(f) The Department of Education shall provide staff assistance to the Committee and shall convene the first meeting no later than August 1, 2022.

(83 Del. Laws, c. 336, § 1; 84 Del. Laws, c. 233, § 23.)

# Part I
# Free Public Schools

## Chapter 14
## Procedures for the Termination of Services of Professional Employees

### Subchapter I
### General Provisions

### § 1401. Definitions.

As used in this chapter:

(1) "Board" means a board of education of a reorganized school district.

(2) "Teacher" means any certificated professional employee of a public school district. It shall not include a person employed as assistant principal, principal, supervisor, administrative assistant, director, assistant superintendent or superintendent; except that any such person who has completed 3 years of service in the State, 2 years of which shall have been in the employ of the same board, may at that person's own option elect to be assigned as a teacher in the employ of said board.

(14 Del. C. 1953, § 1401; 50 Del. Laws, c. 39, § 1; 56 Del. Laws, c. 64; 57 Del. Laws, c. 113; 57 Del. Laws, c. 263, § 1; 66 Del. Laws, c. 255, § 1; 70 Del. Laws, c. 186, § 1.)

### § 1402. Formal communications.

All formal communications between the teacher and the terminating board provided for in this chapter shall be by certified mail, with a return receipt requested.

(14 Del. C. 1953, § 1402; 50 Del. Laws, c. 39, § 1; 75 Del. Laws, c. 18, § 1.)

### § 1403. Application of chapter.

(a) Except as set forth in subsection (b) of this section, the provisions set forth in §§ 1411, 1412, 1413 and 1414 of this title, covering reasons for termination, notice of termination, hearings before a board and judicial review, shall apply to all teachers:

(1) Who began teaching in a Delaware public school prior to the end of the 2009/2010 school year and have completed 3 years of service in the State, 2 years of which shall be in the employ of the terminating board; or

(2) Who began teaching in a Delaware public school after the conclusion of the 2009/2010 school year and has completed at least 3 years of service in the State, at least 2 of which are in the employ of the terminating board, provided that said teacher has received at least 2 years of "Satisfactory" ratings in the "Student Improvement" component of the teacher appraisal process (established pursuant to § 1270 of this title) within a 3-year period. The 2 "Satisfactory" ratings need not be consecutive and the requirement for "Satisfactory" ratings need only be satisfied once in order for the provisions of §§ 1411 through 1414 of this title to apply.

(3) Who began teaching in a Delaware public school after the conclusion of the 2020-2021 school year and have completed at least 3 years of service in the State, at least 2 of which are in the employ of the terminating board, provided that said teacher has received at least 2 years of "Satisfactory" summative ratings in the teacher appraisal process (established pursuant to § 1270 of this title) within a 3-year period. The 2 "Satisfactory" ratings need not be consecutive and the requirement for "Satisfactory" ratings need only be satisfied once in order for the provision of §§ 1411 through 1414 of this title to apply.

(b) The provisions set forth in §§ 1411, 1412, 1413 and 1414 of this title shall not apply to teachers employed temporarily to replace professional personnel on leave of absence or to teachers holding temporary certificates.

(c) Time spent in military service shall not be counted as years of service for purposes of this chapter.

(d) Notwithstanding the provisions of paragraph (a)(2) of this section, due to the COVID-19 pandemic, the provisions set forth in §§ 1411, 1412, 1413 and 1414 of this title shall apply to teachers who began teaching in the 2017-2018 and 2018-2019 school years and have completed at least 3 years of service, at least 2 of which are in the employ of the terminating board.

(14 Del. C. 1953, § 1403; 50 Del. Laws, c. 39, § 1; 55 Del. Laws, c. 80, §§ 1, 2; 57 Del. Laws, c. 529; 69 Del. Laws, c. 449, § 1; 77 Del. Laws, c. 459, §§ 1, 2; 83 Del. Laws, c. 282, § 2.)

### Subchapter II
### Termination of Services at the End of the School Year

### § 1410. Notice of intention to terminate services.

(a) In the event that any board desires to dispense with the services of any teacher, such board shall give notice in writing to such teacher on or before May 15 of any year of its intention to terminate said teacher's services at the end of such school year. For teachers identified pursuant to § 1403(a)(1), (a)(2), (a)(3) or (d) of this title, such written notice shall state the reasons for such intended termination

of services and shall be accompanied by a copy of this chapter; provided, however, that this requirement shall not apply to those teachers employed temporarily to replace professional personnel on leave of absence or those holding temporary certificates.

(b) Teachers other than those identified pursuant to § 1403(a)(1), (a)(2), (a)(3) or (d) of this title may, within 7 days of receiving notice of intention to terminate services, request in writing, the reason or reasons for such notice. The board will provide such reason or reasons in writing and a copy of this chapter no later than 5 days after receipt of such a request, provided that the stated reason or reasons must have either been contained in the teacher's performance appraisal, and the teacher was provided time to correct any deficiency through an individualized improvement plan or other documented materials properly placed in the teacher's personnel file prior to said notice. In providing the reason or reasons, the board is not limited to the reasons set forth in § 1411 of this title. Within 7 days of receiving the reason or reasons for the notice of intention to terminate services, a teacher may request in writing a conference with the board's superintendent for the purpose of discussing the reason or reasons and attempting to resolve any disputed matter. Within 10 days of receiving such a request for a conference, the superintendent shall personally provide the teacher a conference to review the matter. The conference with the superintendent is final and conclusive. The provisions of this subsection shall not apply to teachers employed temporarily to replace professional personnel on leave of absence or to teachers holding temporary certificates.

(14 Del. C. 1953, § 1410; 50 Del. Laws, c. 39, § 1; 58 Del. Laws, c. 270; 69 Del. Laws, c. 449, §§ 2, 4; 77 Del. Laws, c. 459, §§ 2-5; 83 Del. Laws, c. 282, § 3.)

## § 1411. Reasons for termination.

Termination at the end of the school year shall be for 1 or more of the following reasons: Immorality, misconduct in office, incompetency, disloyalty, neglect of duty, wilful and persistent insubordination, a reduction in the number of teachers required as a result of decreased enrollment or a decrease in education services. The board shall have power to suspend any teacher pending a hearing if the situation warrants such action.

(14 Del. C. 1953, § 1411; 50 Del. Laws, c. 39, § 1.)

## § 1412. Notice of termination.

In the event that a teacher fails to request a hearing, as herein provided, the aforesaid notice of intent to terminate services shall be construed as a notice of termination.

(14 Del. C. 1953, § 1412; 50 Del. Laws, c. 39, § 1.)

## § 1413. Hearing by terminating board.

(a) In the event that a teacher so notified shall within 10 days after the receipt of written notice of intention to terminate services request in writing an opportunity to be heard by the terminating board, the board shall set a time for such hearing to be held within 21 days after the date of receipt of said written request, and the board shall give the teacher at least 15 days' notice in writing of the time and place of such hearing. The hearing shall be conducted by a majority of the members of the board and shall be confined to the aforementioned written reasons as stated in the board's written notice of the board's intention to terminate the teacher's services. The conduct of such hearings and such rules of procedure as may be found necessary shall be left entirely to the discretion of the board provided that:

(1) The teacher shall have the option to indicate whether or not that teacher wishes the hearing to be public, by so stating in that teacher's own written request for a hearing; otherwise the hearing shall be private;

(2) The teacher may be represented by counsel;

(3) The teacher and the board may subpoena witnesses. Subpoenas shall be issued by the secretary of the board upon written request, and such subpoenas shall be directed to the sheriff of the county where the witness resides or is employed within the State, and, upon service of such subpoena, the witness shall be compelled to appear subject to the same penalties for failure to appear that govern subpoena proceedings before the Superior Court of the State;

(4) The teacher and the board and counsel for each may cross-examine witnesses;

(5) Testimony before the board shall be under oath;

(6) The testimony to be heard shall be confined to the reasons stated in the written notice of intent to terminate service. Any evidence shall be admissible during the hearing which is adjudged by the board to be pertinent to the reasons contained in the written notice which the teacher received and which stated the reasons for dismissal;

(7) A stenographic record of the hearing shall be taken and prepared by a qualified court stenographer and paid for by the board, and shall be supplied to the teacher and the board within 10 days following the conclusion of the hearing;

(8) The decision of the board shall be submitted in writing to the teacher within 15 days following the conclusion of the hearing;

(9) If the decision is in favor of the teacher, the teacher shall be fully reinstated and shall receive all salary lost as a result of that teacher's temporary dismissal or suspension.

(b) Any provision of this chapter to the contrary notwithstanding, the board may designate a hearing officer to conduct the hearing prescribed by subsection (a) of this section under rules and regulations promulgated by the board. The hearing officer shall submit a report with a recommendation to the board, within 5 days of the conclusion of the hearing, which shall become part of the record. A majority

of the board shall convene to review the records of the proceedings and, within 15 days of the hearing before the hearing officer, shall submit to the employee its decision in writing.

(14 Del. C. 1953, § 1413; 50 Del. Laws, c. 39, § 1; 64 Del. Laws, c. 250, § 1; 70 Del. Laws, c. 186, § 1.)

### § 1414. Judicial review.

A decision of the board shall be final and conclusive unless, within 10 days after a copy thereof has been received by the teacher, the teacher appeals to the Superior Court for the county in which the teacher was employed. In case of every such appeal, the cause shall be determined by the Court from the record which shall include a certified copy of the evidence, findings and the decision of the board, without the aid of a jury. The notice of appeal and all other matters regulating the appeal shall be in the form and according to the procedure as shall be provided by the Rules of the Superior Court. The Court shall decide all relevant questions of law and all other matters involved, and shall sustain any board action, findings and conclusions supported by substantial evidence. The Court may reverse, affirm or modify the decision of the board or remand the cause to the board for a rehearing. In case any cause shall be remanded to the board for a rehearing, the procedure and the rights of all parties to such cause shall be the same as in the case of the original hearing before the board. If the decision is in favor of the teacher, the teacher shall be fully reinstated and shall receive all salary lost as a result of that teacher's temporary dismissal or suspension.

(14 Del. C. 1953, § 1414; 50 Del. Laws, c. 39, § 1; 70 Del. Laws, c. 186, § 1.)

## Subchapter III

## Termination of Services During the School Year

### § 1420. Reasons for termination; rights of teacher.

Termination of any teacher's services during the school year shall be for 1 or more of the following reasons: Immorality, misconduct in office, incompetency, disloyalty, neglect of duty or wilful and persistent insubordination. Such teacher shall be given the same opportunity to be heard and right of appeal as provided in §§ 1412, 1413 and 1414 of this title, and the board shall give notice in writing to such teacher of its intention to terminate the services of such teacher at least 30 days prior to the effective date of termination. Such written notice shall state the reasons for such termination of services. The board shall have the power to suspend any teacher pending a hearing if the situation warrants such action.

(14 Del. C. 1953, § 1420; 50 Del. Laws, c. 39, § 1.)

# Part I
# Free Public Schools
## Chapter 15
## Fiscal Provisions

### § 1501. Support of free public schools.

The free public schools of the State shall be maintained and supported by such moneys as shall be appropriated from time to time by the General Assembly, local school tax revenues generated and payments received in accordance with this title, payments received in accordance with Chapters 4, 5 and 6 of this title, and appropriated and nonappropriated special funds otherwise authorized or legally acquired. Funds appropriated or otherwise allocated to the Department of Education on behalf of the public schools of this State shall be administered by the Department in accordance with this title or other applicable state or federal laws and regulations.

(32 Del. Laws, c. 160, § 58; 35 Del. Laws, c. 158, § 1; 36 Del. Laws, c. 207, § 1; Code 1935, § 2704; 14 Del. C. 1953, § 1501; 56 Del. Laws, c. 299; 57 Del. Laws, c. 113; 71 Del. Laws, c. 180, § 86.)

### § 1502. Disbursements.

Such appropriations as are made by the General Assembly for the free public schools, and such money as is received from the federal government for school purposes under any law shall be paid by the State Treasurer in accordance with the items of the official state school budget and with the appropriations of the General Assembly therefor, as required by the Department of Education; but such payments shall be made only upon orders of the said Department of Education, signed by its Secretary or the Secretary's designee. For all competitive grants to public school districts and public charter schools administered by the Department of Education, the Department shall publish on its website for a period of 12 months from the award notice the threshold eligibility requirements, the criteria for evaluation of applications, the names of successful applicants, the applications of successful applicants, and the amount awarded to each successful applicant.

(Code 1915, § 2311; 32 Del. Laws, c. 160, § 63; Code 1935, § 2707; 14 Del. C. 1953, § 1504; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 87, 89A; 79 Del. Laws, c. 131, § 1; 81 Del. Laws, c. 280, § 364.)

### § 1503. Limitation on terms of contracts.

No contract for public school purposes that is predicated on the availability of state funds shall be made to extend beyond the fiscal year covered by the current appropriation of the General Assembly in effect at the time of the making of such contract, unless all of the funds required to satisfy the obligation are available for encumbrance, or a cancellation provision should funds not be subsequently appropriated is included in the original contract. This provision does not apply to contracts involving the expenditure of moneys raised by bond issues or advance purchase orders for instructional materials duly authorized by the Secretary of Finance.

(32 Del. Laws, c. 160, § 64; 32 Del. Laws, c. 180, § 1; Code 1935, § 2708; 14 Del. C. 1953, § 1505; 71 Del. Laws, c. 180, §§ 87A, 89A.)

### § 1504. Audit.

(a) The Auditor of Accounts shall each year as soon as possible after July 1 audit the business and financial transactions, records, and accounts of the Department of Education, the State Board of Education, the Delaware Center for Education Technology, the Delaware Advisory Council for Career and Vocational Education, the boards of education of the school districts, and, if required by § 513(d) of this title, the charter schools created under Chapter 5 of this title.

(b) The Auditor of Accounts shall publish the results of such audit and shall also mention the name of any person who has made within the last year a gift to said funds, with the amount or value thereof.

(c) In order to ensure that authorized position complements are not exceeded, the Auditor of Accounts is directed to incorporate an examination of the number of authorized positions versus the number of actual positions a district has employed as part of the regular, annual audit review for all public school district audits that commence on or after July 1, 1991. This position audit function shall include, in addition to formula salary positions, an examination of positions and associated "option units" authorized by the Secretary of Education under any appropriation.

(d) Any discrepancy found by the Auditor of Accounts which has resulted in a local school district expending more general funds than it was entitled to during the fiscal year being audited shall be promptly reported to the Director of the Office of Management and Budget, the Controller General and the Secretary of Education. Upon review and determination as to the status of the questioned expenditure, the Director of the Office of Management and Budget, Controller General and the local school district Board of Education shall develop and certify a written repayment plan.

(e) The local school district may choose to make the required General Fund reimbursement from its local current operating expense account or by agreeing not to utilize a current year General Fund appropriation for which it is otherwise eligible based on unit entitlements. Reimbursements required by this section shall be transacted during the fiscal year in which the over-expenditure is discovered unless the Director of the Office of Management and Budget and the Controller General agree that the timing of the discovery or the potential impact on the affected district is such that satisfying the obligation in part or in its entirety should be deferred until the next ensuing fiscal year.

(f) In order to assist the Auditor of Accounts in the performance of this function local school districts are instructed to maintain records and make them available in a format that will facilitate this review.

(Code 1915, c. 71; 32 Del. Laws, c. 160, § 49; Code 1935, § 2710; 14 Del. C. 1953, § 1506; 57 Del. Laws, c. 113; 68 Del. Laws, c. 84, § 195; 71 Del. Laws, c. 180, §§ 88, 88A-88C, 89A; 75 Del. Laws, c. 88, § 21(7); 80 Del. Laws, c. 397, § 1.)

## § 1505. Unauthorized expenditures.

The Auditor of Accounts may withhold approval of any voucher or bill or order for money of a school district whenever such district shall have failed to comply with this title in the expenditure of its moneys, until such district shall make good such failure.

(32 Del. Laws, c. 160, § 5; 33 Del. Laws, c. 167, § 1; Code 1935, § 2711; 14 Del. C. 1953, § 1507; 57 Del. Laws, c. 113; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 89A.)

## § 1506. Limitation on use of tax revenues.

No tax revenues of the State, or of any political subdivision thereof, or of any school district, shall be used for the free public education of pupils living in the State on real property exempt from taxes levied on real property. The limitations of this section shall not apply to pupils living on real property owned by the State or any of its political subdivisions, or by the federal government where such real property is used for nonmilitary housing, or where such real estate is exempt from such taxes on account of the use of such property for charitable, educational or religious purposes.

(14 Del. C. 1953, § 1508; 51 Del. Laws, c. 183; 71 Del. Laws, c. 180, § 89A.)

## § 1507. School district financial position reports.

(a) Beginning with the fiscal year ending June 30, 1997, all public school districts, including vocational-technical school districts, both sometimes referred to herein as "district," are required to submit to the Secretary of Education, 3 financial position reports, 1 on or before February 1, 1 on or before May 1 and 1 on or before August 31 of each year. The format of the reports shall be as prescribed by the Secretary consistent with the provisions of this section, and also shall establish that the school district has sufficient year-end carryover balances, including any nonstate funded share, to fund at least 1 month of local payroll for the next ensuing fiscal year.

The financial position report due by February 1 shall project a school district's current fiscal year ending balance in its local current expense revenue accounts after taking into consideration all remaining local operating obligations that can be reasonably estimated. To the extent that a district has General Fund balances in their Division III Equalization Accounts, Division II—All Other Costs and Energy Accounts, or in an approved cash option account, such balances may be identified as offsets to any local obligation. If the financial position report shows a deficit occurring prior to the close of the current fiscal year, the district shall indicate what steps it will take to assure that its obligations are satisfied in the current fiscal year. If the financial position report shows a current expense deficit for the current fiscal year, or a surplus that is less than the amount required to satisfy 1 month's full local payroll and other operating obligations for the ensuing fiscal year, the district shall also indicate what steps it plans to take in the ensuing fiscal year to assure that its future year-end balance will be sufficient to cover at least this amount.

The financial position report due by May 1 shall project a school district's current fiscal year ending balance in its local current expense revenue accounts after taking into consideration all remaining local operating obligations that can be reasonably estimated. To the extent that a district has General Fund balances in their Division III Equalization Accounts, Division II—All Other Costs and Energy Accounts, or in an approved cash option account, such balances may be identified as offsets to any local obligation. If the financial position report shows a deficit occurring prior to the close of the current fiscal year, the district shall indicate what steps it will take to assure that its obligations are satisfied in the current fiscal year. If the financial position report shows a current expense deficit for the current fiscal year, or a surplus that is less than the amount required to satisfy 1 month's full local payroll and other operating obligations for the ensuing fiscal year, the district shall also indicate what steps it plans to take in the ensuing fiscal year to assure that its future year-end balance will be sufficient to cover at least this amount.

The financial position report due on or before August 31 of the ensuing fiscal year shall be focused exclusively on local district payroll obligations through and including the October 15 payroll cycle. This report shall compare the district's year-end current expense balances from the previous fiscal year, and its preliminary Division III Equalization appropriation for the current year (which amount shall be based on 75% of the Division III amount earned in the previous fiscal year), with the district's projected local salary obligations through October 15. To the extent that this report shows a deficit, the district shall report what steps it will take to meet its payroll obligations through October 15. If the August 31 report projects an October 15 surplus that is less than the amount required to cover 1 month's full local payroll cycle, the district shall also indicate what steps it plans to take to attempt to assure that such a minimum balance will be in place in the subsequent fiscal year.

Whenever the August 31 report shows that a district will be unable to meet all or some of its payroll obligations through October 15, the district may meet those obligations by requesting from the Secretary of Education with the approval of the Secretary of Finance and the Director of the Office of Management and Budget an advance of state funds in an amount sufficient to cover the district's payroll obligations through October 15. Upon such request and approval, the Secretary of Finance shall cause to have the requested funds advanced to the district, and the district shall reimburse the State for those funds no later than November 15 of the same year. In addition, the district shall pay an amount to the State for interest defined as the average rate of return on state investments during the period of the loan.

The financial position report shall have been reviewed and approved by the school board of each reorganized school district and be made a part of the public record of that school district. An electronic copy of each report shall be submitted to the Department of Education by the dates specified above. The Department of Education shall provide copies of the submitted reports to the Director of the Office of Management and Budget and the Controller General within 5 working days of all submissions.

(b) Notwithstanding any provision in this Code to the contrary, a minimum of 25% of all projected state funding to any school district, including a vocational-technical school district shall be withheld until the submission of the financial position report required to be filed on or before August 31 pursuant to the provisions of subsection (a) of this section, and the acceptance thereof as satisfactory in the sole discretion of the Secretary of Education, and the certification of the school district's unit count in accordance with this Code and any rule or regulation promulgated in accordance therewith.

(c) If a school district materially alters its financial position after providing any report required by this section, the school district shall provide financial impact statements to the Department of Education, the Office of Management and Budget and the Office of the Controller General, specifying the nature of such change and its impact upon its previously filed financial position report.

(d) Any school district that fails to comply with this section or any provision herein shall be subject to review, including all of its books and financial records, by the Department of Education, the Office of Management and Budget and the Office of the Controller General in order to determine whether the school district is financially stable.

(68 Del. Laws, c. 84, § 190; 68 Del. Laws, c. 290, § 228; 69 Del. Laws, c. 39, § 1; 69 Del. Laws, c. 291, § 293; 70 Del. Laws, c. 329, § 1; 71 Del. Laws, c. 180, §§ 89, 89A; 71 Del. Laws, c. 194, § 1; 73 Del. Laws, c. 312, § 276; 75 Del. Laws, c. 88, § 21(7); 75 Del. Laws, c. 439, § 7; 76 Del. Laws, c. 280, § 422; 80 Del. Laws, c. 298, § 361; 81 Del. Laws, c. 280, § 363.)

## § 1507A. Christina School District financial position reports.

Repealed by 75 Del. Laws, c. 439, § 8, effective Aug. 17, 2006.

## § 1508. Citizen oversight of district finances.

The Department of Education shall promulgate regulations by November 1, 2009, establishing procedures for appointment of citizen budget oversight committees for each of the public school districts and charter schools. These committees shall have full access either electronically or in hard-copy format to all financial documents and financial information in the possession of the school districts they are assigned to oversee, with redactions permitted only to protect confidential personal information regarding students or employees. Oversight committees shall have representation from parents, educators, and taxpayers residing in each of the public school districts, provided that in the case of charter schools membership on oversight committees shall consist of parents of students enrolled in the charter school, educators at the charter school, and representatives of the Delaware Department of Education. Where possible, oversight committees shall contain at least 2 members with formal educational or vocational backgrounds amenable to oversight of school district financial statements. The Department of Education shall provide training to committee members. The Department shall also promulgate regulations by November 1, 2009, dictating uniformity and transparency in the financial recording and bookkeeping practices of the school districts and charter schools.

(77 Del. Laws, c. 197, § 1.)

## § 1509. Transparency of district finances.

Each district and charter school shall post on its web site by September 1, 2009, and every 3 months thereafter a check register indicating the recipient of each check issued by the school district or charter school, the amount of the check, and identifying information regarding the check sufficient to permit members of the public to seek additional information regarding the payment in question. The only information excepted from inclusion in this database shall be records that would not constitute public records under § 10002 of Title 29, and records for which the disclosure would violate any federal or state law.

(77 Del. Laws, c. 197, § 1; 78 Del. Laws, c. 382, § 1.)

## § 1510. Department oversight of district spending [Repealed].

(77 Del. Laws, c. 197, § 1; repealed by 82 Del. Laws, c. 242, § 356, effective July 1, 2020.)

## § 1511. School funding transparency.

(a) By December 2018, the Department of Education will create a standardized statewide approach to collecting and reporting school-level per-pupil expenditures that all districts and charter schools must follow. At a minimum, the standardized statewide approach must do all of the following:

(1) Comply with Every Student Succeeds Act (ESSA) [P.L. 114-95] requirements by reporting federal funding separate from state and local funding.

(2) Create business rules that will identify which district and charter expenses are to be included and excluded in the per-pupil calculation.

a. At a minimum, expense categories required under ESSA should be included such as administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.

b. At a minimum, expense categories that do not link directly to the day-to-day schooling of pre-K through twelfth-grade students should be excluded. Excluded expense categories include adult education, capital expenditures, community services, fees for student services, debt service, and rent.

c. Salary costs reported under this section must include benefits and other employment costs.

(3) Define the method of determining student enrollment counts used in the per-pupil calculation.

(4) Require that districts and charter schools report 100% of included district and charter expenses, as defined in paragraph (a)(2) of this section, in the following 2 school-level categories:

a. Category 1: Expenditures on resources actually tracked to the school.

b. Category 2: Each school's share of central office expenditures (expenditures shared across multiple schools).

Each district and charter school must also report the grand total of Categories 1 and 2.

(5) Give clear guidance to districts and charter schools about how to assign district and charter expenses into Categories 1 and 2 for reporting purposes. The guidance must do at least all of the following:

a. Require that at least the expense categories required under ESSA are commonly defined across the State in how they get assigned to Category 1 or 2.

b. Require that districts and charter schools report whether they have assigned any expense categories that they have discretion over into Category 1 or 2.

c. Require that all expenditures for personnel who work in schools at least 80% of the time are reported in Category 1 using actual, not average, salary costs.

d. Require that central office expenditures be either divided across all schools according to student enrollment or be divided by time spent in each school.

e. Require that charter schools without central offices report 100% of included district and charter expenses, as defined in paragraph (a)(2) of this section, in Category 1, since all expenditures are made at the school site, so that reporting is comparable across districts and charter schools.

f. Require that any expense categories and amounts excluded from the calculation, as defined in paragraph (a)(2) of this section, are still reported.

g. Require that districts and charter schools commonly report the averages of teacher and paraprofessional salaries at the school-level.

h. 1. Require that districts and charter schools report expenditures with codes that identify each expenditure with the type of expenditure, such as personnel, materials and supplies, or contract services.

2. The codes under paragraph (a)(5)h.1. of this section must be developed as part of the process under subsection (c) of this section, with an intent to provide public transparency regarding how schools spend money.

(b) Annually, beginning with school year 2018-2019 data reported no later than December 2019, the Department of Education will publicly report school-level per-pupil expenditures, as defined in subsection (a) of this section, as follows:

(1) The annual data must be publicly reported in at least the following formats:

a. Online individual school report cards.

b. Downloadable statewide data files or interactive, user-friendly online statewide data tools that allow the user to draw comparisons between schools.

(2) At a minimum, the following information must be included with school-level per pupil expenditures:

a. The school level (elementary, middle or high school).

b. The grade levels served and student enrollment of each school.

c. The statewide school-level per-pupil expenditure averages, using the grand total of Categories 1 and 2 as defined in paragraph (a)(4) of this section.

d. The districtwide school-level per-pupil expenditure average, using districtwide averages for Category 1 spending as defined in paragraph (a)(4) of this section.

e. School-level student demographics including rates of English learners, students living in poverty, and special education students by need category.

f. School-level student outcomes, including proficiency in state assessments and graduation rates.

g. Average teacher salary at the school-level.

h. Average paraprofessional salary at the school-level.

(3) The following information may be included with school-level per-pupil expenditures:

a. The district and statewide averages of student demographics, as defined in paragraph (b)(2)e. of this section.

b. The district and statewide averages of student outcomes, as defined in paragraph (b)(2)f. of this section.

c. The district and statewide averages of teacher salaries and paraprofessional salaries, as defined in paragraphs (b)(2)g. and h. of this section.

d. Names of special programs in the school that drive resource allocation, such as districtwide special education programs.

(4) Individual school report cards must be posted on state, district, and charter websites.

(c) The Department of Education must include public community involvement in developing the standardized statewide approach as follows:

(1) Hold at least 3 public meetings to review and receive input on the standardized statewide approach before finalizing the approach for district and charter school use.

(2) Hold at least 3 public meetings to review and receive input on the templates for publically reporting data.

(3) Include representatives of at least the following constituencies:

a. District leaders.

b. Business managers.

c. Charter leaders.

d. Local school board members.

e. Business community.

f. Parents.

g. Advocates with specific knowledge of low-income students, special education, or of English learners.

h. Educators and the Delaware State Education Association.

i. Governor’s Advisory Council for Exceptional Citizens.

(4) Report twice to the Chairs of the House and Senate Education Committees on how the requirements of subsection (c) of this section were met and how feedback was incorporated by the end of December 2018 and again before the release of the 2018-2019 data that will be reported no later than December 2019.

(d) Each year, after new school-level per-pupil expenditure data is released to the public, the Department of Education must offer at least 1 training session with the objective to increase understanding and use of the data in order to make data-driven decisions for students. The training, which is optional, must be offered to at least each of the following groups:

(1) Each of the local school boards and citizen’s budget oversight committees.

(2) School and central office leaders from districts and charters.

(3) The general public and parents, which must be held at a time and place accessible to working parents and with translation services available.

(e) The Department of Education shall oversee the statewide collection of school-level financial data. To this end, when processing financial and personnel transactions in the statewide systems of record, local school districts and charter schools shall use a standard set of codes as established by the Department of Education.

(81 Del. Laws, c. 388, § 1; 82 Del. Laws, c. 242, § 335.)

# Part I
# Free Public Schools
## Chapter 16
## Comprehensive School Discipline Improvement Program

### § 1601. Purpose.

It is the purpose of this chapter to provide for the establishment of a statewide comprehensive program to improve student discipline in the public elementary and secondary schools of the State. The program shall provide for the treatment of pupils who are exhibiting discipline problems and for the establishment of services to school pupils which will reduce the rate and severity of discipline problems in the future. The program shall operate under the supervision and direction of the Department of Education.

(69 Del. Laws, c. 464, § 1; 71 Del. Laws, c. 180, § 90.)

### § 1602. Appropriation.

The General Assembly shall annually provide an appropriation for the operation of the Comprehensive School Discipline Improvement Program in the budget appropriation bill. From the funds appropriated, the Department may allocate funds to the public school districts for the financial support of various components of the program.

(69 Del. Laws, c. 464, § 1; 71 Del. Laws, c. 180, § 90.)

### § 1603. Rules and regulations.

The Department of Education shall, from time to time, adopt and promulgate such rules and regulations as will be necessary for the implementation of the program authorized by this chapter.

(69 Del. Laws, c. 464, § 1; 71 Del. Laws, c. 180, § 90.)

### § 1604. Treatment of severe discipline problems component.

The Department of Education shall establish a program component which will provide alternative educational and related services for the more severe discipline problems in the public schools. This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular schools, students who may be subject to expulsion, and others who have serious violations of the local school district discipline code. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall make application to the Department of Education for funding to implement programs authorized under this section. Preference shall be given to applications from consortia of school districts. To the extent feasible, programs offered under this component should serve eligible pupils within a county, however, multiple sites may be operated by a single consortia of school districts within a county.

(2) Any application submitted under this section shall specify the types and level of services to be provided and an estimate of the number of youngsters to be served. The application shall also include a budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the funds being requested from appropriations authorized under this section and funds to be obtained from all other sources.

(3) All applications submitted to the Department of Education under this section shall indicate an agreement to fund at least 30 percent of the total cost of services provided from sources of funding other than those authorized under this section.

(4) All projects funded under this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. Such report shall incorporate the data and information specified by the Department.

(5) School districts shall be permitted to use funds collected in accordance with the provisions of Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under this section.

(6) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or related services with public or private agencies when operating programs authorized under this section.

(7) The provisions of § 4130 of this title shall not apply to youngsters enrolled in programs authorized under this section.

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school district or charter school shall be presumed appropriate for placement in a Consortium Discipline Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for placement in such a program. The burden of establishing that a student is not appropriate for placement in a Consortium Discipline Alternative Program shall be on the local school district or charter school. Any student not shown by preponderance of evidence to be inappropriate for placement in a Consortium Discipline Alternative Program shall be placed in such a program.

(69 Del. Laws, c. 464, § 1; 71 Del. Laws, c. 180, § 91; 76 Del. Laws, c. 407, § 1.)

### § 1604A. Site selection for alternative educational facilities.

(a) New alternative school programs funded on or after July 1, 2002, or alternative school programs except for those located on school property currently funded pursuant to § 1604 of this title that change locations on or after July 1, 2002, shall be subject to the following process:

(1) The school district or consortium of school districts shall notify by mail the Secretary of Education and every property owner located within 200 feet of the site's boundary lines that there is a plan to establish an alternative educational facility for children exhibiting discipline problems on the site. The notice must include the date, time and location of an informational meeting that will explain the details of the site, facility and program plans.

(2) The school district or consortium of school districts shall notify city council members and state legislators who represent residents of the school district in which the proposed site is located and the chief elected official of the county and town or city in which the proposed site is located of the time, date and location of the informational meeting. Further, the school district or consortium of school districts shall publish public notice of the time, date and location of the informational meeting once a week for 2 weeks in a newspaper in general circulation in the school district of the proposed site selection.

(3) Written comments shall be directed to the superintendent of the district in which the facility is to be located within 10 business days of the informational meeting.

a. If there are objections to the proposed site by at least 5 citizens who reside within 200 feet of the site or by at least 25 citizens who reside within the school district in which the site is located, the local school board shall hold a special public meeting to consider the concerns of the community and the responses of the school district or consortium of school districts proposing the facility site.

b. The local school board shall take action on the proposed site at its next regularly scheduled meeting after the informational meeting or special public meeting, whichever occurs last. The decision by the local school board is final and not subject to appeal.

(b) This section does not apply to a facility site that is located in a public school building or on the grounds of a public school building or on land owned by a reorganized school district, vocational-technical school district or charter school.

(73 Del. Laws, c. 340, § 1.)

## § 1605. School and district level component.

The Department of Education shall be authorized to approve and provide financial support for programs to provide alternative educational and related services to disruptive students in the public schools. This component will serve students, in schools enrolling pupils in grades K through 12, who are causing repeated disruptions in the regular classes to which they are assigned. Services may be delivered in a variety of modes with students assigned to the specific programs for short- or long-term assistance. Programs authorized under this section could also serve as a transition for youngsters returning from programs operated under the provisions of § 1604 of this title. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall be permitted to use personnel authorized by any of the provisions of this title to establish alternative educational and related service programs for disruptive students. Such personnel shall continue to be paid in accordance with salary schedules specified in Chapter 13 of this title.

(2) In the event that a school district uses personnel authorized under various sections of this title to establish and operate a program for disruptive students, the district may elect to employ 2 service paraprofessionals or 2 instructional paraprofessionals, paid in accordance with § 1324 of this title, in lieu of 1 staff member paid in accordance with § 1305 of this title.

(3) Any school which either enrolls pupils in at least 2 of the grades 3 through 12 or enrolls pupils solely in 1 or more of grades K through 3, and which establishes a program for disruptive students in accordance with the provisions of this section and the rules and regulations of the Department of Education may make application to the Department for an incentive grant to help defray the cost of operating such program. No school may qualify for more than 1 incentive grant per fiscal year, and all applications for such grants must have the prior approval of the board of education of the school district in which the applicant school is located. The maximum dollar value of an incentive grant shall be specified in the annual budget appropriation bill. Funds available to the Department of Education shall be allocated on a competitive basis if in any fiscal year more schools are eligible for funding than there are funds appropriated for the incentive grants.

(4) Funds provided to a school under an incentive grant provided under paragraph (3) of this section may be used for any purpose that Division I or II funds may be used, provided, however, that such funds shall not be used to pay salaries to employees beyond the state-supported salaries specified in Chapter 13 of this title.

(5) To achieve the most cost-effective impact from the incentive funds authorized by this section and to increase the coordination of services by schools and other governmental and nongovernmental social service agencies consistent with § 1607 of this title, schools and school districts shall consider contracting for educational or related goods and services with the State Departments of Services for Children, Youth and Their Families and Health and Social Services, and other governmental and nongovernmental social service agencies using funds authorized by this section. Each school filing a report pursuant to paragraph (6) of this section shall include information regarding the provisions of this paragraph (5).

(6) All schools receiving an incentive grant pursuant to paragraph (3) of this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. The report shall be in a format and shall include the data and information specified by the Department.

(7) To receive a supplemental grant greater than the dollar amount for base grants funded in support of programs defined in this section by the annual budget act, schools shall establish a site-based committee in the school to govern discipline matters and shall

meet the criteria set forth in this subdivision. Supplemental grants shall be available for grades 7, 8, 9 and 10 only. The annual budget act shall establish the dollar amount of such supplemental grants. Before issuing funding pursuant to this paragraph, the Department shall determine that the school's application meets the following criteria:

a. The grant application must certify that the majority of the members of the school level committee are members of the school professional staff, of which a majority shall be instructional staff; that the committee contains representatives of the support staff, student body (for schools enrolling students, grades 7 through 12), parents and the community; that representatives of the employee groups are chosen by members of each respective group and representatives of the nonemployee groups are appointed by the local board of education; and that the committee operates on the 1-person, 1-vote principle for reaching all decisions.

b. The grant application must certify that the committee has the authority, within established local district budgetary guidelines and at its sole discretion, to:

1. Establish a school code of conduct which defines the roles and responsibilities of all members of the school community (administrators, teachers, support staff, contracted service personnel, students, families and child/family advocates) and which is consistent with the established state and federal laws, state and federal regulations, local board policies, local district codes of conduct and local district budgetary guidelines, unless relevant waivers have been granted.

2. Hear concerns from a staff member dissatisfied with the disposition of any disciplinary matter by the school administration;

3. Refer students to programs defined in § 1604 of this title; provided, however, that any child with disabilities be referred to such programs through the child's Individualized Education Plan;

4. Design, approve and oversee the implementation of programs established in the school as defined in this chapter;

5. Establish and enforce the school's attendance policy, including mandating attendance in programs established in paragraph (7)b.7. of this section;

6. Establish extended day, week or year programs, for students with discipline or attendance problems, or at risk of academic failure, that provide for the assessment of penalties for violations of school discipline or attendance policies and for academic acceleration and tutoring, mentoring and counseling services for such students and their families as an integral program component;

7. Establish staff development programs for conflict resolution for all school staff, and establish programs in classroom and behavioral management for schools staff identified as needing improvement;

8. Design student mentoring, conflict resolution and/or peer counseling programs for all students, especially for those who are identified as having chronic discipline, academic or attendance problems.

(69 Del. Laws, c. 464, § 1; 70 Del. Laws, c. 214, §§ 1-4; 70 Del. Laws, c. 518, §§ 1-3; 71 Del. Laws, c. 180, § 91; 80 Del. Laws, c. 79, § 299(a).)

## § 1605A. Prevention component.

The Family Services Cabinet Council (Council), with the Department of Education and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a program to offer prevention-related student support services (prevention services) to students to prevent them from becoming discipline problems and from failing academically in our schools. Within the limits of appropriations made for this purpose, the Council shall provide rules and regulations for the award of prevention grants and the conduct of prevention programs authorized under this section, subject to the following limitations:

(1) The Council shall issue prevention funding to local school districts proposing to establish an integrated plan to deliver prevention services including, but not limited to, academic tutoring and student mentoring programs to provide at-risk students with the extra help they may need to succeed academically and with positive adult role models; outreach programs to promote parental, family and community involvement in students' academic studies and in reducing and resolving school discipline problems; school-linked support services to help students with family or health problems that may be adversely affecting their academic performance and their conduct at school; training to help students and school personnel resolve conflicts peacefully and non-disruptively; and assistance to help teachers better manage the behavior of students in their classrooms.

(2) Applications for funding pursuant to this section shall be made by school districts in accordance with procedures and standards established by the Council. Each applicant shall set forth an integrated plan to provide prevention services consistent with paragraph (1) of this section. To avoid duplication of effort, maximize the impact of limited resources, and increase the effect of efforts by state, local, community and private, nonprofit agencies through increased coordination and cooperation, the Council shall give preference to applications which:

a. Are submitted by 2 or more school districts working in concert, where appropriate;

b. Include private, nonprofit agencies and community organizations as partners in the application, and identify the roles those agencies and organizations are to play in delivering prevention services in the community;

c. Indicate how grants from the federal government and foundations will be used or sought to help deliver prevention services in the community; and

d. Identify the roles state and local agencies are to play in delivering prevention services in the community.

(3) The Council shall provide technical assistance to districts preparing applications and ongoing assistance to districts awarded funding pursuant to this section.

(4) The Council shall establish a timetable for the award of grants pursuant to this section which shall provide, at minimum, for a period of 1 month for joint planning between the Council and the applicants that the Counsel selects as finalists eligible for a funding award. During such joint planning, the Council and the applicant shall refine the applicant's prevention plan, ensure that the plan makes cost-effective use of the resources and services of state, local, community and private, nonprofit agencies, and consider the incorporation of successful elements of other districts' prevention programs into the applicant's plans. Final awards shall be made by the Council on or before January 15 of each year for the subsequent school year, contingent upon the appropriation of funds for such purpose in the annual appropriations act.

(70 Del. Laws, c. 215, § 1; 71 Del. Laws, c. 180, § 92.)

## § 1606. State Board waiver authority.

The Department of Education shall have the authority to waive or suspend provisions of the Delaware Code in the implementation of programs authorized under this chapter; provided however, that such waiver or suspension of a provision of the Code shall not result in an increased financial obligation to the State. The Department of Education is also authorized to waive or suspend its rules and regulations in order to maximize the projected impact of programs authorized under this chapter. The State Board shall be advised of any waiver of a regulation it must promulgate or approve, and may deny such waiver within 30 days or by the next regularly scheduled meeting, whichever is earlier, of the waiver's approval by the Department.

(69 Del. Laws, c. 464, § 1; 71 Del. Laws, c. 180, § 93.)

## § 1607. Interagency cooperation.

The Department of Education and the public school districts are to work cooperatively with other state agencies, particularly the Department of Health and Social Services and the Department of Services for Children, Youth and Their Families, in the development and implementation of programs authorized under this chapter. The intent of such cooperation is to avoid redundancy in services and to maximize the impact of resources authorized under this chapter.

(69 Del. Laws, c. 464, § 1; 71 Del. Laws, c. 180, § 94.)

## § 1608. Referral to mental or behavioral health specialist.

After a student's second unduplicated infraction resulting in an out-of-school suspension, in a semester, the student must be referred to a school-based mental or behavioral health specialist.

(84 Del. Laws, c. 183, § 1.)

# Part I
# Free Public Schools
## Chapter 17
## State Appropriations

### § 1701. Amount to be appropriated by General Assembly.

The General Assembly shall make provision for the annual payment to the free public schools of the State an amount which shall amply provide for the items authorized by this title and those additional items that the General Assembly deems appropriate.

(32 Del. Laws, c. 160, § 61; Code 1935, § 2706; 14 Del. C. 1953, § 1701; 71 Del. Laws, c. 180, § 94A.)

### § 1702. Divisions of school appropriations.

(a) Appropriations for the support, maintenance and operation of the free public schools of the State shall be in 3 divisions: Division I shall include appropriations designated for the purpose of paying the employees of the various school districts of the State in accordance with the state-supported salary schedules contained in Chapter 13 of this title; Division II shall include the appropriations for all other school costs and energy, except those for debt service and the transportation of pupils; Division III shall include appropriations for educational advancement.

(b) The Department of Education shall in its annual budget request recommend an aggregate amount to be appropriated to the State's school districts for the purpose of educational advancement on a unit basis. The Department's annual budget request shall include funds adequate to comply with its obligation under § 1704(2) of this title.

(c) Appropriations pursuant to Division I shall be used to employ personnel authorized by Chapter 13 of this title. School districts shall not use such funding to employ administrators in addition to those funded by the State pursuant to Chapter 13 of this title.

(d) Notwithstanding any other provision of this chapter, appropriations pursuant to Division II may be used for any otherwise legal purposes.

(e) The Department of Education, Office of Management and Budget and Controller General's Office are authorized to simplify the complexity of state share accounting by consolidating school district appropriations in the State's financial management and accounting system. Such consolidation may include state funding appropriated and allocated to school districts under Divisions I, II and III, Academic Excellence, Reading Cadre, Reading Resource Teachers, and Exceptional Student Unit-Vocational. Appropriations authorized to be consolidated herein shall not alter the school funding formulas, salary schedules, and/or provision of expenditure stipulated in this title and in the Annual Appropriations Act.

(47 Del. Laws, c. 364, § 1; 14 Del. C. 1953, § 1702; 56 Del. Laws, c. 292, § 20; 71 Del. Laws, c. 180, § 95; 71 Del. Laws, c. 482, § 3; 73 Del. Laws, c. 321, §§ 4, 5; 75 Del. Laws, c. 88, § 21(7); 75 Del. Laws, c. 89, § 367; 76 Del. Laws, c. 280, §§ 337, 356; 77 Del. Laws, c. 84, § 404; 77 Del. Laws, c. 197, § 2; 78 Del. Laws, c. 7, § 1; 79 Del. Laws, c. 201, § 1; 83 Del. Laws, c. 325, § 383.)

### § 1703. Unit of pupils.

(a) As used in this chapter, "unit" or "unit of pupils" means as defined in the following schedule of numbers of pupils enrolled in schools beginning in kindergarten and through grade 12; and for children prior to entry into kindergarten who are eligible for special education services as defined in Chapter 31 of this title:

(1) Preschool Basic Special Education — 8.4

(2) K-3 Regular Education — 16.2

(3) 4-12 Regular Education — 20

(4) K-12 Basic Special Education (Basic) — 8.4

(5) Pre-K-12 Intensive Special Education (Intensive) — 6

(6) Pre-K-12 Complex Special Education (Complex) — 2.6

(b) All such units must be authorized by the Department of Education under rules and regulations promulgated by the Department. Partial unit funding is provided for all units based on the cash-in value of the unit. Only the last unit in any category may be a major fraction.

(c) In the case of kindergarten, "unit" or "unit of pupils" is defined as 32.4 pupils for half-day kindergarten and 16.2 pupils for full-day kindergarten.

(d) For funding purposes, the following conditions shall prevail for the calculations of the number of units for children with disabilities and all other children. The preschool basic special education unit shall be 1 unit for 8.4 students. The regular education unit for kindergarten through third grade unit (K-3 regular education) shall be 1 unit for 16.2 students, except as noted in subsection (c) of this section above. The regular education unit for grades 4 through 12 (4-12 regular education) shall be 1 unit for 20 students. The basic special education (basic) unit for kindergarten through 12 shall be 1 unit for 8.4 students. The intensive special education (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The complex special education (complex) unit for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is defined as enrollment until receipt of a regular high school diploma or the end of the school year in which the student attains the age of 22, whichever occurs first, as defined in Chapter 31 of this title.

(1) *Preschool basic special education unit.* — a. A student shall be counted in the preschool basic special education unit if the student is identified as eligible for special education and related services and not counted in the intensive unit or complex unit and is:

1. Eligible for special education and related services from birth; or

2. At least 3 years of age; or

3. Eligible as described in the Memorandum of Understanding on Early Childhood Transition with the Department of Health and Social Services; or

4. Not yet entered kindergarten.

b. The following provisions shall apply to the preschool basic special education unit:

1. Partial unit funding is provided for between 1 and 8.4 students based on the cash-in value of the unit.

2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.

3. The units include Divisions II and III.

4. Districts must use all funds generated by preschool basic special education unit to support services for the students counted in the preschool basic special education unit. Districts are not limited to using the funds to employ teachers only. The funds may be used to hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or other related services personnel as determined at the local level. The units may also be used to secure contractual services per requirements for the contractual option described in Chapter 13 of this title.

5. Districts may use tuition to pay for the local share and excess costs of special education and related services.

6. The units are considered teacher/instructional units for purposes of other unit counts.

7. A student is not required to receive a minimum number of hours in special education instruction to count in the preschool unit.

(2) *K-3 regular education unit.* — a. A student shall be counted in the K-3 regular education unit if the student is enrolled in kindergarten through grade 3 and not counted in the basic unit, intensive unit or complex unit described later in this section.

b. The following provisions shall apply to the K-3 regular education unit:

1. Partial unit funding is provided for between 1 and 16.2 students based on the cash-in value of the unit.

2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.

3. The units include Divisions II and III.

4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the buildings that generate them.

5. At least 20% of teachers at the K-3 building level must be certified in the area of special education. The units are considered teacher/instructional units for purposes of other unit counts.

(3) 4-12 regular education unit. —

a. A student shall be counted in the grades 4-12 unit if the student is enrolled in grades 4 through 12 and not identified as eligible for special education and related services.

b. The following provisions shall apply to the 4-12 regular education unit:

1. Partial unit funding is provided for between 1 and 20 students based on the cash-in value of the unit.

2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.

3. The units include Divisions II and III.

4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the buildings that generate them.

5. The units are considered teacher/instructional units for purposes of other unit counts.

(4) *K-12 basic special education (basic).* — a. A student shall be counted in the basic unit if the student is enrolled in kindergarten through grade 12; and identified as eligible for special education and related services; and not counted in the intensive unit under paragraph (d)(5) of this section or the complex unit under paragraph (d)(6) of this section.

b. The following provisions shall apply to the K-12 basic special education ("basic") unit:

1. Partial unit funding is provided for between 1 and 8.4 students based on the cash-in value of the unit.

2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.

3. The units include Divisions II and III.

4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the buildings that generate them.

5. A student is not required to receive a minimum number of hours of instruction to count as a student in the basic unit.

6. The units are considered teacher/instructional units for purposes of other unit counts.

7. All units generated by special education students are to be used for professional staff to support students with disabilities, to include special education teachers, school psychologists, speech/language pathologists, reading specialists, educational diagnosticians, counselors, class aides and social workers.

8. Districts are authorized to use up to 5% of the units for para-professionals or to cash them in for related services.

(5) *Pre-K-12 intensive special education (intensive).* — a. A student shall be counted in the intensive unit if the student is:

1. Enrolled in preschool through grade 12; and

2. Identified as a student eligible for special education; and

3. In need of a moderate level of instructional, behavioral, personal support, or health support characterized individually or in combination by the following:

A. Need for adult-student ratio of 1:3 to 1:8 for a substantial portion of educational program;

B. Need for staff support for mid-range or moderate-use assistive technology;

C. Need for some extended school year or relatively frequent but intermittent out-of-school (e.g., hospital; homebound) services;

D. Need for moderate level of related services, including interpreter, therapy, and school nurse and health services;

E. Need for nonroutine or frequent accommodations or adaptations to curriculum or educational environment; and

F. Such additional criteria as may be adopted by the Department with the approval of the State Board of Education through regulation.

b. The following provisions shall apply to the pre-K-12 intensive special education ("intensive") unit:

1. Partial unit funding is provided for between 1 and 6 students based on the cash-in value of the unit.

2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.

3. The units include Divisions II and III.

4. 100% of the units must support the students that generate them.

5. The student is not required to receive a minimum number of hours of special education instruction to count as a student in the intensive unit.

6. The units are considered teacher/instructional units for purposes of other unit counts.

7. Units generated by special education students are to be used for professional staff to support students with disabilities, to include special education teachers, school psychologists, speech/language pathologists, reading specialists, educational diagnosticians, counselors, class aides and social workers.

8. Units may also be used to cash-in for other related services.

9. Districts may use tuition to pay for the local share and excess costs of the program.

(6) *Pre-K-12 complex special education (complex).* — a. A student shall be counted in the complex unit if the student is:

1. Enrolled in preschool through grade 12; and

2. Identified as a student eligible for special education; and

3. In need of a high level of instructional, behavioral, personal, or health support characterized individually or in combination by the following:

A. Need for adult-student ratio of 1:1 to 1:2 for a substantial portion of educational program;

B. Need for staff support for high-tech or extensive-use assistive technology which may include both high and low technology items;

C. Need for extensive extended school year or relatively frequent but intermittent out-of-school (e.g., hospital; homebound) services;

D. Need for extensive level of related services, including interpreter, therapy, and school nurse and health services;

E. Need for extraordinary or extensive accommodations or adaptations to curriculum or educational environment; and

F. Such additional criteria as may be adopted by the Department with the approval of the State Board of Education through regulation.

b. The following provisions shall apply for the pre-K-12 complex special education ("complex") unit:

1. Partial unit funding is provided for between 1 and 2.6 students based on the cash-in value of the unit.

2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.

3. The units include Divisions II and III.

4. One hundred percent of the units must support the students that generate them.

5. The student is not required to receive a minimum number of hours of special education instruction to count in the complex unit.

6. The units are considered teacher/instructional units for purposes of their unit counts.

7. Units generated by special education students are to be used for professional staff to support students with disabilities, to include special education teachers, school psychologists, speech/language pathologists, reading specialists, educational diagnosticians, counselors, class aides and social workers.

8. Units may also be used to cash-in for other related services.

9. Districts may use tuition to pay for the local share and excess costs of the program.

(7) Counting students in preschool, basic, intensive, or complex shall be based on the Individual Education Program (IEP) and according to rules and rubrics described in Department of Education regulations.

(8) At the completion of the IEP meeting, the team will discuss and review the needs based funding unit and assure in writing that adequate resources are available to implement the IEP.

(9) The Department shall request any financial reports or other information it deems necessary from districts and charter schools to ensure the appropriate use of all units earned. Districts and charters schools shall be required to provide reports and information as requested by the Department.

(e) Programs shall be conducted on a 12-month schedule for children who are identified with severe mental disability, trainable mental disability, autism, traumatic brain injury, visual impairments including blindness, deaf-blindness or orthopedic disability, limited to cerebral palsy, muscular dystrophy, spina bifida, juvenile rheumatoid arthritis, amputation, arthrogryposis, or contractures caused by fractures or burns. Such programs shall not exceed 1282 hours of school attendance and 222 teacher days in length except that in the case of programs for children identified with autism a school district may extend school attendance to 1,426 hours, and in the case of the Division of Visually Impaired teachers, who will work no more than 226 days. Enrollment of pupils beyond 180 days per year in any such program will be on a voluntary basis upon application by the parent, guardian or other person legally responsible for the enrollee. The state share of the salary paid to teachers for the number of units authorized in accordance with the rules and regulations of the Department of Education during the eleventh and twelfth months shall be at the rate of number of days employed multiplied by the daily rate defined in subsection (j) of this section of the particular teacher's entitlement for a regular school year.

(f) The state share for programs conducted on a 12-month schedule for children identified in subsection (e) of this section shall be calculated based on 100% of complex units and 30% of intensive units earned. The state share of the salary paid to teachers for the number of units authorized in accordance with the rules and regulations of the Department of Education during the eleventh and twelfth months shall be at the rate of the number of days employed multiplied by the daily rate defined in subsection (j) of this section of the particular teacher's entitlement for a regular school year. The calculation using the count of complex and intensive units does not establish a categorical right to 12-month programs for students who are counted in those units. The calculation of 100% of complex and 30% of intensive units is used to establish the state share provided in support of 12-month programs as described in subsection (e) of this section. The determination of eligibility for extended school year services is determined by IEP teams in conformity with applicable federal and state laws and regulations independent of 12-month program eligibility of students identified in subsection (e) of this section.

(g) An occupational-vocational unit for financing purposes shall mean 27,000 pupil minutes per week; provided, however, units shall be counted on the basis of 1 unit for each 30 students for students enrolled in the New Castle County Vocational-Technical School District, the Kent County Vocational-Technical School District and the Sussex County Vocational-Technical School District. Computation of 27,000 pupil minutes per week shall be in accordance with the rules and regulations established by the Department of Education.

(h) Notwithstanding the fact that such pupils have been counted in regular units of pupils, grades 7 to 12, inclusive, in the same or another school district, pupils who are enrolled in a vocational or occupational education program which has been approved annually by the Department of Education and which is conducted by any public school district shall also be counted for entitlement to vocational units.

(i) Pupils having been counted in the occupational-vocational units of pupils shall be deducted from the regular unit entitlement of a comprehensive high school according to the following formula:

Occupational-vocational units x .5 = deductible units

(j) Effective for fiscal year beginning July 1, 2001, each public high school may hire an occupational-vocational teacher for an additional 15 days for participation in program development and oversight of summer vocational-occupational cooperative programs. Commencing in FY 2002, these teachers shall be entitled to payment of the state share of salaries at the rate of $^{1}/_{188}$ of their entitlement for a full school year multiplied by the number of days employed.

(k) In the case of children at the pre-kindergarten ages who are partially deaf or hard of hearing, programs of instruction may be prepared, according to rules and regulations of the Department of Education with the approval of the State Board of Education as authorized in § 203 of this title, that will provide special education and training for these children and their parents. The minimum age described in § 3101 of this title shall not be applicable to children served under this section. Units so established shall be based upon statewide needs. Time spent with each child each week may approximate the time devoted to kindergarten programs.

(*l*) In the case of children, infant through the end of the school year in which the child with a disability turns 22, or the receipt of a regular high school diploma, whichever occurs first, who are identified with autism, programs of instruction may be prepared, according to rules and regulations of the Department of Education with the approval of the State Board of Education as authorized in § 203 of this title, that will provide special education and training. Programs for children of the pre-kindergarten ages may include the parents of those children. The minimum age described in § 3101 of this title shall not be applicable to children served under this subsection. Enrollment of children with disabilities in programs other than those administered in the district of residence may occur with the mutual agreement of the district of residence and the district administering the specialized program. The district which accepts and enrolls the child may count that child for unit count purposes and the enrollee shall not be counted in any other school district. The district where the child is enrolled may count that child for the purposes of related services units or any other administrative unit such as director or principal.

(m) In the case of children, infant through the end of the school year in which the child with a disability turns 22 or the receipt of a regular high school diploma, whichever occurs first, who are identified as deaf-blind, programs of instruction may be prepared, according to rules and regulations of the Department of Education with the approval of the State Board of Education. Programs for children of the pre-kindergarten ages may include the parents of those children. The minimum age described in § 3101 of this title shall not be applicable to children served under this subsection.

(n) (1) The Interagency Resource Management Committee (IRMC) shall have administrative responsibility for establishing a comprehensive and coordinated early childhood system. The IRMC shall be composed of the following members (or their designee with full voting powers):

a. The Lieutenant Governor, who shall be the chairperson of the IRMC.

b. Secretary of the Department of Health and Social Services.

c. Secretary of the Department of Services for Children, Youth and Their Families.

d. Secretary of the Department of Education.

e. Director of the Office of Management and Budget.

f. Controller General.

g. The Chair of the Early Childhood Council (ECC).

h. One member of House of Representatives, appointed by the Speaker of the House, as a nonvoting member.

i. One member of the Senate, appointed by the President Pro Tempore, as a nonvoting member.

j. The Chair of the IRMC Extended Learning Opportunities Subcommittee as a nonvoting member.

(2) An affirmative vote of a majority of all voting members shall be required to take action.

(3) The IRMC shall promote interagency collaboration in the delivery of early childhood services to young children and their families including young children with disabilities. The IRMC will work to support and coordinate the implementation of the recommendations of the State early childhood plan that aligns strategy and resources across state agencies. Additionally, the IRMC will support and coordinate the functions and responsibilities of the ECC. To accomplish these goals, the IRMC shall do the following:

a. Advise and make recommendations on the allocation of all funds provided by the State, obtained by it, or under its control, which are designated for children eligible for services under this subsection and Chapter 30, Title 14.

b. Coordinate resources, federal and state and public and private, to support family-centered services for eligible children and their families, as appropriate.

c. Seek to develop collaborative approaches with the institutions of higher education for children eligible for services under this subsection. Special emphasis shall be placed on the use of existing preschool educator training and child care provider training programs.

d. Coordinate planning, policy, program and funding to establish a comprehensive and coordinated early childhood system.

(4) The IRMC may, at its discretion, apply for and allocate grant funds. Sources of such grant funds may include, but not be limited, to the federal Childcare Block Grant, Developmental Disabilities Council, federal Child and Maternal Health Grant, federal U.S.C. Title 20, and federal Head Start, where appropriate.

(5) The IRMC shall report to the Governor, President Pro Tempore of the Senate, and the Speaker of the House on April 15 of each fiscal year. Each report shall include:

a. A summary of IRMC experience in attempting to accomplish its purposes as stated above; and

b. A recommendation of the IRMC whether and how to institutionalize its activities and functions.

(6) The Director of the Office of Management and Budget and the Controller General are hereby authorized to transfer additional funds serving this population among the budgets of the departments represented on the IRMC if there is prior agreement by the Secretary of the department, as the case may be, to which the funds were previously allocated.

(7) For the purpose of facilitating the continuation of services, programs receiving an allocation under the provisions of this section may receive 20% of the prior year's allocation at the outset of each fiscal year. These programs are required to present program proposals to the IRMC as required by the IRMC. Upon IRMC approval, adjustments to the program allocations may be made.

(8) The IRMC shall be staffed by Early Childhood Support team in the Department of Education, assisted by the Office of the Lieutenant Governor, and shall include at least 2 education specialists and a clerical support position. Funding shall be provided by the Department of Health and Social Services and the Department of Services for Children, Youth and Their Families by no later than July of each fiscal year to support the operational costs associated with 1 education specialist and clerical support positions. Funds allocated in this section are to be used to support the work of the Early Childhood Support team and to continue the interagency coordination process for Delaware's early childhood programs.

(9) The IRMC may create working groups in accordance with the recommendation of the members.

(o) Funds appropriated for the purpose of funding the units of pupils under subsections (d), (e), (f) and (k) of this section shall not be expended for any other purpose.

(47 Del. Laws, c. 364, § 2E; 14 Del. C. 1953, § 1703; 49 Del. Laws, c. 105, § 1; 51 Del. Laws, c. 287, § 4; 54 Del. Laws, c. 40, § 1; 55 Del. Laws, c. 188; 55 Del. Laws, c. 198, § 1; 56 Del. Laws, c. 280; 56 Del. Laws, c. 404, § 1; 57 Del. Laws, c. 237, §§ 1,

3; 57 Del. Laws, c. 348, § 1; 57 Del. Laws, c. 480, § 1; 57 Del. Laws, c. 590; 58 Del. Laws, c. 190; 58 Del. Laws, c. 228; 58 Del. Laws, c. 302; 58 Del. Laws, c. 569, §§ 1, 2; 59 Del. Laws, c. 219, § 1; 59 Del. Laws, c. 220, § 1; 59 Del. Laws, c. 331, §§ 1, 2; 60 Del. Laws, c. 571, §§ 1, 2; 60 Del. Laws, c. 577, § 1; 60 Del. Laws, c. 652, §§ 1-3; 61 Del. Laws, c. 190, § 2; 61 Del. Laws, c. 215, § 1; 61 Del. Laws, c. 516, §§ 1-3; 62 Del. Laws, c. 160, § 1; 63 Del. Laws, c. 80, § 116; 63 Del. Laws, c. 177, §§ 2, 4; 63 Del. Laws, c. 231, §§ 1, 2; 63 Del. Laws, c. 278, § 1; 64 Del. Laws, c. 315, § 4; 64 Del. Laws, c. 464, § 1; 65 Del. Laws, c. 381, § 1; 67 Del. Laws, c. 47, § 265; 68 Del. Laws, c. 84, § 216; 68 Del. Laws, c. 126, § 8; 69 Del. Laws, c. 320, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 96-102; 71 Del. Laws, c. 354, §§ 394, 395; 71 Del. Laws, c. 482, §§ 1, 2; 72 Del. Laws, c. 6, § 5; 72 Del. Laws, c. 294, §§ 41, 43; 72 Del. Laws, c. 395, § 365; 73 Del. Laws, c. 74, § 357; 73 Del. Laws, c. 312, § 261; 73 Del. Laws, c. 321, § 8; 74 Del. Laws, c. 68, § 272; 74 Del. Laws, c. 187, §§ 2, 3; 74 Del. Laws, c. 307, § 308(e); 75 Del. Laws, c. 88, § 21(7); 75 Del. Laws, c. 89, § 345; 75 Del. Laws, c. 155, §§ 6, 7; 77 Del. Laws, c. 363, § 1; 78 Del. Laws, c. 5, §§ 37-50, 55; 78 Del. Laws, c. 7, § 3; 79 Del. Laws, c. 201, § 1; 82 Del. Laws, c. 162, § 1; 83 Del. Laws, c. 89, §§ 1, 2; 83 Del. Laws, c. 89, § 3, § 3; 83 Del. Laws, c. 357, § 2; 84 Del. Laws, c. 48, § 1; 84 Del. Laws, c. 140, § 1; 85 Del. Laws, c. 70, § 1; 85 Del. Laws, c. 548, § 7.)

## § 1703A. Extended Learning Opportunities Subcommittee.

(a) The IRMC Extended Learning Opportunities Subcommittee is established to oversee coordination, research, and planning statewide for before and after school and summer learning programs for school-age children and advise the General Assembly and the Governor.

(b) The duties of the IRMC Subcommittee are as follows:

(1) Research national and local trends and best practices in extended learning programs and services and recommend new public policy that aligns with that research.

(2) Develop program standards and suggest funding protocols.

(3) Establish standards for program performance and evaluation.

(4) Make regular recommendations regarding coordination of services among different stakeholders, especially with organizations and programs providing early childhood services.

(5) Submit a yearly summary of its recommendations to the IRMC to include in its annual report under § 1703(n)(5)b of this title.

(c) The Subcommittee shall be composed of 19 members:

(1) The following members shall serve by virtue of their position and may designate a person to serve in their stead and at their pleasure:

a. The Secretary of the Department of Education, or the Secretary's designee.

b. The Secretary of the Department of Children, Youth and Their Families, or the Secretary's designee.

c. The Secretary of the Department of Health and Social Services, or the Secretary's designee.

(2) The Delaware After School Network Director, appointed by the Governor.

(3) A representative of a nonprofit afterschool program provider, appointed by the Governor.

(4) A representative of a private afterschool program provider, appointed by the Governor.

(5) A representative of a summer program provider, appointed by the Governor.

(6) A school district superintendent, appointed by the Governor.

(7) A representative for elementary school teachers, appointed by the President of the Delaware State Education Association.

(8) A representative for secondary school teachers, appointed by the President of the Delaware State Education Association.

(9) Four members of the public, who shall be appointed by the Governor.

(10) A representative of the Charter School community, appointed by the Delaware Charter School Network.

(11) A representative of the Governor's Advisory Council on Exceptional Children, appointed by the Chair of the GACEC.

(12) A licensed provider that services children who are not yet kindergarten age or school age, appointed by the Governor.

(13) Two principals — 1 elementary and 1 secondary — appointed by the Delaware Association of School Administrators.

(d) *Terms of appointed members; chairperson.* —

(1) Each appointed member shall be appointed to serve a term of up to 2 years. Members shall be appointed for staggered terms, so that no more than half of the appointed members' terms expire in any 1 calendar year. Appointed members are eligible for reappointment.

(2) From the members, set forth in paragraphs (c)(2) through (13) of this section, there shall be a chairperson of the subcommittee who shall be appointed by the Governor and shall serve at the pleasure of the Governor. The chairperson shall guide the administration of the subcommittee by supervising the preparation and distribution of meeting notices, agendas, minutes, correspondence, and reports of the subcommittee.

(e) The subcommittee shall issue an annual report to the Governor, General Assembly, and the public on the work of the subcommittee and the status of extended learning opportunities for school-aged children in the State.

(f) The Department of Education will provide administrative and staff support for the subcommittee as part of its responsibility to staff the IRMC.

(g) The IRMC Expanded Learning Opportunities Subcommittee shall follow all rules of § 10002(k) of Title 29 relating to public meetings.

(h) The subcommittee shall hold its initial organizational meeting by October 21, 2019, with the date, time, and place for the meeting to be set by the chairperson of the subcommittee.

(i) The subcommittee shall meet at least monthly.

(82 Del. Laws, c. 162, § 1; 83 Del. Laws, c. 65, § 1; 84 Del. Laws, c. 527, § 1.)

## § 1703B. Child-care affordability initiatives.

(a) The Interagency Resource Management Committee (IRMC) shall coordinate planning, program development, and funding related to child-care affordability initiatives, including voluntary cost-sharing partnerships between this State, employers, community sponsors, and families, intended to expand access to licensed child care and support workforce participation.

(b) The IRMC shall establish guidelines, eligibility criteria, enrollment procedures, and payment methodologies for child-care cost-sharing initiatives with the goal of minimizing the administrative burden of participation for families and child-care providers.

(c) The IRMC may contract for administration, outreach, eligibility verification, payment processing, technical assistance, or other program functions necessary to implement child-care affordability initiatives.

(d) The IRMC may use funds appropriated by this State for this purpose, as well as federal, philanthropic, or other available funds for the implementation of child-care affordability initiatives.

(85 Del. Laws, c. 479, § 1.)

## § 1704. Number of units in a school district; method of calculation; actual unit count; optional unit count.

The number of units to be used in determining state financial support in each school district shall be calculated by the Department of Education each year in accordance with the procedures specified in this section.

(1) The number of units shall be calculated based upon the total enrollment of pupils in each school district as of the last school day of September. The total number of units by school district so determined shall be known as the "actual unit count." The Department of Education shall annually (after September 30) certify and report the number of units as required in § 1710 of this title.

(2) Each calendar year, the State shall estimate the actual unit count for each school district that will be produced in September of the same calendar year. This estimate of the September unit count shall be completed no later than April 15 of each calendar year. The total number of units by school district so determined shall be known as the "estimated unit count."

(3) With respect to state financial support described in this title that is based upon the actual unit count, Division I funding for teachers, Division II all other costs and energy funding, and Division III equalization funding for each school district based upon the actual unit count derived in any calendar year shall not be less than 98% of the Division I funding for teachers, Division II all other costs and energy funding, and Division III equalization funding that would have been generated by use of that calendar year's estimated unit count.

(4) Each local school board shall allocate Division I units to schools in its district such that as of the last school day of October each school receives not less than 98% of the Division I units it generates as a result of the actual unit count. A local school board may waive this subsection after voting to waive it at a public meeting noticed for that purpose. Any local school board seeking such a waiver shall do so on or before December 1 of each year. Notice for such a meeting shall be placed in the local newspaper for 2 consecutive weeks before the meeting and shall be posted on the door of any school affected for the same time period, and a copy shall be sent to the principal, teacher association building representative, and Parent Teacher Organization/Parent Teacher Association parent leader of any affected school. The notice shall include the procedures for such persons to provide oral or written comments on the proposed waiver to the local school board. Notice of any approved waiver shall be sent to the same persons.

(47 Del. Laws, c. 364, § 2E; 48 Del. Laws, c. 250, § 1; 14 Del. C. 1953, § 1704; 49 Del. Laws, c. 151; 56 Del. Laws, c. 310; 63 Del. Laws, c. 120, §§ 1, 3; 65 Del. Laws, c. 348, § 274; 69 Del. Laws, c. 212, § 1; 71 Del. Laws, c. 180, § 103; 71 Del. Laws, c. 483, § 1; 76 Del. Laws, c. 280, § 355; 78 Del. Laws, c. 7, §§ 2, 3; 79 Del. Laws, c. 201, § 1; 83 Del. Laws, c. 54, § 372; 83 Del. Laws, c. 57, § 25.)

## § 1705. Determination of amount of appropriation.

(a) The funds appropriated to each school district for salaries included in Division I shall be determined in accordance with all applicable state-supported salary schedules. No state funds from Division I shall be appropriated to any school district to provide salaries for more teachers than shall actually be employed in such school district.

(b) Any school district may employ additional teachers out of state funds appropriated in Division II or Division III as provided in § 1304 of this title.

(47 Del. Laws, c. 364, § 2A; 14 Del. C. 1953, § 1705; 56 Del. Laws, c. 292, § 21; 72 Del. Laws, c. 294, § 46; 77 Del. Laws, c. 197, § 4.)

## § 1705A. Maximum student-instructor ratio requirements.

(a) The ratio of students to instructors in any class in kindergarten or grades 1-3 in a Delaware public school shall not exceed 22 students as of the last school day of October. In calculating such ratio, a classroom instructional aide shall count as equal to half a teacher. This subsection shall only apply to a class within which students are instructed in the core academic subjects of English/Language Arts, mathematics, science and social studies.

(b) The Department of Education shall provide technical assistance to any school district seeking assistance in allocating its Division I, Division III, Comprehensive Discipline Program, and local operating funding in such a manner as to accomplish class sizes equal to or lower than those required by this section.

(c) A local school board may waive subsection (a) of this section after voting to waive such subsection at a public meeting noticed for that purpose. Any local school board vote on such a waiver shall occur on or before December 1 of each year. Notice for such a meeting shall be placed in the local newspaper for 2 consecutive weeks before the meeting and shall be posted on the door of any school affected for the same time period, and a copy shall be sent to the principal, teacher association building representative and Parent Teacher Organization/Parent Teacher Association parent leader of any affected school. The notice shall include the procedures for such persons to provide oral or written comments on the proposed waiver to the school board. Notice of any approved waiver shall be sent to the same persons.

(d) The State Auditor shall, in cooperation with the Department of Education, monitor compliance with this section in the audits of the boards of education of the schools district conducted pursuant to § 1504 of this title.

(71 Del. Laws, c. 482, § 4; 77 Del. Laws, c. 84, § 403.)

## § 1705B. Required reporting regarding maximum student-instructor ratio.

(a) The Department of Education shall collect and report data, on an annual basis, in a uniform manner regarding compliance with the student-instructor ratio set forth in § 1705A(a) of this title by local school districts and charter schools. This data shall include waivers required by the school districts and charter schools, and the disposition thereof.

(b) Local school districts and charter schools shall report the above-referenced compliance data using individual classrooms and schools as the basic units of information.

(c) The above-referenced compliance data shall be reported by December 31 of each calendar year to ensure that such data is available to be considered in the event of a proposed waiver of the maximum class size provisions required under § 1705A(a) of this title.

(d) The compliance data shall be published on the website of the Department of Education as well as that of each school district and each charter school.

(76 Del. Laws, c. 362, § 1.)

## § 1706. Determination of amount of Division II appropriation.

The funds appropriated to each school district for expenses included in Division II shall be determined by providing a sum, which shall be uniform for all school districts throughout the State, for each unit of pupils in such school district provided that the sum allocated during the school year for new and additional units in a school district in which the additional units have no facilities and in which the additional units give a total number of units in excess of the maximum present at any time during the past 5 years may exceed the uniform amount appropriated for expenses included in Division II; such moneys shall be used for the purchase of textbooks, furniture and other classroom equipment.

The first paragraph of this section notwithstanding, the funds appropriated to each district for expenses included in Division II based upon each occupational-vocational unit as defined in § 1703 of this title shall be either 1, 2 or 3 times the amount determined for each non-occupational-vocational unit as designated according to rules and regulations of the Department of Education. At least 90% of the occupational-vocational unit Division II funds, with the exception of Division II-Energy funds, shall be allocated to each school that generates these funds and expended to support the State-approved occupational-vocational courses and programs at that school. Each school district shall establish line item accounts for occupational-vocational Division II funds. These funds are in addition to the regularly generated units and all other financial resources normally allocated to each school. Random audits shall be scheduled and conducted by the State Auditor. The Secretary of Education shall request an annual report from the State Auditor evidencing an audit schedule of 10% of the affected schools.

The second paragraph of this section notwithstanding, local school districts may request a waiver of the 90% requirement subject to the approval of the Executive Director of the Delaware Advisory Council on Career and Vocational Education, the Secretary of Education, and the Controller General. Such waiver requests must be submitted to the Secretary of Education by November 15 of each year. The Secretary of Education shall notify the local school districts as to the disposition of the waiver request no later than January 3 of the following year.

(47 Del. Laws, c. 364, § 3B; 14 Del. C. 1953, § 1706; 49 Del. Laws, c. 406; 54 Del. Laws, c. 40, § 2; 57 Del. Laws, c. 348, § 2; 71 Del. Laws, c. 180, § 104; 72 Del. Laws, c. 393, § 1; 73 Del. Laws, c. 74, § 342.)

## § 1707. Division III equalization funding.

(a) Any school district which provides funds from local taxation for current operating expenses in excess of basic state appropriations, under Divisions I and II of this chapter, shall be eligible for state funds on a matching basis in accordance with this section.

(b) In the application of the formula, the following definitions shall apply:

(1) “Ability index” means the school district ability divided by the state average ability. In the case of a school district created under the provisions of § 1028(k) of this title, 2 ability indices shall be computed. “Tax district ability index” shall be computed by dividing

the tax district ability by the state average ability. “Individual district ability index” shall be computed by dividing the individual district ability by the state average ability.

(2) “Authorized amount” means $29,650 for fiscal year 2006 and as established in the annual State Budget Appropriation Act thereafter.

(3) “Effort index” means the school district effort divided by the state average effort. The effort index for any school district shall not be greater than 1.00. In the case of a school district created under the provisions of § 1028(k) of this title, 2 effort indices shall be computed. “Tax district effort index” shall be computed by dividing the tax district effort by the state average effort. “Individual district effort index” shall be computed by dividing the individual district effort by the state average effort.

(4) “Local district effort index” applies only to school districts created under the provisions of § 1028(k) of this title and means the lesser of 1 minus the tax district effort index or the individual district effort index, but shall be a number at least equal to zero.

(5) “School district ability” means the total full valuation of all taxable real property within the school district as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated, divided by the number of units of pupils, excluding those units in special schools administered by a school district which are supported by a tuition tax, in the public schools of the school district as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a vocational-technical school district, the school district ability shall be determined by dividing the total full valuation of all taxable real property located within the vocational-technical school district by the total number of units in the public schools located in the vocational-technical school district’s attendance area, excluding those units assigned to special schools as defined herein and those units assigned to the vocational-technical school district, as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a school district created under the provisions of § 1028(k) of this title, 2 school district abilities shall be computed. “Tax district ability” shall be computed by dividing the total full valuation of all taxable real property located in the school tax district in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated, by the number of units of pupils, excluding those units in special schools administered by all school districts in the school tax district, in the public schools of the school tax district as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. “Individual district ability” shall be computed as specified in the first sentence of this paragraph.

(6) “School district current expense revenue” means the product of the school district’s current operating expense real estate tax rate times the total assessed valuation as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated, plus the product of the school district’s capitation tax for current operating expense, times the number of capitations as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a school district created under the provisions of § 1028(k) of this title, 2 values for current expense revenues shall be computed “Tax district current expense revenue” shall be computed by multiplying the current operating expense real estate tax rate for the school tax district by the total assessed valuation of the school tax district as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. “Individual district current expense revenue” shall be computed as specified in the first sentence of this paragraph.

(7) “School district effort” means the school district’s current expense revenue divided by the school district’s total full valuation as of July 1 in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a county vocational-technical school district, the school district effort means the school district’s current expense revenue divided by the total number of units of pupils in the district in the year immediately preceding the fiscal year for which Division III funds are appropriated divided by the school district ability. In the case of a school district created under the provisions of § 1028(k) of this title, 2 values of school district effort shall be computed. “Tax district effort” shall be computed by dividing tax district current expense revenue by the total full valuation of taxable property in the school tax district as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. “Individual district effort” shall be computed by dividing individual district current expense revenue by the total full valuation of the school district as of July 1 in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated.

(8) “State average ability” means the total full valuation of all taxable real property in the State as of July 1 in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated divided by the total number of units of pupils in the public schools of the State, excluding those units assigned to vocational-technical school districts and those assigned to special schools as defined in paragraph (b)(5) of this section, as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated.

(9) “State average effort” means the authorized amount times 68.1% divided by the State average ability.

(10) “Total assessed valuation” means the official total assessed value of taxable real property appearing on the assessment rolls of appropriate county governing body or bodies as the case may be.

(11) “Total full valuation” means the total assessed valuation of taxable property divided by the average of the 3 most current assessment to sales price ratios. The Office of Management and Budget shall conduct, in accordance with nationally accepted standards and practices, an assessment to sales price study, by school district, on an annual basis in order to establish the most current ratios and such studies shall be open to public review. Each county is required to make available to the Office of Management and Budget, at

the cost of reproduction only, machine-readable copies of its assessment and sales transactions files. In the event a county completes a general reassessment during the period between studies, the county's assessment to sales price ratio shall be equal to its rate of assessment, until a subsequent assessment to sales price study is completed.

(12) "Units of pupils" means the total number of Division I units as specified in § 1703 of this title.

(c) The formula for determining the sums to be allocated in Division III, to school districts other than those created under the provisions of § 1028(k) of this title, shall be as provided in this subsection. The State share per unit is equal to the authorized amount times the effort index times the quantity of 1 minus .75 times the ability index; provided, that in no case shall the State share be less than the equivalent of 5% of the authorized amount times the effort index. The State share per unit in any fiscal year shall not be less than 95% or more than 105% of the State share per unit in the preceding fiscal year, except as provided in subsection (e) of this section. In fiscal years 2004 through and including fiscal year 2010, the State share per unit for those districts who are entitled to the formula minimum of 5% of the authorized amount times the effort index shall be 80% of the State share per unit in the preceding fiscal year.

(d) The formula for determining the sums to be allocated in Division III, to school districts created under the provisions of § 1028(k) of this title, shall be provided in this subsection. The State share per unit is equal to the sum of the 2 amounts defined as follows. The "tax district share" is equal to the authorized amount times the tax district effort index times the quantity of 1 minus .75 times the tax district ability index; provided, that in no case shall the tax district share be less than the equivalent of 5% of the authorized amount times the tax district effort index. The "individual district share" is equal to the authorized amount times the local district effort index times the quantity of 1 minus .75 times the individual district ability index; provided, that in no case shall the individual district share be less than the equivalent of 5% of the authorized amount times the individual district ability index. The State share per unit, the sum of the tax district share and the individual district share, in any fiscal year shall not be less than 95% or more than 105% of the State share per unit in the preceding fiscal year, except as provided in subsection (e) of this section.

(e) In the case of a school district with an effort index less than 1.00, or a district created under § 1028(k) of this title where the sum of the tax district effort index and the individual district effort index is less than 1.00, that passes a current expense tax referendum to increase taxes in the fiscal year preceding the fiscal year for which Division III funds are appropriated, the State share per unit shall be determined as provided in this subsection. The State share per unit shall first be computed in accordance with the provisions of subsection (c) or subsection (d) of this section, whichever calculation is appropriate for a particular school district, excluding the 105% provision. The State share per unit shall then be calculated a second time using the appropriate formula from subsection (c) or subsection (d) except that the current expense tax rate or rates for real estate and capitation for the current fiscal year shall replace the rates for the immediately preceding fiscal year throughout the calculation. The 105% maximum provision shall also be excluded in this second calculation. The State share per unit shall be equal to the amount computed in the second calculation; provided, that in no case shall the State share per unit be greater than the State share per unit under the second calculation minus the State share per unit under the first calculation plus 105% of the State share per unit in the preceding fiscal year.

(f) The 95% provision contained in subsection (c) and subsection (d) assumes that a school district does not reduce its current expense revenue by reducing current expense tax rates on real estate or capitations. In the event that a school district does reduce its current expense tax rate or rates, the 95% minimum shall not apply and the school district shall qualify for a State share per unit based upon the formula in subsection (c) or subsection (d) only.

(g) Total State equalization shall be computed by multiplying the State share per unit times the number of units of pupils enrolled in the school district, the vocational school district, or the special school in the fiscal year for which the Division III funds are appropriated.

(h) Division III funds shall be utilized to supplement funds appropriated under Division I, including legal expenses associated with collective bargaining, and Division II for the purpose of advancing education beyond the level authorized through the basic appropriations in Divisions I and II or through any other state or federal appropriation.

(i) A committee, composed of not less than 10 or more than 15 members, shall be appointed by the Secretary of the Department of Education to annually review and make recommendations on the equalization formula. The committee shall also be empowered to analyze other issues and concerns related to equalization that impact the State's ability to achieve the basic purpose of equalization for Delaware's school districts. The committee shall include at least the following: a representative of the State Board of Education; a representative from the Governor's Office designated by the Governor; at least 1 member each from the House of Representatives and the State Senate designated by the Speaker of the House and the President Pro Tempore of the Senate, respectively; the Secretary of Finance or the Secretary's designee; the Director of the Office of Management and Budget or the Director's designee; the Controller General or the Controller General's designee; a representative of the State Education Association designated by that organization; and at least 3 representatives of the local school districts, 1 from each county.

(47 Del. Laws, c. 364, §§ 2C, 2D; 14 Del. C. 1953, § 1707; 49 Del. Laws, c. 286; 56 Del. Laws, c. 292, § 22; 57 Del. Laws, c. 114, §§ 1, 2; 59 Del. Laws, c. 465, § 1; 59 Del. Laws, c. 553, § 1; 63 Del. Laws, c. 438, § 1; 64 Del. Laws, c. 314, § 1; 66 Del. Laws, c. 85, § 255; 67 Del. Laws, c. 26, § 1; 67 Del. Laws, c. 393, § 1; 69 Del. Laws, c. 64, §§ 286-289; 70 Del. Laws, c. 118, §§ 271-275; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 425, §§ 297, 298; 70 Del. Laws, c. 473, § 97; 71 Del. Laws, c. 132, §§ 313-316; 71 Del. Laws, c. 180, § 105; 71 Del. Laws, c. 354, §§ 332-335; 72 Del. Laws, c. 94, § 332; 72 Del. Laws, c. 395, §§ 389-391; 74 Del. Laws, c. 68, §§ 296-300; 74 Del. Laws, c. 307, §§ 333, 334; 75 Del. Laws, c. 88, § 21(7); 75 Del. Laws, c. 89, §§ 371-375; 75 Del. Laws, c. 350, §§ 379, 380; 76 Del. Laws, c. 80, §§ 364-366; 76 Del. Laws, c. 280, § 361; 77 Del. Laws, c. 84, § 348; 78 Del. Laws, c. 5, § 56.)

## § 1708. Form of appropriation.

(a) Appropriations to the Department of Education on behalf of the school districts shall be in an aggregate form and shall be allocated to the districts in accordance with this title and the provisions of the annual Appropriations Act.

(b) In the event that any employee or officer receives a salary from more than 1 of the agencies receiving appropriations according to the form set forth in subsection (a) of this section, the total of such employee's or officer's salary from all such agencies shall be appropriated to the agency paying the principal portion of such salary. In no case shall a salary appropriation be made to more than one agency for the same employee or officer.

(c) The classification of employees and officers into the various categories set forth in Division I of subsection (a) of this section shall be determined by such employee's or officer's classification for salary to be paid under Chapter 13 of this title, except in the case of the Secretary and Deputy Secretary of Education.

(47 Del. Laws, c. 364, § 3A; 14 Del. C. 1953, § 1708; 52 Del. Laws, c. 122; 53 Del. Laws, c. 400; 54 Del. Laws, c. 402, §§ 5, 6; 56 Del. Laws, c. 292, § 23; 57 Del. Laws, c. 113; 59 Del. Laws, c. 205, § 2; 71 Del. Laws, c. 180, §§ 106, 106A.)

## § 1709. Use of appropriation for purpose other than that designated.

No part of any amount appropriated to any district shall be transferred from 1 subdivision of Division I to any other such subdivision of Division I or to Division II, or from Division II to any subdivision of Division I. But nothing contained in this matter shall prohibit the transfer of Division III funds to Division I to comply with §§ 1304, 1705 and 1712 of this title or Division II.

(47 Del. Laws, c. 364, § 3B; 14 Del. C. 1953, § 1709; 56 Del. Laws, c. 292, § 24.)

## § 1710. Certification of number of units by Secretary of Education.

The number of units in each school district as calculated under § 1704 of this title shall be certified by the Secretary of Education as soon as such calculations are completed.

(47 Del. Laws, c. 364, § 3C; 14 Del. C. 1953, § 1710; 49 Del. Laws, c. 151, § 3; 51 Del. Laws, c. 197, § 2; 71 Del. Laws, c. 180, § 107.)

## § 1711. Salaries in excess of state supported uniform salary schedules.

Nothing contained in this chapter shall prevent any local school board from paying an additional amount of salary to any employee when such additional amount is derived from local funds or from Division III appropriations.

(47 Del. Laws, c. 364, § 4; 14 Del. C. 1953, § 1712; 56 Del. Laws, c. 292, § 25.)

## § 1712. Transfer of appropriation of closed and consolidated district.

In the case of any closing and consolidation of a school district, the permanent Budget Commission may transfer the unexpended balance, or any part thereof of any appropriation under this chapter for the closed district or districts to the appropriation of the district or districts with which any such closed districts are consolidated.

(47 Del. Laws, c. 364, § 5; 14 Del. C. 1953, § 1713.)

## § 1713. State School Fund income and General Fund.

Repealed by 71 Del. Laws, c. 180, § 107A, effective July 31, 1997.

## § 1714. Acquisition of school sites, Advanced Planning and Real Property Acquisition Fund; purchase; sale; repayment.

The Advanced Planning and Real Property Acquisition Fund authorized by Title 29 and administered by the Budget Commission may be used for the acquisition of school sites in anticipation of the need for construction of new school buildings. From this Fund the Department of Education may purchase in the name of the State upon request from a school district any needed school site or option to purchase such a site. The Department shall make no payments to any school district from the Fund unless either the acquisition of a school site and the approximate cost of the proposed new construction thereon have first been approved by a referendum held among the voters in the school district concerned or, in the event that such a referendum has not been approved, upon presentation from the school district that it otherwise has available sufficient funds to meet local share requirements, as the term "local share" is defined in Chapter 75 of Title 29, of the school district concerned necessary for the school construction project. In the event land is purchased within a school district and no school construction is started thereon within 5 years of such purchase or in the event plans to use the site are abandoned, then the Department of Education may sell the land at a public sale and shall repay the Advanced Planning and Real Property Acquisition Fund and deposit any excess receipts in the General Fund of the State.

When the school district within which such a site has been purchased has sold bonds and deposited construction funds with the State Treasurer in compliance with any school construction act, or when, in the event of construction based entirely upon state funds, the Treasurer has in the Treasurer's command construction funds for such site the Board of Education of the district shall present to the appropriate authorities an invoice against such construction funds of that district payable to the Department of Education for deposit in the Fund and the funds used to purchase the site shall be returned to the Fund.

(14 Del. C. 1953, § 1715; 51 Del. Laws, c. 262, § 1; 57 Del. Laws, c. 113; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 108, 108A, 108B; 72 Del. Laws, c. 237, § 3; 74 Del. Laws, c. 367, §§ 1, 2.)

## § 1715. Unit of pupils for kindergartens.

Repealed by 64 Del. Laws, c. 315, § 5, effective July 1, 1984.

## § 1716. Unit for academic excellence.

(a) "Unit for academic excellence" is defined for funding purposes as 1 unit for each 250 full-time equivalent students in a school district, grades K through 12. Districts shall qualify for partial funding for a fractional part of 250 full-time equivalent pupils enrolled in grades K through 12.

(b) Each student may be counted only once, and for pupils who attend schools in more than 1 district during each school day, the pupil is to be counted in each district for the portion of the school day the pupil is in attendance there. Kindergarten pupils shall be counted as $^1/_2$ time for purposes of obtaining the full-time equivalent enrollment.

(c) The unit for academic excellence may be used to provide educational services such as, but not limited to, the following: reading, communications skills, mathematics, science, social studies, elementary and secondary counseling, elementary and secondary foreign languages, elementary and secondary performing arts, elementary physical education, elementary music, elementary art, library services, career education in grades 7 and 8, paraprofessional such as service or instructional aides, programs for gifted and talented pupils, career placement counselors, programs for limited English proficient pupils, programs for children at risk as defined by the Department of Education, programs to promote improved school climate and discipline, including, but not limited to, employing intervention specialists and programs to provide additional time for students who are performing below the standard level, including, but not limited to, Saturday academies, extended day and year and summer academies, and educational technology personnel on a district-wide basis. Provided further, a unit for academic excellence may be used to hire a school employed athletic trainer licensed by the Delaware Board of Physical Therapists and Athletic Trainers in a school that is a member of the Delaware Interscholastic Athletic Association and that offers interscholastic contact or collision sports.

(d) Nothing contained in this section shall prohibit a school district from using pupil units provided under § 1703 of this title to employ personnel to provide educational services authorized under subsection (c) of this section; except that a school district shall not be permitted to use pupil units provided under § 1703 of this title to employ a licensed athletic trainer.

(e) The programs authorized under this section shall operate for the number of hours of employment as specified by § 1305 of this title, and personnel employed with funds authorized under this section shall be paid in accordance with § 1305 of this title. Units may be used to fund extended year programs using a formula of 1 unit for each individual employed for the number of hours of employment as specified by § 1305 of this title. School districts are also authorized to employ 2 service paraprofessionals or 2 instructional paraprofessionals for each unit in lieu of 1 person employed under § 1305 of this title, provided that such aides are paid in accordance with the salary schedule contained in § 1324 of this title.

(f) One unit of funding shall include Division I funding for 1 person funded under § 1305 of this title or 2 aides funded under § 1324 of this title, as specified in subsection (e) of this section plus 1 unit of "Division II — All Other Costs" as contained in the annual Appropriations Act. In addition, beginning with the fiscal year commencing July 1, 1997, any unit that is filled with an employee or employees as described in this subsection, and not taken as a cash option as described in subsection (g) of this section, shall also include 1 Division III Equalization unit amount as defined in § 1707 of this title.

(g) A school district may elect to take a cash option for up to 30 percent of the units to which it is entitled under this section in any fiscal year. Funds spent for extended time programs for children performing below the standard level shall not count against the cash option limit. In such case, the district may use the funds so derived for either Division I or Division II purposes; provided however, that such funds must be used for educational services specified in subsection (c) of this section and may not be used to supplement state salaries authorized in Chapter 13 of this title for any employee. The cash option shall provide the number of dollars set in the state-supported salary schedule for a teacher holding a master's degree with 10 years of experience and employed for 10 months.

(h) Any school district wishing to use funds under any of the options set forth in this section shall make application to the Department of Education. Such application shall specify, as a minimum, the types of services to be provided and the use that will be made of the funds authorized by this section.

(61 Del. Laws, c. 546, § 2; 62 Del. Laws, c. 68, §§ 131, 132; 62 Del. Laws, c. 86, §§ 30, 31; 64 Del. Laws, c. 323, §§ 1, 2; 68 Del. Laws, c. 84, § 211; 68 Del. Laws, c. 290, § 242; 69 Del. Laws, c. 291, § 310; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 425, §§ 305, 307; 71 Del. Laws, c. 132, § 323; 71 Del. Laws, c. 180, § 109; 72 Del. Laws, c. 294, § 47; 78 Del. Laws, c. 50, §§ 1, 2; 80 Del. Laws, c. 79, § 299(b); 84 Del. Laws, c. 295, § 379.)

## § 1716A. Related services unit and funding.

(a) "Related services unit" is defined for funding purposes as 1 funding unit for each 57 units of the K-3, 4-12 (regular education) and basic units. For the pre-K-12 intensive the ratio shall be 1 funding unit for each 5.5 units. For the pre-K-12 complex the ratio shall be 1 funding unit for each 3.0 units. Four related services units shall be assigned to support the state-wide deaf-blind program.

(b) Each pupil counted in establishing a unit for children with disabilities may be counted only once in a district. For pupils who attend schools in more than 1 district during each school day, the pupil is to be counted in each school district for the portion of the day that the pupil is in attendance there.

(c) For purposes of this section, “children with disabilities” shall include pupils meeting the definition set forth in Chapter 31 of this title, as further defined according to rules and regulations of the Department with approval of the State Board of Education.

(d) “Related services” shall be special services provided for children with disabilities and shall be defined in rules and regulations of the Department with approval of the State Board of Education. Rules and regulations may include, but are not limited to, such services as speech therapy, occupational therapy, physical therapy, early identification and assessment of disabilities, special counseling services, developmental, corrective or supportive services that may assist a child with a disability to benefit from special education. Medical services provided shall be for diagnostic or evaluation purposes only. Special transportation services provided from this funding shall be only those services unique to a particular disability and shall be services provided during the school program and shall not include transportation to and from school.

(e) Funds appropriated in support of this unit may be used for expenditures under Division I or Division II for the purchase of assistive materials or services from persons or agencies to be used in support of students with disabilities herein authorized and for no other purpose.

(f) The dollar value of this unit, when applied to the employment of a full-time certified person such as, but not limited to, a teacher, a therapist or a specialist, shall be as provided in this title, but, when applied as herein authorized for other related services, shall be the number of dollars set in the state-supported salary schedule for a teacher holding a master’s degree with 10 years of experience and employed for 10 months. The calculation of this funding shall be for the current school year. Expenditures on behalf of this unit when used for the purchase of services shall be up to but not in excess of the amount herein authorized.

(g) Funding authorized by this section shall be used to supplement regular school programs for children with disabilities, and may provide for the assignment of 1060 hours of school attendance and the full work days of employment as described in § 1305 of this title to be assigned during any of the months of a 12-month fiscal year beginning July 1.

(h) Any school district wishing to use funds under any of the options set forth in this section shall make application to the Department of Education for that use; provided, that the State Board may review any objection to the Department’s decision. The application shall indicate that these funds are being used to supplement programs in the school district and that their use will not supplant personnel, services, supplies or materials provided from local funding sources.

(62 Del. Laws, c. 68, § 110; 62 Del. Laws, c. 120, § 2; 63 Del. Laws, c. 322, § 147(b); 68 Del. Laws, c. 126, § 9; 70 Del. Laws, c. 118, § 284; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 110; 72 Del. Laws, c. 6, § 6; 72 Del. Laws, c. 294, § 48; 75 Del. Laws, c. 155, § 8; 78 Del. Laws, c. 5, §§ 57-60.)

## §§ 1716B-1716D. Gifted or talented unit and funding; disruptive pupil referral unit and funding; Education Refinement Program unit and funding.

Repealed by 68 Del. Laws, c. 84, § 204, effective July 1, 1991.

## § 1716E. Mental health services unit and funding for grades K through 5.

(a) “Mental health services unit” for funding purposes means:

(1) One unit for each 700 full time equivalent students in a school district or charter school, grades K through 5 for employment of full-time school psychologists or other mental health providers with experience in a school setting or experience providing direct services to school age children. Districts and charter schools shall qualify for funding for a fractional part of 700 full-time equivalent pupils enrolled in grades K through 5.

(2) In fiscal year 2022, 1 unit for each 400 full-time equivalent students in a school district or charter school, grades K through 5 for employment of a full-time school counselor, or school social worker or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 400 full-time equivalent pupils enrolled in grades K through 5.

(3) In fiscal year 2023, 1 unit for each 325 full-time equivalent students in a school district or charter school, grades K through 5 for employment of a full-time school counselor, or school social worker or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 325 full-time equivalent pupils enrolled in grades K through 5.

(4) Beginning in fiscal year 2024, 1 unit for each 250 full-time equivalent students in a school district or charter school, grades K through 5 for employment of a full-time school counselor, or school social worker or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 250 full-time equivalent pupils enrolled in grades K through 5.

(b) Each pupil counted in establishing a unit for mental health services may be counted only once in a district or charter.

(c) For purposes of this section:

(1) “Mental health services” means prevention, response, and coordination services delivered to students in elementary school building.

(2) “Other mental health provider” means a mental health services provider licensed by the Board of Mental Health and Chemical Dependency.

(d) Except as set forth in subsection (f) of this section, funds appropriated by this unit shall be used for employment of full-time licensed mental health providers who hold the appropriate license as required by the Board of Mental Health and Chemical Dependency Professionals or school counselors, school social workers, or school psychologists that hold the appropriate licensure and certifications under Chapter 12 of this title.

(1) School counselors shall be required to provide services that are aligned with the American School Counselor Association (ASCA) National Model, including the provisions related to indirect and direct services as those terms are defined by ASCA.

(2) School social workers shall be required to provide services aligned to the National Association of School Social Work school social work standards.

(3) School psychologists shall be required to provide services aligned with the National Association of School Psychologists (NASP) Model for Comprehensive and Integrated School Psychological Services.

(e) [Repealed.]

(f) Funds appropriated in support of this unit shall be applied to the employment of a full-time certified, licensed school counselor, school social worker, licensed clinical social worker, school psychologist, or licensed mental health therapists. Districts may pursue contracting out school psychologists and other mental health providers with approval of their governing board until such time as school psychologists are no longer designated by the Department of Education as certification shortage area. Districts or charter schools must combine fractional units to fund additional full-time mental health services staff to the extent possible. Districts and charter schools may exercise a cash option consistent with the provisions of § 1716(g) of this title for any remaining fractional funding. Funds received under this provision must be used for the purchase of materials or services to be used in support of preventative and responsive mental health services herein authorized, and for no other purpose.

(g) To the extent possible, school districts should prioritize the hiring and placement of staff hired pursuant to this section in schools with the highest percentage of low-income students, English language learners and students with disabilities.

(h) By December 31, 2025, the Department of Education, in coordination with the General Assembly, shall develop a strategic plan to reasonably expand this unit into Delaware district preschools, middle schools, and high schools.

(i) The Department of Education shall promulgate rules and regulations to implement and enforce this section.

(83 Del. Laws, c. 126, § 1; 84 Del. Laws, c. 233, § 24; 84 Del. Laws, c. 350, § 1; 85 Del. Laws, c. 68, § 19.)

## § 1716F. Mental health services unit and funding for middle school.

(a) “Mental health services unit for middle school” for funding purposes means:

(1) In fiscal year 2023, 1 unit for each 400 full-time equivalent students in a school district or charter school, grades 6 through 8, for employment of a full-time school counselor, or school social worker or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 400 full-time equivalent pupils enrolled in grades 6 through 8.

(2) In fiscal year 2024, 1 unit for each 325 full-time equivalent students in a school district or charter school, grades 6 through 8, for employment of a full-time school counselor, or school social worker or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 325 full-time equivalent pupils enrolled in grades 6 through 8.

(3) Beginning in fiscal year 2025, 1 unit for each 250 full-time equivalent students in a school district or charter school, grades 6 through 8, for employment of a full-time school counselor, or school social worker or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 250 full-time equivalent pupils enrolled in grades 6 through 8.

(4) One unit for each 700 full time equivalent students in a school district or charter school, grades 6 through 8, for employment of full-time school psychologists or other mental health provider with experience in a school setting or experience providing direct services to school age children. Districts and charter schools shall qualify for funding for a fractional part of 700 full-time equivalent pupils enrolled in grades 6 through 8.

(b) Each pupil counted in establishing a unit for mental health services may be counted only once in a district or charter.

(c) For purposes of this section:

(1) “Mental health services” means prevention, response, and coordination services delivered to students in middle school.

(2) “Other mental health provider” means a mental health services provider licensed by the Board of Mental Health and Chemical Dependency.

(d) Except as set forth in subsection (e) of this section, funds appropriated by this unit shall be used for employment of full-time licensed mental health therapists who hold the appropriate license as required by the Board of Mental Health and Chemical Dependency Professional or school counselors, school social workers, or school psychologists that hold the appropriate licensure and certifications under Chapter 12 of this title.

(1) School counselors shall be required to provide services that are aligned with the American School Counselor Association (ASCA) National Model, including the provisions related to indirect and direct services as those terms are defined by ASCA.

(2) School social workers shall be required to provide services aligned to the National Association of School Social Work school social work standards.

(3) School psychologists shall be required to provide services aligned with the National Association of School Psychologists (NASP) Model for Comprehensive and Integrated School Psychological Services.

(e) Funds appropriated in support of this unit shall be applied to the employment of a full-time certified, licensed school counselor, school social worker, licensed clinical social worker, school psychologist, or licensed mental health therapist. Districts may pursue contracting out school psychologists or other mental health providers with approval of their governing board until such time as school psychologists are no longer designated by the Department of Education as a certification shortage area. Districts or charter schools must combine fractional units to fund additional full-time mental health services staff to the extent possible. Districts and charter schools may exercise a cash option consistent with the provisions of § 1716(g) of this title for any remaining fractional funding. Funds received under this provision must be used for the purchase of materials or services to be used in support of preventative and responsive mental health services herein authorized, and for no other purpose.

(f) To the extent possible, school districts should prioritize the hiring and placement of staff hired pursuant to this section in schools with the highest percentage of low-income students, English learners, and students with disabilities.

(g) (1) The Department shall provide a report to the Office of Management and Budget and to the Controller General detailing the number of positions filled by position type and number of school psychology positions and other mental health providers contracted for under this program at each eligible local education agency by December 30 of each year.

(2) Each district and charter school shall provide to the Department the number of positions filled by position type at each school and the number of school psychology positions and other mental health providers contracted for under this program by November 30 of each year.

(h) The Department of Education shall promulgate rules and regulations to implement and enforce this section.

(83 Del. Laws, c. 386, § 1; 84 Del. Laws, c. 233, § 25; 84 Del. Laws, c. 350, § 1.)

## § 1716G. Substitute teachers.

(a) Substitute teachers shall be used to provide temporary teaching to pupils when the regular teacher is unavailable due to illness, leave, or other reasons.

(b) During the fiscal year beginning July 1, 2023, and annually thereafter, allocation of funds shall be targeted to high needs elementary, middle and high schools, with populations of 50% or more of low-income students,

(c) Substitute teachers shall be paid from state funds for 10 months and shall be paid a starting salary equitable to a No Degree Step 1 in accordance with § 1305 of this title.

(d) Individuals hired under this section must have obtained an associate’s or bachelor’s degree from an accredited institute of higher education.

(e) All individuals hired under this section are subject to the provisions of Chapter 41 of this title and, at the discretion of each local education agency, subject to district and building level professional development requirements.

(f) To ensure success of these substitute teachers, each school district and charter school must develop and implement a professional development program specifically designed for these substitute teachers that, at a minimum, includes all of the following:

(1) Implementing lesson plans.

(2) Classroom management.

(3) Student behavior, including disability awareness and behaviors that may manifest as a result of disabilities.

(4) Basic understanding of Individualized Education Plans and 504 Plans [29 U.S.C. § 794].

(g) Participation in professional development provided in subsection (f) of this section shall be used as credit towards a standard certificate.

(83 Del. Laws, c. 393, § 1.)

## § 1716H. Mental health services unit and funding for high school.

(a) “Mental health services unit for high school” for funding purposes means:

(1) In fiscal year 2024, 1 unit for each 400 full-time equivalent students in a school district or charter school, grades 9 through 12, for employment of a full-time school counselor, school social worker, or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 400 full-time equivalent pupils enrolled in grades 9 through 12.

(2) In fiscal year 2025, 1 unit for each 325 full-time equivalent students in a school district or charter school, grades 9 through 12, for employment of a full-time school counselor, school social worker, or a licensed clinical social worker who is certified by the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 325 full-time equivalent pupils enrolled in grades 9 through 12.

(3) Beginning in fiscal year 2026, 1 unit for each 250 full-time equivalent students in a school district or charter school, grades 9 through 12, for employment of a full-time school counselor, school social worker, or a licensed clinical social worker who is certified by

the Delaware Department of Education as a school social worker. Districts and charter schools shall qualify for funding for a fractional part of 250 full-time equivalent pupils enrolled in grades 6 through 8.

(4) One unit for each 700 full-time equivalent students in a school district or charter school, grades 9 through 12, for employment of full-time school psychologists or other mental health providers with experience in a school setting or experience providing direct services to school age children. Districts and charter schools shall qualify for funding for a fractional part of 700 full-time equivalent pupils enrolled in grades 9 through 12.

(b) Each pupil counted in establishing a unit for mental health services may be counted only once in a district or charter.

(c) For purposes of this section:

(1) "Mental health services" means prevention, response, and coordination services delivered to students in high school.

(2) "Other mental health provider" means a mental health services provider licensed by the Board of Mental Health and Chemical Dependency.

(d) Except as set forth in subsection (e) of this section, funds appropriated by this unit shall be used for employment of full-time licensed mental health services providers who hold an appropriate license as required by the Board of Mental Health and Chemical Dependency Professionals or school counselors, school social workers, or school psychologists that hold the appropriate licensure and certifications under Chapter 12 of this title.

(1) School counselors are required to provide services that are aligned with the American School Counselor Association (ASCA) National Model, including the provisions related to indirect and direct services as those terms are defined by ASCA.

(2) School social workers are required to provide services aligned to the National Association of School Social Work school social work standards.

(3) School psychologists are required to provide services aligned with the National Association of School Psychologists Model for Comprehensive and Integrated School Psychological Services.

(e) Funds appropriated in support of this unit shall be applied to the employment of a full-time certified, licensed school counselor, school social worker, licensed clinical social worker, school psychologist, or other mental health provider. Districts may pursue contracting out school psychologists and other mental health providers with approval of their governing board until such time as school psychologists are no longer designated by the Department of Education as a certification shortage area. Districts or charter schools must combine fractional units to fund additional full-time mental health services staff to the extent possible. Districts and charter schools may exercise a cash option consistent with the provisions of § 1716(g) of this title for any remaining fractional funding. Funds received under this provision must be used for the purchase of materials or services to be used in support of preventative and responsive mental health services herein authorized, and for no other purpose.

(f) (1) To the extent possible, school districts should prioritize the hiring and placement of staff hired pursuant to this section in schools with the highest percentage of low-income students, English learners, and students with disabilities.

(2) In filling positions supported by this section, the hiring and placement of school counselors who provide mental health services, including services that are aligned with the ASCA National Model, shall be prioritized over those who solely provide career counseling.

(g) (1) The Department shall provide a report to the Office of Management and Budget and to the Controller General detailing the number of positions filled by position type and number of school psychology or other mental health provider positions contracted for under this program at each eligible local education agency by December 30 of each year.

(2) Each district and charter school shall provide to the Department the number of positions filled by position type at each school and the number of school psychology or other mental health provider positions contracted for under this program by November 30 of each year.

(h) The Department of Education shall promulgate rules and regulations to implement and enforce this section.

(84 Del. Laws, c. 350, § 1.)

## § 1717. Employment of personnel.

(a) Local school boards of education and the various school building commissions may employ personnel who are paid wholly or in part from federal and/or school construction funds provided that such personnel shall be classified and paid in accordance with the salary schedules set forth in Chapter 13 of this title. In the event any of the aforementioned boards or commissions shall have a uniform local district salary supplement to the salary schedules set forth in said Chapter 13, such board or commission may also pay employees covered by this subsection an additional amount from federal and/or school construction funds not in excess of that set forth in the uniform local district salary supplement.

(b) Personnel employed pursuant to this section shall be covered by Chapter 14 of this title, if such personnel qualify for coverage under § 1403(a). In determining length of service for the purposes of Chapter 14 of this title, employees who heretofore have been excluded from coverage under Chapter 14 of this title shall receive credit for all service to the State and to the current employing school district.

(c) None of the various school boards or school building commissions shall enter into contracts with, or pay, individuals to provide consultant educational or related services from state, federal or school construction funds when such individual is a salaried employee of the public school system of this State. This subsection shall not be construed to prohibit the employment of professional personnel

to teach special classes such as night school and a third shift at a vocational school and in-service courses in the same or other districts outside of regularly scheduled school hours.

(62 Del. Laws, c. 68, § 49; 69 Del. Laws, c. 449, § 3; 71 Del. Laws, c. 180, § 111.)

## § 1718. Matching federal funds.

For the purpose of matching any appropriation made for such educational acts as have been or may be passed by the Congress of the United States, the Department of Education is hereby directed and empowered to prescribe to each of the local school boards of education and to the boards of trustees of the university or college supported by state funds the amount necessary to be allocated by said respective boards to comply with the purpose and intent of said educational acts which require the matching of funds.

(62 Del. Laws, c. 68, § 52; 71 Del. Laws, c. 180, § 112.)

## § 1719. Adjustment of appropriations.

In the event that the aggregate appropriations for Division I, II or III, or any other unit-driven appropriation, are insufficient to cover the total number of units certified pursuant to § 1710 of this title, the Department of Education shall transfer sufficient funding from its Growth and Upgrade General Contingency Fund and/or such other sources as the Director of the Office of Management and Budget may approve, to the school districts in order that all duly certified units are adequately funded. The Department retains the authority to require reimbursement of unit-driven funds from districts to the State that are caused by a district's inaccurate reporting of pupil enrollments.

(62 Del. Laws, c. 68, § 53; 71 Del. Laws, c. 180, § 113; 75 Del. Laws, c. 88, § 21(7); 78 Del. Laws, c. 7, § 4; 79 Del. Laws, c. 201, § 1.)

## § 1720. Adult education.

Funds authorized in the Budget Appropriation Bill and subsequently allocated by the Department of Education for James H. Groves High School or adult basic education shall be allocated by the Department to the participating school districts in amounts equal to those approved by the Department of Education in the annual program plans submitted by the participating school districts. Additionally, funding for James H. Groves High School can be used to support the Diploma-at-a-Distance Program.

(62 Del. Laws, c. 68, § 50; 62 Del. Laws, c. 86, § 37; 67 Del. Laws, c. 47, § 276; 68 Del. Laws, c. 84, § 202; 71 Del. Laws, c. 180, § 114; 81 Del. Laws, c. 280, § 367.)

## § 1721. Autistic unit and funding.

(a) Programs for children with autism exceeding 217 pupil days shall be according to rules and regulations of the Department as approved by the State Board of Education.

(b) For funding purposes "autistic unit" for programs in excess of 217 pupil days shall mean 8 persons with autism per unit.

(63 Del. Laws, c. 177, § 5; 71 Del. Laws, c. 180, § 115; 78 Del. Laws, c. 179, §§ 133, 134.)

## § 1722. Accounting for textbooks, subject matter materials and other school property entrusted to individual students.

(a) For the purposes of this section:

(1) "Costs" shall be the cost of lost or destroyed textbooks, subject matter materials, supplementary books, instructional computer software and other school property distributed to and entrusted to individual students;

(2) "Responsible person" shall include each student, the parents of each student who have a duty to support the student under § 501 of Title 13 and any guardian who has a duty to support a student.

(b) Each reorganized school district shall adopt a written policy that:

(1) At least annually requires responsible persons to refund to the district their costs;

(2) Sets forth an effective process to collect, at least annually, such costs from the responsible persons; provided however, that the process may permit a student to perform school or community service, at the district's option, in lieu of repaying book costs, if and only if each responsible person's income falls below federal poverty guidelines, as they may be amended from time to time; and further provided, that a student otherwise required to perform such service who refuses to perform such service shall be subject to disciplinary action; and

(3) Provides that local district funds shall cover the cost of all lost or destroyed books which are required to be collected from responsible persons pursuant to a written policy which conforms to this section but are not collected.

(c) [Repealed.]

(70 Del. Laws, c. 571, § 1; 71 Del. Laws, c. 180, § 116; 77 Del. Laws, c. 327, § 383.)

## § 1723. Comprehensive school discipline improvement programs.

In addition to the funds appropriated to school districts by other sections of this chapter, school districts shall be eligible to make application to the Department of Education for the development and implementation of school discipline improvement programs as specified in Chapter 16 of this title.

(69 Del. Laws, c. 464, § 2; 71 Del. Laws, c. 180, § 117.)

## § 1724. Academic Achievement Awards Pilot Program.

(77 Del. Laws, c. 196, § 2; expired, eff. Oct. 1, 2011.)

## § 1725. Tracking of school district use of unit funds.

(a) All information received by the Department of Education, or any third party performing work for the Department of Education, relating to the dates on which new teachers are hired by individual school districts shall be posted on the Department of Education's web site.

(b) The Department of Education shall conduct randomized audits to ensure that information provided by school districts relating to the hiring dates of new teachers is accurate and complete.

(c) By August 12, 2011, the Department of Education shall promulgate regulations necessary to ensure that hiring information collected and reported by school districts uses uniform terminology.

(d) By December 31, 2011, the Department of Education shall report to the General Assembly and Governor on the impact of the estimated unit count upon school districts' performance in making earlier contract offers to prospective teachers. To the extent that the Department of Education determines that any districts have not taken proper advantage of the estimated unit count, the Department shall recommend additional steps that should be taken to properly incentivize those districts to make earlier contract offers.

(e) For purposes of §§ 1321(e)(11) and (e)(12), 1716 and 1716A of this title, a school district electing to take a cash option or contractual option shall submit an application to the Department of Education no later than January 31 of each fiscal year. The Department of Education shall provide a report on the use of said cash/contractual options to the Director of the Office of Management and Budget and the Controller General by May 1 of each fiscal year.

(78 Del. Laws, c. 7, §§ 5, 7; 79 Del. Laws, c. 201, § 1; 85 Del. Laws, c. 62, § 344.)

## § 1726. Opportunity Fund.

(a) For purposes of this section:

(1) "English learner students" or "EL" means kindergarten through grade-12 students with limited English proficiency who meet the definition of an "English learner" as that term is defined by the Department of Education by regulation.

(2) "Low income student" or "LI" means students within the statewide metric determined by the Department of Education utilizing direct certification for Temporary Assistance for Needy Families (TANF) or Supplemental Nutrition Assistance Program (SNAP).

(b) The Opportunity Fund is established and is to be used to enhance services for EL and LI students enrolled in public schools, including charter schools. The Opportunity Fund consists of money appropriated to the Fund in the annual appropriations act.

(1) The Department of Education shall adopt regulations identifying the types of services and supports that may be funded with money from the Opportunity Fund. The types of services and supports must include the following:

a. Additional staff, including personnel dedicated to improving reading comprehension and math proficiency, and staff who provide additional wrap-around services or mental health supports.

b. Contractual services.

c. Supplies and materials.

d. Other expenditures necessary to provide additional services and supports for EL and LI students.

(2) The Department of Education shall provide an expenditure plan template and plan development supports to school districts and charter schools, including identifying evidence-based practices shown to improve performance outcomes for EL and LI students.

(3) To receive funding under this section, a school district or charter school shall submit a proposed expenditure plan to the Department of Education for review no later than the second Friday of July of each fiscal year. A school district's or charter school's proposed expenditure plan must separately list each school governed by the school board of the school district or charter school that will receive funding under this section.

(4) Funding received under this section is supplemental to and may not supplant any state, local, or federal funds.

(c) (1) Except as provided under paragraph (c)(2) of this section, each school board of a school district or charter school shall allocate funding received under this section to schools governed by the school board such that not less than 98% of funding received under this section that is generated by a school's LI and EL population calculation is allocated to that school.

(2) A school board of a school district or charter school may allocate funding received under this section in a manner different than provided under paragraph (c)(1) of this section if the school board does both of the following:

a. Follows the procedure under § 1704(4) of this title.

b. Approves the allocation before submission of an expenditure plan under paragraph (b)(3) of this section.

(d) At least $5 million of the annual appropriation to the Opportunity Fund must be allocated to public schools, including charter schools, identified as having an enrollment of at least 60% LI students or 20% EL students.

(1) A public school receiving funding under this subsection shall use the allocated funds for mental health or reading supports to enhance services and provide additional supports to EL or LI students.

(2) The Department of Education shall annually identify public schools that meet the criteria under this section for EL and LI students.

(e) A school district or charter school shall submit an annual report on the use of funding received under this section to the Department of Education no later than November 1 of each year.

(1) The report must do all of the following:

a. Provide the total amount of funding received under this section by each school during the prior school year.

b. Provide the total amount of funding received under this section each school spent during the prior school year.

c. Detail how each school spent the funding received under this section.

(2) A school district or charter school shall make the report submitted under this subsection publicly available on its website. The Department of Education shall make the reports submitted under this subsection publicly available on the Department's website.

(f) (1) The per pupil amount of Opportunity Funds must be calculated as follows: $55 million divided by the total sum of EL and LI student enrollment in each school district and charter school.

(2) In each fiscal year after fiscal year 2025, the Opportunity Fund total must be equal to at least the per pupil amount calculated in Fiscal Year 2025 under this subsection and multiplied by the sum of EL and LI student enrollment as of September 30 of the previous fiscal year.

(3) For purposes of this subsection, a student may be counted as both an EL student and a LI student if the student satisfies the definition for both groups.

(4) The amount of funding received under subsection (d) of this section is in addition to the amount calculated in this subsection.

(83 Del. Laws, c. 53, § 1; 83 Del. Laws, c. 53, §§ 1, 2.)

## § 1727. Public Education Funding Commission [For application of this section, see 85 Del. Laws, c. 328, § 1].

(a) The Public Education Funding Commission (Commission) is established to review public education funding policies and formulas on a regular basis and make recommendations on how public education funding policies and formulas can be improved for all students and communities served by public schools, including charter schools (schools).

(b) The Commission is comprised of the following 33 members:

(1) The following members who serve by virtue of position:

a. The Secretary of the Department of Education, or the Secretary may designate the Deputy Secretary.

b. The Controller General, or the Controller General may designate the Deputy Controller General.

c. The Director of the Office of Management and Budget, or the Director may designate the Deputy Director.

d. The Chair of the Senate Education Committee.

e. The Chair of the House Education Committee.

f. The student member of the Delaware State Board of Education. If the student does not choose to be a member of the Commission, the State Board of Education shall select the student member.

(2) The following members who serve by virtue of position, or a designee selected by the member serving by virtue of position:

a. The President of the Delaware State Education Association.

b. The Executive Director of the Delaware Association of School Administrators.

c. The President of the Delaware Association of School Administrators' Delaware Association of School Principals.

d. The President of the Delaware Association of School Administrators' Delaware Chief School Officers Association.

e. The Executive Director of the Delaware School Boards Association.

(3) The following members, appointed by the President Pro Tempore of the Senate (President Pro Tempore), as follows:

a. A member of the minority caucus of the Senate.

b. Two school principals, representing geographical diversity, as follows:

1. One principal must be from an elementary school and 1 must be from a secondary school.

2. Each must be the principal of a school that has a high percentage of students who are multilingual or low-income, or both.

3. The President Pro Tempore may consider potential nominees from a list provided by the Delaware Association of School Administrators' Delaware Association of School Principals.

c. Three professional educators, representing geographical diversity, as follows:

1. One or more professional educators must be a specialist.

2. The President Pro Tempore may consider potential nominees from a list provided by the Delaware State Education Association.

d. A representative of a community organization that serves students who live in households with incomes below the poverty level.

e. A representative of a community organization that services students who are multilingual learners because they are learning English.

f. A representative of an education policy organization who has special knowledge of education finance or other expertise to contribute to Commission discussions.

g. A member of the community who has knowledge of education funding policy.

h. A representative of a parent advocacy organization who has knowledge of special education policies and practices.

(4) The following members, appointed by the Speaker of the House of Representatives (Speaker), as follows:

a. A member of the minority caucus of the House of Representatives.

b. Three members who are school financial officers, representing geographical diversity. The Speaker may consider potential nominees from a list of names provided by the Delaware Association of School Administrators' Delaware Association of School Business Officials.

c. A charter school administrator who is responsible for the school's finances.

d. Three education support professionals, representing geographical diversity as follows:

1. One or more of the education support professionals must be a paraprofessional.

2. The Speaker may consider potential nominees from a list of names provided by the Delaware State Education Association.

e. A special education director employed by a school. The Speaker may consider potential nominees from a list of names provided by the Delaware Association of School Administrators' Delaware Association of Special Education Professionals.

f. A representative of the Vision Coalition. The Speaker may consider potential nominees from a list of names provided by the Vision Coalition.

g. A representative of the Special Education Strategic Plan Advisory Council. The Speaker may consider potential nominees from a list of names provided by the Special Education Strategic Plan Advisory Council.

(c) (1) A member appointed under paragraphs (b)(3) or (b)(4) of this section serves a term of 2 years and may serve 1 additional term, as follows:

a. Each term expires on the date specified in the appointment. Notwithstanding this paragraph (c)(1) of this section:

1. An individual may continue to serve as a member until a replacement is appointed.

2. The member serves at the pleasure of the individual in the position that makes their appointment.

b. The President Pro Tempore or the Speaker may appoint a member for a term of fewer than 2 years so that members have staggered terms. If a member is appointed for a term of fewer than 2 years, the term of fewer than 2 years is not counted toward the member's term limit.

c. After a member serves 2 terms under this paragraph (c)(1), the individual is eligible for membership 3 years after the member's second term expires under paragraph (c)(1)a. of this section.

(2) a. An organization with a member of the Commission under paragraph (b)(2) of this section must provide written notice to the chair when the member serving by virtue of position changes.

b. A member of the Commission under paragraph (b)(2) of this section with the ability to designate another individual to attend a meeting, must select the designee from that member's organization and provide the designation in writing to the chair. An individual attending a meeting for a member as a designee has the same duties and rights as the member.

c. A designee appointed by a member under paragraph (b)(2) of this section serves at the pleasure of that member.

(d) (1) a. Every 2 years, the Commission shall elect a chair and vice-chair from among its members.

b. The Secretary of the Department of Education serves as the temporary chair until a chair is elected or if the positions of chair and vice-chair become vacant at the same time.

(2) The Commission must meet 2 or more times each calendar year.

(3) a. The Commission may adopt rules necessary for its operation, including for the creation of working subcommittees that include individuals who are not members of the Commission.

b. If the Commission does not adopt rules or the adopted rules do not govern a given situation, Mason's Manual of Legislative Procedure controls.

(4) The chair of the Commission may invite individuals with relevant expertise to participate in the Commission's discussions.

(5) The Department of Education shall provide reasonable and necessary technical support for the Commission, including staff.

(e) (1) a. A quorum of the Commission is a majority of the members. A vacancy on the Commission is not counted for quorum.

b. A quorum of the Commission must be present to conduct official business.

c. Official action by the Commission requires the approval of a quorum of the Commission.

(2) A member receives no compensation but may be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official duties.

(f) The Commission shall review the public education funding system to ensure that the public education funding system does all of the following:

(1) Maintains funding stability and predictability.

(2) Supports all of the following goals, with strategies based on research:

a. Student achievement.

b. Student and educator well-being.

c. The recruitment and retention of educators.

d. Equitable funding for students, across school districts and charter schools.

(3) Provides adequate funding to do all of the following:

a. Address student needs.

b. Provide positive classroom conditions and conducive learning facilities.

c. Recruit and retain educators.

d. Address wealth disparities that exist between schools.

(4) Provides flexible funding to meet student needs.

(5) Ensures that a minimum, state-appropriated share of teacher compensation is guaranteed for all schools and that educators are paid in accordance with the findings and recommendations of the Public Education Compensation Committee.

(6) Addresses any other goals, problems, or disparities that the Commission identifies.

(g) The Commission's work under this section must include all of the following:

(1) Public input, including input from educators, parents, school administrators, school district boards, and representatives from higher education.

(2) Review of public school appropriations in the annual budget appropriation bill under Chapter 64 of Title 29 and consideration of where specific appropriations can be consolidated or revised to provide greater flexibility and to meet the goals under subsection (f) of this section.

(3) Review of how schools spent state appropriations for the current and previous fiscal years, including in regard to all of the following:

a. All required accountability reports and measures.

b. The educational outcomes achieved as a result of these funds.

(4) Review of this State's laws and regulations that impact education funding to identify conflicting mandates or the inconsistent allocation of resources.

(h) The Commission shall make recommendations regarding changes to the public education funding system that would better meet the goals under subsection (f) of this section, including in regard to all of the following:

(1) The amount of this State's appropriations to schools.

(2) This State's laws and regulations.

(3) Improvements to the equalization formula so that schools receive equitable funding regardless of the value of real property in each school district.

(4) The identification of changes needed as part of local funding reform.

(i) The Commission must provide an annual report containing a summary of the review conducted under this section and recommendations for improvements to the chairs of the House and Senate Education Committees, the Governor, and the Director and the Librarian of the Division of Legislative Services.

(85 Del. Laws, c. 329, § 1.)

# Part I
# Free Public Schools
## Chapter 18
## District and Charter School Financial Responsibility
## Subchapter I
## School District Financial Oversight

### § 1801. Definitions.

As used in this chapter the phrase "school district" shall include all school districts, including vocational-technical school districts.

(75 Del. Laws, c. 264, § 1; 75 Del. Laws, c. 439, § 1.)

### § 1802. Financial Recovery Team.

Upon the recommendation of the Secretary of Education ("Secretary") that a school district or charter school is in financial distress as provided in paragraph (1) of this section, the Director of the Office of Management and Budget ("Director"), with the consent of the Controller General, may appoint a Financial Recovery Team ("Team"), and the Department of Education is hereby authorized to secure technical assistance and other resources as necessary to ensure the effective operations of the Team.

(1) For the purposes of this section a local school district or charter school shall be considered in financial distress when 1 or more of the following criteria are met:

a. The district financial position report required to be submitted on May 1, pursuant to § 1507(a) of this title, projects less than 1 month's carryover; or

b. It is projected at any time during the course of the fiscal year that local payroll expenses will exceed projected local revenues; or

c. The charter school has been placed on formal review based, at least in part, on concerns regarding the charter school's finances; or

d. Whenever a school district or charter school projects that it cannot fund 1 or more scheduled payroll disbursements.

(2) During any period of time when it is determined that a school district or charter school is in financial distress, the Financial Recovery Team shall be empowered to exercise, subject to the approval of the Secretary, control over the expenditure of funds appropriated to a school district or charter school as deemed necessary by the members of the Team. Control shall include, without limiting the foregoing, the right to approve the school district's or charter school's annual budget and any subsequent material amendment thereto, the right to approve district tax rates, the right to request drawdown of state financial assistance if applicable, the right to approve financial reporting to the local board of education or charter school board, the right to approve accounting policies, procedures and reports, the right to require a Financial Responsibility Committee be established by the local school board or charter school comprised of 1 or more members of the said board and/or residents of the district or, in the case of a charter school, parents of students attending the school. The Committee shall examine and report on the financial status of the district or charter school and shall have the right to pre-approve any obligation or contract that would require the expenditure of funds by the school district or charter school. Notwithstanding any provision of either this Code or any applicable rule or regulation to the contrary, the authority extended under this section shall apply to the expenditure of all funds received by a school district or charter school.

(3) The Financial Recovery Team shall report at least monthly to the Governor, the General Assembly, Director and the Controller General regarding the district's or charter school's current and projected financial position.

(4) The district or charter school shall reimburse the State for all salary and related costs of the Financial Recovery Team.

(5) Upon the recommendation of the Secretary that a school district or charter school is no longer in financial distress as defined in this section, the Director, with the consent of the Controller General, may elect to remove the members of the Financial Recovery Team.

(75 Del. Laws, c. 264, § 1; 75 Del. Laws, c. 439, §§ 2-5; 78 Del. Laws, c. 187, § 12.)

## Subchapter II
## District and Charter School Board Responsibilities

### § 1803. Financial responsibility training.

(a) With the approval of the Director of the Office of Management and Budget and the Controller General, the Department of Education, hereinafter referred to as "Department," is directed and authorized to develop a program of financial responsibility training to instruct district and charter leaders, members of school boards, including vocational-technical school boards, and the boards of charter schools, in properly discharging their responsibility to ensure that public funds, including both state and local funds, are appropriately managed and expended, and shall also include training on state and local funding of public education. The training must be offered virtually at least twice a year. The Department is authorized to promulgate rules and regulations to implement such a program of training. District and charter leaders and members of the aforementioned boards shall be required to attend such training as may be required by the Department pursuant thereto.

(b) For purposes of this section, “district leaders” is defined as the district superintendent and business manager and “charter leaders” is defined as the head of school or principal and business manager. If 1 individual acts in a dual capacity as both superintendent and business manager or as head of school or principal and business manager, the district or charter school shall designate a second individual to attend the training.

(c) The president of a school board for a school district or charter school shall inform each newly-elected or appointed member of the obligation to complete training under subsection (a) of this section. By January 15 of each year, the president of a school board shall send a letter to any board member who has not completed the training required under this section by January 1 following the board member’s election or appointment.

(75 Del. Laws, c. 264, § 1; 75 Del. Laws, c. 439, § 13; 82 Del. Laws, c. 64, § 369; 84 Del. Laws, c. 522, § 1.)

## § 1804. Financial responsibility committee.

Repealed by 75 Del. Laws, c. 439, § 6, effective Aug. 17, 2006.

# Part I
# Free Public Schools
## Chapter 19
## Local School Taxes
## Subchapter I
## General Provisions

### § 1901. Definitions.

For purposes of this chapter:

(1) "District" means a reorganized school district.

(2) "General reassessment" or "reassessed" means the general reassessment of all real property in the district by a county under § 8306 of Title 9.

(3) "School board" means a board of education of a reorganized school district.

(14 Del. C. 1953, § 1901; 57 Del. Laws, c. 113; 85 Del. Laws, c. 354, § 1; 85 Del. Laws, c. 420, § 1.)

### § 1902. Power of district to levy taxes for school purposes.

(a) Except as provided under Chapter 26 of this title, a district may, in addition to the amounts apportioned to it by the Department of Education or appropriated to it by the General Assembly, levy and collect additional taxes for school purposes upon the assessed value of all taxable real estate in the district, except any of the following:

(1) Real estate exempt from taxation under other law of this State.

(2) Real estate exempt from taxation under a county ordinance adopted before June 26, 1995, exempting property for the purpose of attracting or expanding a for-profit business.

(3) Real estate exempt from taxation under a county ordinance adopted on or before January 1, 1998, granting, clarifying, or expanding any exemption from county taxation. Upon a county-wide reassessment under § 8306(b) of Title 9, a county shall, by subsequent county ordinance, modify these exemption amounts.

(4) Real estate owned by the Delaware Pharmacists Society.

(5) Real estate owned by the Trustees of the Sewell C Biggs Trust.

(6) Real estate owned by the Dover Interfaith Mission for Housing.

(7) Real estate owned by the Inner City Cultural League.

(8) Real estate owned by Todmorden Foundation and used for the purposes of affordable housing.

(9) Real estate owned by the Central Delaware Housing Collaborative.

(b) In any instance except major capital improvement and new funds for educational advancement, as defined in Chapter 17 of this title, where the State shall make appropriations to school districts for any purpose and the applicable statute requires a local district contribution to the appropriation or expenditure, the local school board may levy such tax as is necessary to support the local district contribution without the necessity of a referendum in the local school district, notwithstanding § 1903 of this title.

(c) Pursuant to the provisions of subsection (b) of this section, all local districts shall be authorized to assess a local match for Fiscal Year 2010 reading resource teachers and mathematics resource teachers/specialists and Fiscal Year 2008 extra time.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2737; 14 Del. C. 1953, § 1902; 56 Del. Laws, c. 292, § 19; 59 Del. Laws, c. 453, § 1; 60 Del. Laws, c. 328, § 1; 70 Del. Laws, c. 106, § 1; 71 Del. Laws, c. 180, § 119; 72 Del. Laws, c. 21, § 1; 84 Del. Laws, c. 298, § 29; 84 Del. Laws, c. 415, § 1; 85 Del. Laws, c. 31, § 1; 85 Del. Laws, c. 62, § 345; 85 Del. Laws, c. 65, §§ 30, 34; 85 Del. Laws, c. 354, § 1; 85 Del. Laws, c. 420, § 2.)

### § 1903. Election preceding levy of tax.

(a) Except as specifically provided under this title, before a school board levies or increases a tax under § 1902 of this title, the school board must do all of the following:

(1) Determine if the proposed tax is on the basis of a specified amount or of a specified rate of taxation.

(2) Call a special election. The special election must be held under subchapter IV of Chapter 10 of this title.

(b) A school district may not hold more than 2 special elections under this section during a 12-month period.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2738; 47 Del. Laws, c. 303, § 1; 14 Del. C. 1953, § 1903; 55 Del. Laws, c. 86, § 1; 69 Del. Laws, c. 192, § 1; 74 Del. Laws, c. 122, § 41; 85 Del. Laws, c. 354, § 1.)

### § 1904. Tax rate for different classes of property.

(a) A school board of a district located entirely in New Castle County may use different tax rates for residential and nonresidential properties in the district in accordance with this section. A school board may initiate different tax rates or adjust the ratio between the different rates under the following circumstances:

(1) As part of an election under § 1903 of this title.

(2) When a school board calculates a new tax rate under § 1916(b) of this title. The combined projected revenue for a residential and nonresidential tax rate established or adjusted under this paragraph may not exceed the limit established under § 1916(b) of this title.

(b) If a school board uses different tax rates under this section, the tax rates must be uniform for all real property in the same classification, as required under § 1 of Article VIII of the Delaware Constitution.

(c) A nonresidential tax rate established under this section must be at least equal to a district's residential tax rate and may be no more than 1.85 times the district's residential tax rate.

(d) For purposes of classification and taxation under this chapter, a school board must follow the residential and nonresidential classifications established by New Castle County.

(e) In an election based on a specified rate of taxation conducted under § 1903 of this title, a district that uses a residential and nonresidential tax rate, or proposes to use a residential and nonresidential tax rate after a successful election, must state on the ballot the proposed new tax rate for each class of real property. If the election under § 1903 of this title is held on the basis of a specified amount to be raised, the district must state the proportion of the amount that is proposed to be raised from each class of real property.

(f) As used in this section, "tax rate" means the aggregate tax levied upon a real property by a school district, including operating funds, match tax, tuition tax, and capital debt service.

(g) A vocational-technical school district may not use different tax rates for residential and nonresidential properties under this section.

(85 Del. Laws, c. 420, § 3.)

## § 1905. Qualified voters.

At an election under § 1903 of this title, every person qualified to vote under § 1077 of this title may vote, and §§ 1078 and 1085 of this title shall apply to such election.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2738; 47 Del. Laws, c. 303, § 1; 14 Del. C. 1953, § 1905; 56 Del. Laws, c. 292, § 27; 74 Del. Laws, c. 122, § 43.)

## § 1906. Election officers.

Repealed by 74 Del. Laws, c. 122, § 44, effective July 8, 2003.

## § 1907. Hours of election.

For an election under § 1903 of this title, the polls must open at 7:00 a.m. and must close at 8:00 p.m., prevailing local time, on the day advertised.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2739; 14 Del. C. 1953, § 1907; 50 Del. Laws, c. 137, § 1; 51 Del. Laws, c. 240, § 9; 64 Del. Laws, c. 255, § 2; 76 Del. Laws, c. 138, § 5; 82 Del. Laws, c. 5, § 2.)

## § 1908. Method of voting; referendum to transfer tax funds.

(a) For an election under this chapter to increase taxes, the election shall be conducted by the use of voting machines. The wording on the voting machine shall include a statement of the question which is being voted for and against.

(b) For an election under this chapter for the purpose of increasing the real estate tax under this chapter, while simultaneously decreasing the real estate tax under Chapter 21 of this title by the same amount or the transfer of tax funds for 1 purpose to another purpose, the election shall be conducted by the use of voting machines. The wording on the voting machine shall include a statement of the question which is being voted for and against.

(c) The Department of Elections conducting the election shall provide a sufficient number of voting machines necessary to carry out the election hereunder, and the cost of transportation of the voting machines and other necessary charges for use of the voting machines shall be borne by that Department of Elections.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2739; 14 Del. C. 1953, § 1908; 51 Del. Laws, c. 240, § 10; 58 Del. Laws, c. 402; 60 Del. Laws, c. 582, § 1; 62 Del. Laws, c. 25, § 1; 62 Del. Laws, c. 184, §§ 1, 2; 66 Del. Laws, c. 359, § 2; 67 Del. Laws, c. 243, §§ 4, 6, 8; 74 Del. Laws, c. 122, § 45.)

## §§ 1909, 1910. Certifying and declaring result of election; recount.

Repealed by 74 Del. Laws, c. 122, § 46, effective July 8, 2003.

## § 1911. Required vote for authorization of additional tax.

If the majority of the votes cast at the election, under § 1903 of this title, shall be for additional tax, the tax shall be levied and collected as provided in this chapter.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2740; 14 Del. C. 1953, § 1911.)

## § 1912. Assessment list; school capitation tax.

(a) The school board of the district in which an additional tax is to be levied shall use the assessment list of the county in which that district is located as a basis for any school district tax. There may also be added a school capitation tax on all persons 18 years of age and upward residing in the district of such amount as shall be determined by the school board, provided that such school capitation tax

is approved by the voters of the district in the same manner as required by this chapter for the levy of taxes upon the assessed value of real estate.

(b) In the event a school capitation tax is approved by the voters of the district in New Castle County, the Department of Finance shall collect such taxes and make deposits of the moneys so collected in accordance with § 1917 of this title. Warrants or drafts on the said fund shall be drawn by the school board of the district.

(c) Every person who would be entitled to any exemption from taxation if such person owned real estate, pursuant to subchapter II of Chapter 81 of Title 9, shall be entitled to an exemption from the school capitation tax, whether such person owns real estate or not.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2741; 14 Del. C. 1953, § 1912; 51 Del. Laws, c. 240, § 11; 54 Del. Laws, c. 292; 55 Del. Laws, c. 69, § 1; 56 Del. Laws, c. 109; 56 Del. Laws, c. 285; 59 Del. Laws, c. 48, § 3; 85 Del. Laws, c. 420, § 4.)

## § 1913. Rate of tax [For application of this section, see 85 Del. Laws, c. 135, § 1, and c. 230, § 1].

(a) If the additional tax was authorized on the basis of amount of tax to be collected, the school board shall, upon the completion of the assessment, fix the rate sufficient to raise the amount determined to be raised at that time with an addition of up to 10% added thereto for delinquencies and costs of collection. If the additional tax was authorized on the basis of a specified rate of taxation, the board may add thereto up to 10% of said authorized rate for delinquencies and costs of collection.

(b) Notwithstanding any other provision of this title to the contrary, any school district which traverses county boundary lines, which has tax rates established in accordance with § 1916(c) of this title, and which subsequently receives approval through referendum to change the limit on such tax rate, shall establish a new or changed tax rate, including up to 10% for delinquencies and costs of collection, such that the tax rate levied upon the full valuation of real estate will be uniform on all real estate in the school district regardless of the county in which it is located. For purposes of this subsection, the term "tax rate" shall mean the total tax rate levied for all school purposes. For purposes of this subsection, the term "full valuation" shall mean the assessed valuation of a real property divided by the most current assessment to sales price ratio for property within each county as established by the Director of the Office of Management and Budget in accordance with § 1707 of this title.

(1)-(3) [Repealed.]

(32 Del. Laws, c. 160, § 54; Code 1935, § 2743; 47 Del. Laws, c. 303, § 2; 14 Del. C. 1953, § 1914; 65 Del. Laws, c. 99, § 1; 75 Del. Laws, c. 88, § 21(7); 85 Del. Laws, c. 135, § 1; 85 Del. Laws, c. 230, § 1; 85 Del. Laws, c. 420, § 5.)

## § 1914. Levy of annual school tax without election.

(a) A school board that has, for 1 year, levied a local tax under this chapter may continue annually, without a further election or referendum, to levy that local tax in an amount that does not exceed any of the following, as calculated under § 1913 of this title:

(1) The tax originally authorized by an election, if the original authorization was on the basis of an amount of tax.

(2) The rate of tax originally authorized by an election, if the original authorization was on the rate of taxation.

(3) The amount or rate of tax under paragraph (a)(1) or (a)(2) of this section as increased under subsection (b) of this section.

(b) A school board that has levied a local tax under § 1902(a) of this title may, without a further election or referendum, annually increase the rate of that tax under this chapter for the next fiscal year by an amount that does not exceed 2% of the tax rate levied for the school district for the immediately prior fiscal year, as follows:

(1) A school board may not increase the tax rate if any of the following apply:

a. The district's operational reserve balance is more than 10% of the district's annual revenue.

b. For the same fiscal year as a new tax rate is established after a general reassessment under § 1916(b) of this title.

(2) A school board may implement this subsection (b) beginning the earlier of the following:

a. For fiscal year 2031.

b. After the first time a new tax rate is established by the district following a general reassessment after July 23, 2026.

(c) If the amount or rate of tax is increased under subsection (b) of this section, state funding may not be decreased in any subsequent tax year based on the levy of that increase.

(36 Del. Laws, c. 214, § 1; Code 1935, § 2747; 47 Del. Laws, c. 303, § 3; 14 Del. C. 1953, § 1915; 85 Del. Laws, c. 354, § 1; 85 Del. Laws, c. 420, § 6.)

## § 1915. Demand for new election.

If in any year, not less than 2 months before the date of the regular school election, a number of voters, not fewer than 25 percent of the number of qualified voters of the district, shall demand over their signatures that an election be held, the board of education shall call an election as provided in § 1903 of this title, and the result of such election shall be binding until another election.

(36 Del. Laws, c. 214, § 1; Code 1935, § 2747; 14 Del. C. 1953, § 1916; 74 Del. Laws, c. 122, § 47.)

## § 1916. Tax collection warrant and assessment list; tax rate after general reassessment [Effective until Mar. 31, 2027].

(a) Based on the total value of all taxable property as shown on the county assessment list and on the amount to be raised, the board of the district shall fix the rate of taxation plus up to 10% for delinquencies.

(b) (1) After a general reassessment, a school board shall calculate a new tax rate that projects the total amount of money that is equal to or less than the sum of all of the following:

a. The actual operating revenue derived by the tax levied in the fiscal year immediately preceding the general reassessment.

b. A percentage that is equal to the average growth rate, during the previous 5 years, in taxable property in the district.

(2) If a general reassessment is completed after a new tax or a tax increase is approved under § 1903 of this title but before actual revenue is derived from that approved tax, the school board shall calculate a new tax rate that projects the total amount of money that is equal to or less than the sum of all of the following:

a. The projected operating revenue announced, projected, or calculated to be derived by approved tax.

b. A percentage that is equal to the average growth rate, during the previous 5 years, in taxable property in the district.

(3) Paragraphs (b)(1) and (b)(2) of this section do not apply to general reassessments before January 1, 2026, and this paragraph (b)(3) applies only to general reassessments before January 1, 2026. If the qualified voters of a reorganized school district have approved a specific rate of taxation or specified amount of taxation under § 1903 of this title and a subsequent general reassessment of all real estate in the county changes the total assessed valuation of the school district, the local board of education of each such local school district shall calculate a new real estate tax rate which, at its maximum, would realize no more than 10% increase in actual revenue over the revenue derived by real estate tax levied in the fiscal year immediately preceding such reassessed real estate valuation. In the event the qualified voters of a reorganized school district approve a specific rate of taxation or specified amount of taxation under § 1903 of this title to be collected, and there is a reassessment effective after voter approval, but before actual revenue is derived from increased taxation resulting from such voter approval, the local board of education of each such local school district shall calculate a new real estate tax rate which, at its maximum, would realize no more than a 10% increase in actual revenue over the revenue announced, projected or calculated to be derived by such voter approval and prior voter approvals.

(4) Any subsequent increase in the rate of taxation may only be achieved as follows:

a. Under § 1914(b) of this title.

b. By an election of the qualified voters in the school district under § 1903 of this title.

(c) Notwithstanding any other provisions of this title to the contrary, the school board of the district whose jurisdiction traverses county boundary lines and whose local school taxes are made different as a result of property reassessment shall levy real estate taxes in the following manner:

(1) In the county not reassessed, at a rate authorized by law and referendum.

(2) In the county recently reassessed, at a newly calculated rate based on the newly established assessments which at its maximum would bring in revenue equal to the amount authorized by law and by referendum, based on the previous year’s assessment, plus the quarterly updates and the 10% increase as authorized by subsection (b) of this section.

(d) The board shall, no later than the second Thursday in July, deliver its warrant to the receiver of taxes and county treasurer of the county or counties where the district is located.

(e) Notwithstanding the provisions of this chapter and § 2601 of this title, , the school board of any district within New Castle County shall, no later than October 22, 2026, deliver its warrant for the 2026-2027 tax year to the receiver of taxes and county treasurer of the county or counties where the district is located. The rate set under this subsection may be reset to incorporate the most recent assessment list provided by New Castle County. However, the rate set under this section may not increase the projected operating revenue of a school district, except any increase approved by referendum but not yet received and for a percentage that is equal to the 5-year average growth rate in taxable property as reported by New Castle County. In the event a school district within New Castle County experiences a shortfall of local school funds as a result of this subsection for the 2026-2027 school tax year, the school district may request, and the State shall advance, moneys from State Division I funds.

(32 Del. Laws, c. 160, § 54; 36 Del. Laws, c. 215, § 1; Code 1935, § 2743; 14 Del. C. 1953, § 1917; 51 Del. Laws, c. 240, § 12; 58 Del. Laws, c. 428; 65 Del. Laws, c. 8, § 1; 72 Del. Laws, c. 274, § 1; 84 Del. Laws, c. 295, § 387; 85 Del. Laws, c. 237, § 2; 85 Del. Laws, c. 354, § 1; 85 Del. Laws, c. 409, § 1.)

## § 1916. Tax collection warrant and assessment list; tax rate after general reassessment [Effective Mar. 31, 2027].

(a) Based on the total value of all taxable property as shown on the county assessment list and on the amount to be raised, the board of the district shall fix the rate of taxation plus 10% for delinquencies.

(b) (1) After a general reassessment, a school board shall calculate a new tax rate that projects the total amount of money that is equal to or less than the sum of all of the following:

a. The actual operating revenue derived by the tax levied in the fiscal year immediately preceding the general reassessment.

b. A percentage that is equal to the average growth rate, during the previous 5 years, in taxable property in the district.

(2) If a general reassessment is completed after a new tax or a tax increase is approved under § 1903 of this title but before actual revenue is derived from that approved tax, the school board shall calculate a new tax rate that projects the total amount of money that is equal to or less than the sum of all of the following:

a. The projected operating revenue announced, projected, or calculated to be derived by approved tax.

b. A percentage that is equal to the average growth rate, during the previous 5 years, in taxable property in the district.

(3) Paragraphs (b)(1) and (b)(2) of this section do not apply to general reassessments before January 1, 2026, and this paragraph (b)(3) applies only to general reassessments before January 1, 2026. If the qualified voters of a reorganized school district have approved a specific rate of taxation or specified amount of taxation under § 1903 of this title and a subsequent general reassessment of all real estate in the county changes the total assessed valuation of the school district, the local board of education of each such local school district shall calculate a new real estate tax rate which, at its maximum, would realize no more than 10% increase in actual revenue over the revenue derived by real estate tax levied in the fiscal year immediately preceding such reassessed real estate valuation. In the event the qualified voters of a reorganized school district approve a specific rate of taxation or specified amount of taxation under § 1903 of this title to be collected, and there is a reassessment effective after voter approval, but before actual revenue is derived from increased taxation resulting from such voter approval, the local board of education of each such local school district shall calculate a new real estate tax rate which, at its maximum, would realize no more than a 10% increase in actual revenue over the revenue announced, projected or calculated to be derived by such voter approval and prior voter approvals.

(4) Any subsequent increase in the rate of taxation may only be achieved as follows:

a. Under § 1914(b) of this title.

b. By an election of the qualified voters in the school district under § 1903 of this title.

(c) Notwithstanding any other provisions of this title to the contrary, the school board of the district whose jurisdiction traverses county boundary lines and whose local school taxes are made different as a result of property reassessment shall levy real estate taxes in the following manner:

(1) In the county not reassessed, at a rate authorized by law and referendum.

(2) In the county recently reassessed, at a newly calculated rate based on the newly established assessments which at its maximum would bring in revenue equal to the amount authorized by law and by referendum, based on the previous year's assessment, plus the quarterly updates and the 10% increase as authorized by subsection (b) of this section.

(d) The board shall, no later than the second Thursday in July, deliver its warrant, with a duplicate of the assessment list, to the receiver of taxes and county treasurer of the county or counties where the district is located.

(e) [Repealed.]

(32 Del. Laws, c. 160, § 54; 36 Del. Laws, c. 215, § 1; Code 1935, § 2743; 14 Del. C. 1953, § 1917; 51 Del. Laws, c. 240, § 12; 58 Del. Laws, c. 428; 65 Del. Laws, c. 8, § 1; 72 Del. Laws, c. 274, § 1; 84 Del. Laws, c. 295, § 387; 85 Del. Laws, c. 237, § 2; 85 Del. Laws, c. 354, § 1; 85 Del. Laws, c. 409, § 1; 85 Del. Laws, c. 237, § 3; 85 Del. Laws, c. 409, § 2.)

## § 1917. Collection and deposit of school taxes [Effective until Aug. 12, 2028].

(a) (1) The receiver of taxes and county treasurer shall collect school taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes, and, except as provided in subsection (c) and (d) of this section, shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them.

(2) a. Except as provided under paragraph (a)(2)b. of this section, the Receiver of Taxes of Kent and Sussex Counties and the Receiver of Taxes and County Treasurer for New Castle County shall, after the date the tax is due in the year in which the tax rolls shall be delivered to them, assess a penalty of 1% per month until the same shall be paid.

b. The county tax collection authority shall waive the penalties described in paragraph (a)(2)a. of this section for any residential taxpayer who enters into and complies with a payment plan authorized under § 8604 of Title 9.

(b) All money so collected shall be paid to the State Treasurer and shall be deposited by the State Treasurer in a separate account in the depository for other school moneys to the credit of the district.

(c) (1) a. If authorized by majority vote of the whole school board of the local school district pursuant to § 6102(q) of Title 29, there shall be allowed a credit against taxation imposed pursuant to this chapter on the valuation of any qualified property. For purposes of this subsection, "qualified property" shall mean property owned and occupied as a dwelling by and as the principal residence of a qualified person. A "qualified person" is a person who, as of June 30 immediately prior to the beginning of the county fiscal year, is of the age of 65 or more and meets the following requirement:

1. For claimants establishing legal domicile in this State after December 31, 2012, but on or before December 31, 2017, only claimants who, as of June 30 immediately prior to the beginning of the county fiscal year, have been legally domiciled within the State for a period of at least 3 consecutive years are eligible to receive a credit.

2. For claimants establishing legal domicile in this State after December 31, 2017, only claimants who, as of June 30 immediately prior to the beginning of the county fiscal year, have been legally domiciled within the State for a period of at least 10 consecutive years are eligible to receive a credit.

b. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this section. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant. The maximum such credit authorized by vote of local school boards shall be the lesser of:

1. Fifty percent of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22 and any tax reduction pursuant to § 6102 of Title 29; or

2. Five hundred dollars.

The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to § 6102 of Title 29.

(2) No credit against taxation on the valuation of real property as provided in this subsection shall be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application shall be filed with and received by the receiver of taxes or county treasurer no later than April 30 immediately prior to the beginning of that tax year.

(3) The Secretary of Finance shall have the authority to waive the date of application in the case that an individual is financially disabled defined herein as unable to manage such individual financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance as defined in Chapter 47, Title 16) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, but shall not include individuals for whom an individual's spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters.

(4) a. Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed a credit against that claimant's interest in said property in excess of the assessed valuation of that claimant's proportionate share in said property, which proportionate share, for the purposes of this subsection, shall be deemed to be equal to that of each of the other tenants unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

b. Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife as tenants by the entirety shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

c. Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, or by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

d. Right to claim credit under this subsection shall be withdrawn for the subsequent tax year from any taxpayer who has not paid in full such taxpayer's property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this subsection in subsequent tax years upon the payment in full of property taxes and penalties owed prior to the beginning of the subsequent tax year.

(5) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require that any return or other writing required to be filed with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

(6) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.

(7) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for the Secretary has authorized payment under § 1919(c) or (d) of this title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to wilful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed.

(d) (1) a. If authorized by majority vote of the whole school board of the local school district under § 6102(r) of Title 29, there will be allowed a credit against taxation in the full amount of tax liability imposed by this chapter on the valuation of any qualified property.

b. For purposes of this subsection, "qualified property" means property owned and occupied as a dwelling by and as the principal residence of a qualified person.

c. For purposes of this subsection, a "qualified person" means a veteran who satisfies both the following:

1. Receives from the United States Department of Veterans Affairs, or its successor agency, 100% disability compensation due to a service-connected, permanent and total disability based on individual unemployability or a 100% disability rating.

2. Is legally domiciled in this State for a period of at least 3 consecutive years. Mere seasonal or temporary residence within this State, of whatever duration, does not constitute domicile within this State for the purposes of this subsection. Absence from this State for a period of 12 months is prima facie evidence of abandonment of domicile in this State.

d. If a local school board has authorized the tax credit under paragraph (d)(1)a. of this section, then the credit must be allowed for a surviving spouse of a deceased qualified person if all of the following apply:

1. The deceased qualified person, immediately before death, was both claiming the credit and had not had the right to claim the credit withdrawn.

2. The surviving spouse was a titled owner of the qualified property before the deceased qualified person's death.

3. The surviving spouse has not remarried.

4. The surviving spouse owns and occupies the qualified property as their principal residence.

e. A surviving spouse is no longer eligible for the credit if they do any of the following:

1. Remarry.

2. Stop being a titled owner of the qualified property.

3. Stop occupying the qualified property as their principal residence.

f. The burden of establishing that the claimant meets the definition of "qualified person" or is an eligible surviving spouse is on the claimant.

g. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to § 6102 of Title 29.

(2) a. A credit against taxation on the valuation of real property as provided in this subsection may not be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application must be filed with and received by the receiver of taxes or county treasurer no later than April 30 immediately before the beginning of that tax year.

b. Notwithstanding the application deadline in paragraph (d)(2)a. of this section, the Secretary of Finance, in consultation with the receiver of taxes and country treasurer, shall establish a process for the receiver of taxes and county treasurer to use to verify the eligibility of a surviving spouse of a deceased qualified person and to maintain the credit for an eligible surviving spouse without disruption occasioned by the death of the qualified person.

(3) The Secretary of Finance shall have the authority to waive the date of application in the case that an individual is financially disabled defined herein as unable to manage such individual financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance as defined in Chapter 47, Title 16) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, but shall not include individuals for whom an individual's spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters.

(4) a. Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, the claimant is not allowed a credit against that claimant's interest in the property in excess of the assessed valuation of that claimant's proportionate share in the property. For the purposes of this subsection, the claimant's proportional share is deemed to be equal to that of each of the other tenants unless it is shown that the interests in question are not equal, in which event claimant's proportionate share must be as shown.

b. Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife as tenants by the entirety shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

c. Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, or by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

d. Right to claim credit under this subsection will be withdrawn for the subsequent tax year from any taxpayer who has not paid in full such taxpayer's property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this subsection in subsequent tax years upon the payment in full of property taxes and penalties owed before the beginning of the subsequent tax year. A claimant must notify the receiver of taxes or county treasurer of any modification in status that results in the claimant no longer meeting the definition of "qualified person" set forth in paragraph (d)(1) of this section or of eligible surviving spouse under paragraph (d)(1)d. of this section.

e. To the extent that a claimant qualifies for a credit pursuant to both this subsection and subsection (c) of this section, the claimant shall be entitled to the credit authorized under this subsection and shall have no right to claim a credit authorized under subsection (c) of this section.

(5) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require

that any return or other writing required to be filed with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

(6) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.

(7) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for which the Secretary has authorized payment under § 1919 (e) of this title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to wilful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2743; 14 Del. C. 1953, § 1918; 51 Del. Laws, c. 240, § 13; 51 Del. Laws, c. 313; 60 Del. Laws, c. 161, § 1; 62 Del. Laws, c. 225, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 130; 72 Del. Laws, 1st Sp. Sess., c. 256, §§ 2, 3; 73 Del. Laws, c. 9, §§ 1, 3; 78 Del. Laws, c. 284, § 1; 81 Del. Laws, c. 71, § 1; 83 Del. Laws, c. 124, § 1; 83 Del. Laws, c. 529, § 1; 84 Del. Laws, c. 233, § 26; 85 Del. Laws, c. 134, § 1.)

## § 1917. Collection and deposit of school taxes [Effective Aug. 12, 2028].

(a) The receiver of taxes and county treasurer shall collect school taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes, and, except as provided in subsection (c) and (d) of this section, shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them. The Receiver of Taxes and County Treasurer for New Castle County only shall, after September 1 in the year in which the tax rolls shall be delivered to them, assess a penalty of 5% to taxes which are due and owing but unpaid, and shall each month thereafter add to such unpaid taxes a penalty of 1% per month until the same shall be paid. The Receiver of Taxes of Kent and Sussex Counties only shall, after September 30 in the year in which the tax rolls shall be delivered to them, assess a penalty of 1% per month until the same shall be paid.

(b) All money so collected shall be paid to the State Treasurer and shall be deposited by the State Treasurer in a separate account in the depository for other school moneys to the credit of the district.

(c) (1) a. If authorized by majority vote of the whole school board of the local school district pursuant to § 6102(q) of Title 29, there shall be allowed a credit against taxation imposed pursuant to this chapter on the valuation of any qualified property. For purposes of this subsection, “qualified property” shall mean property owned and occupied as a dwelling by and as the principal residence of a qualified person. A “qualified person” is a person who, as of June 30 immediately prior to the beginning of the county fiscal year, is of the age of 65 or more and meets the following requirement:

1. For claimants establishing legal domicile in this State after December 31, 2012, but on or before December 31, 2017, only claimants who, as of June 30 immediately prior to the beginning of the county fiscal year, have been legally domiciled within the State for a period of at least 3 consecutive years are eligible to receive a credit.

2. For claimants establishing legal domicile in this State after December 31, 2017, only claimants who, as of June 30 immediately prior to the beginning of the county fiscal year, have been legally domiciled within the State for a period of at least 10 consecutive years are eligible to receive a credit.

b. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this section. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant. The maximum such credit authorized by vote of local school boards shall be the lesser of:

1. Fifty percent of such tax remaining after taking into account any exemption pursuant to Title 9 and Title 22 and any tax reduction pursuant to § 6102 of Title 29; or

2. Five hundred dollars.

The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to § 6102 of Title 29.

(2) No credit against taxation on the valuation of real property as provided in this subsection shall be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application shall be filed with and received by the receiver of taxes or county treasurer no later than April 30 immediately prior to the beginning of that tax year.

(3) The Secretary of Finance shall have the authority to waive the date of application in the case that an individual is financially disabled defined herein as unable to manage such individual financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance as defined in Chapter 47, Title 16) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, but shall not include individuals for whom an individual’s spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters.

(4) a. Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed a credit against that claimant’s interest in said property in excess of the assessed valuation

of that claimant's proportionate share in said property, which proportionate share, for the purposes of this subsection, shall be deemed to be equal to that of each of the other tenants unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

b. Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife as tenants by the entirety shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

c. Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, or by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

d. Right to claim credit under this subsection shall be withdrawn for the subsequent tax year from any taxpayer who has not paid in full such taxpayer's property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this subsection in subsequent tax years upon the payment in full of property taxes and penalties owed prior to the beginning of the subsequent tax year.

(5) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require that any return or other writing required to be filed with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

(6) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.

(7) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for the Secretary has authorized payment under § 1919(c) or (d) of this title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to wilful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed.

(d) (1) a. If authorized by majority vote of the whole school board of the local school district under § 6102(r) of Title 29, there will be allowed a credit against taxation in the full amount of tax liability imposed by this chapter on the valuation of any qualified property.

b. For purposes of this subsection, "qualified property" means property owned and occupied as a dwelling by and as the principal residence of a qualified person.

c. For purposes of this subsection, a "qualified person" means a veteran who satisfies both the following:

1. Receives from the United States Department of Veterans Affairs, or its successor agency, 100% disability compensation due to a service-connected, permanent and total disability based on individual unemployability or a 100% disability rating.

2. Is legally domiciled in this State for a period of at least 3 consecutive years. Mere seasonal or temporary residence within this State, of whatever duration, does not constitute domicile within this State for the purposes of this subsection. Absence from this State for a period of 12 months is prima facie evidence of abandonment of domicile in this State.

d. If a local school board has authorized the tax credit under paragraph (d)(1)a. of this section, then the credit must be allowed for a surviving spouse of a deceased qualified person if all of the following apply:

1. The deceased qualified person, immediately before death, was both claiming the credit and had not had the right to claim the credit withdrawn.

2. The surviving spouse was a titled owner of the qualified property before the deceased qualified person's death.

3. The surviving spouse has not remarried.

4. The surviving spouse owns and occupies the qualified property as their principal residence.

e. A surviving spouse is no longer eligible for the credit if they do any of the following:

1. Remarry.

2. Stop being a titled owner of the qualified property.

3. Stop occupying the qualified property as their principal residence.

f. The burden of establishing that the claimant meets the definition of "qualified person" or is an eligible surviving spouse is on the claimant.

g. The receiver of taxes and county treasurer shall apply such credit after any change to the current expense tax rate pursuant to § 6102 of Title 29.

(2) a. A credit against taxation on the valuation of real property as provided in this subsection may not be allowed except in accordance with a form of written application prescribed by the Secretary of Finance in consultation with the receiver of taxes and county treasurer

and provided by the receiver of taxes and county treasurer for use by the claimants under this subsection. Such application must be filed with and received by the receiver of taxes or county treasurer no later than April 30 immediately before the beginning of that tax year.

b. Notwithstanding the application deadline in paragraph (d)(2)a. of this section, the Secretary of Finance, in consultation with the receiver of taxes and country treasurer, shall establish a process for the receiver of taxes and county treasurer to use to verify the eligibility of a surviving spouse of a deceased qualified person and to maintain the credit for an eligible surviving spouse without disruption occasioned by the death of the qualified person.

(3) The Secretary of Finance shall have the authority to waive the date of application in the case that an individual is financially disabled defined herein as unable to manage such individual financial affairs by reason of a medically determinable physical or mental impairment (excluding impairment caused by voluntary use of alcohol or unlawful use of a controlled substance as defined in Chapter 47, Title 16) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, but shall not include individuals for whom an individual's spouse, guardian, or any other person is authorized to act on behalf of such individual in financial matters.

(4) a. Where title to property on which a credit is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, the claimant is not allowed a credit against that claimant's interest in the property in excess of the assessed valuation of that claimant's proportionate share in the property. For the purposes of this subsection, the claimant's proportional share is deemed to be equal to that of each of the other tenants unless it is shown that the interests in question are not equal, in which event claimant's proportionate share must be as shown.

b. Nothing in this subsection shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming a credit against the property so held, but no more than the equivalent of 1 full credit in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the credit shall be apportioned between or among them in proportion to their interests. Property held by husband and wife as tenants by the entirety shall be deemed wholly owned by each tenant, but not more than 1 credit in regard to such property shall be allowed in any year.

c. Right to claim a credit under this subsection shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, or by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim a credit under this subsection, but not to property the title to which is held by a corporation.

d. Right to claim credit under this subsection will be withdrawn for the subsequent tax year from any taxpayer who has not paid in full such taxpayer's property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer. Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this subsection in subsequent tax years upon the payment in full of property taxes and penalties owed before the beginning of the subsequent tax year. A claimant must notify the receiver of taxes or county treasurer of any modification in status that results in the claimant no longer meeting the definition of "qualified person" set forth in paragraph (d)(1) of this section or of eligible surviving spouse under paragraph (d)(1)d. of this section.

e. To the extent that a claimant qualifies for a credit pursuant to both this subsection and subsection (c) of this section, the claimant shall be entitled to the credit authorized under this subsection and shall have no right to claim a credit authorized under subsection (c) of this section.

(5) The Secretary of Finance may, in consultation with the receiver of taxes and county treasurer, promulgate such rules and regulations and prescribe such forms as the Secretary shall deem necessary to implement this subsection. The Secretary may require that any return or other writing required to be filed with respect to the credit allowed under authority of this subsection be signed by the maker of such return or writing under oath or affirmation, subject to the penalties of perjury.

(6) An aggrieved taxpayer may appeal from the disposition of a claim for credit under this subsection in the same manner as provided for appeals from property tax assessments generally.

(7) Whenever the Secretary of Finance shall determine that a credit has been claimed in disregard of the conditions under which such claims may be made and for which the Secretary has authorized payment under § 1919 (e) of this title, the Secretary may assess such claimant for the amount of the credit and, unless it is shown that such disregard is due to reasonable cause and not due to wilful neglect, with a penalty of 20% of the credit claimed along with interest at 1% for any month or fraction of a month commencing on the date on which the claim for credit was filed.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2743; 14 Del. C. 1953, § 1918; 51 Del. Laws, c. 240, § 13; 51 Del. Laws, c. 313; 60 Del. Laws, c. 161, § 1; 62 Del. Laws, c. 225, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 130; 72 Del. Laws, 1st Sp. Sess., c. 256, §§ 2, 3; 73 Del. Laws, c. 9, §§ 1, 3; 78 Del. Laws, c. 284, § 1; 81 Del. Laws, c. 71, § 1; 83 Del. Laws, c. 124, § 1; 83 Del. Laws, c. 529, § 1; 84 Del. Laws, c. 233, § 26; 85 Del. Laws, c. 134, § 1; 85 Del. Laws, c. 134, § 6.)

## § 1918. Disbursement of school taxes; financial statement.

(a) Warrants or drafts on the said fund shall be drawn by the school board of the district and applied only for the purpose for which the levy is made.

(b) The district shall prepare at the close of each fiscal year a financial report as specified in § 1507 of this title. This financial report shall have been examined and approved by the Board prior to its publication and submission to the Secretary of Education, not later than

August 31 for the prior fiscal year. Copies of the financial report shall be placed on file for review by the public in each school in the district, in the district's central administrative offices and in each public library located within the school district.

(c) This section shall apply for fiscal years beginning on or after July 15, 1988.

(32 Del. Laws, c. 160, § 54; Code 1935, § 2743; 14 Del. C. 1953, § 1919; 51 Del. Laws, c. 240, § 14; 66 Del. Laws, c. 399, § 1; 67 Del. Laws, c. 47, § 238; 69 Del. Laws, c. 64, § 280; 71 Del. Laws, c. 180, § 120A.)

## § 1919. Report of school tax collections and payment of collected taxes.

(a) Each receiver of taxes and county treasurer shall on the first day of each month make a report to the school board of the district for which the receiver or treasurer is collecting taxes, to the State Treasurer and the Department of Education, of all taxes collected in the previous month. The forms shall show a complete breakdown of taxes collected, such as capitation, debt service and current expenses, and such other information as may be required.

(b) Each receiver of taxes and county treasurer shall, not less than once each calendar month, pay over to the State Treasurer all funds collected by him or her for any district.

(c) (1) For tax years beginning on or after May 1, 1999, but before May 1, 2000, each receiver of taxes and county treasurer shall, in accordance with rules and deadlines established by the Secretary of Finance, report to the Secretary of Finance the amount of credits allowed under § 1917(c) for the current tax year. Credits shall be allowed and reported to the Secretary of Finance only in the event the claimant has paid the school tax due for the tax year.

(2) The Secretary of Finance shall, after receiving the report required under paragraph (c)(1) of this section, pay over to each receiver of taxes and county treasurer an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102(q) of Title 29, Delaware Code, to offset administrative costs to each county an amount up to 5% of the value of credits claimed, but not to exceed $50,000. The Secretary of Finance may use an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102(q) of Title 29, Delaware Code to offset administrative costs up to 5% of the value of credits claimed, but not to exceed $50,000.

(3) For tax years beginning on or after May 1, 1999 and before May 1, 2000, each receiver of taxes and county treasurer shall, no later than January 31, 2000, submit a list to the Secretary of Finance of taxpayers qualifying and approved for the credit under § 1917(c) of this Title, the amount equal of the school tax paid by said taxpayer, and the school tax that would have been due taking into account the credit under § 1917(c), along with such other information as deemed appropriate by the Secretary of Finance.

(4) For tax years beginning on or after May 1, 1999 and before May 1, 2000, the Secretary of Finance shall refund to taxpayers qualifying and approved for the credit under § 1917(c) of this title an amount equal to the school tax paid by said taxpayer less the school tax that would have been due taking into account the credit under subsection (c) of this section.

(5) The Secretary of Finance may promulgate such rules and regulations and prescribe such forms and reports as the Secretary of Finance shall deem necessary to implement this subsection.

(d) For tax years beginning on or after May 1, 2000, each receiver of taxes and county treasurer shall report to the Secretary of Finance the amount of credits allowed under § 1917(c) of this title for that tax year within 90 days of the date of any property tax billing. Such reports shall contain such further information and be in such form as the Secretary shall prescribe. The Secretary shall pay over to the State Treasurer, no later than 30 days following receipt of such report, an amount from the Elderly Property Tax Relief and Education Expense Fund established pursuant to § 6102(q) of Title 29 equal to the allowable credits which shall be deposited into a separate account in the depository for other school moneys to the credit of the district.

(e) For tax years beginning on or after May 1, 2022, each receiver of taxes and county treasurer shall report to the Secretary of Finance the amount of credits allowed under § 1917(d) of this title for that tax year within 90 days of the date of any property tax billing. Such reports shall contain such further information and be in such form as the Secretary shall prescribe. The Secretary shall pay over to the State Treasurer, no later than 30 days following receipt of such report, an amount from the Disabled Veterans Property Tax Relief and Education Expense Fund established pursuant to § 6102(r) of Title 29 equal to the allowable credits which shall be deposited into a separate account in the depository for other school moneys to the credit of the district.

(36 Del. Laws, c. 215, § 2; 37 Del. Laws, c. 203, § 3; Code 1935, § 2745; 47 Del. Laws, c. 280, § 1; 14 Del. C. 1953, § 1920; 51 Del. Laws, c. 240, § 15; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 121; 72 Del. Laws, 1st Sp. Sess., c. 256, §§ 4, 5; 73 Del. Laws, c. 9, § 2; 83 Del. Laws, c. 124, § 2.)

## § 1920. Penalty.

Whoever, being a receiver of taxes and county treasurer of any county, or other person authorized to collect school taxes, or a member of any school board, fails, neglects or refuses to perform all or any of the duties imposed upon that person by this chapter shall be fined not less than $10 nor more than $100.

Justices of the peace shall have jurisdiction of offenses under this section.

(36 Del. Laws, c. 215, § 3; Code 1935, § 2746; 14 Del. C. 1953, § 1921; 70 Del. Laws, c. 186, § 1.)

## § 1921. Refund of county taxes paid in error; refund after assessment appeal.

(a) Local county school taxes paid through error or by mistake may be refunded by the school district to which the taxes were paid as follows:

(1) The person claiming a refund of taxes shall file with the board of the school district a request for refund under oath or affirmation stating the payment of the taxes, the person, firm, corporation or association by whom the taxes were paid, and the date of payment and stating why it is believed the taxes were paid in error;

(2) The school board shall submit the request for refund to the receiver of taxes of the county for the receiver's approval of the payment of the refund and shall make no refund unless the receiver of taxes approves the refund in writing, except that capitation taxes may be refunded without such approval;

(3) The school board and the receiver of taxes shall keep a record of all refunds for at least 3 years, which record shall be open for public inspection during regular business hours.

(b) Local county school taxes determined to be overpaid after an assessment appeal by a taxpayer shall be refunded or credited in accordance with § 8311 of Title 9.

(14 Del. C. 1953, § 1922; 54 Del. Laws, c. 315; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 133, § 3.)

## § 1922. Borrowing in anticipation of taxes.

School districts may borrow money in anticipation of local school taxes, as imposed by this chapter, to an amount not to exceed 25% of such annual taxes, which shall be pledged for the payment of such loan or loans, and issue revenue anticipation notes or certificates, executed in accordance with § 2111 of this title. Such revenue anticipation notes or certificates shall mature and be payable within 90 days of the date such money is borrowed. They shall be redeemable at a state or national bank designated by the school district. The faith and credit of the school district is pledged for the payment of the principal and interest of the revenue anticipation notes or certificates of indebtedness which shall be exempt from taxation for any purpose by this State. All expense incident to the advertising, preparing, issuing and delivering of the revenue anticipation notes or certificates, and principals and interest thereon shall be paid by the school district. No such borrowing shall constitute an increase of bonded debt within the meaning of § 2107 of this title.

(14 Del. C. 1953, § 1923; 56 Del. Laws, c. 66; 63 Del. Laws, c. 142, § 32.)

## § 1923. Payment of interest upon local school funds on deposit.

(a) The State Treasurer shall credit to the account of each local school district that has funds on deposit with the State Treasurer such amount of interest as determined by this section upon such funds. The rate of interest applied shall be based upon net interest earned and calculated under guidelines established by the Cash Management Policy Board.

(b) On or before the last day of each month, the State Treasurer shall credit the operating and debt service accounts respectively of each school district's operating and debt service funds with interest on the average balances in operating and debt service funds for the preceding month. The amount of interest due shall be calculated upon the average daily account balances determined by the respective financial activity reports of the Department of Finance.

(c) On or before the last day of each month, the State Treasurer shall credit the debt service account of each local school district's construction fund with interest on the average balance of that proportion of the construction account contributed by the local school district. The amount of interest due shall be calculated upon the average daily account balances determined by the respective financial activity reports of the Department of Finance.

(14 Del. C. 1953, § 1924; 57 Del. Laws, c. 284; 57 Del. Laws, c. 376; 60 Del. Laws, c. 511, § 66; 60 Del. Laws, c. 722, § 3; 63 Del. Laws, c. 142, § 33; 63 Del. Laws, c. 404, §§ 1, 2, 6; 72 Del. Laws, c. 304, § 1.)

## § 1924. Tax rates in districts resulting from consolidation pursuant to court order or created after February 1, 1978, but prior to July 30, 1978.

(a) For the purpose of this section:

(1) "Consolidated area" shall refer to a contiguous geographical area in which all school districts (except vocational-technical school districts unless specifically included by the court or the consolidation) are being organized into 1 or more reorganized school districts.

(2) "Reorganized school district" shall mean any school district created by consolidation of whole existing school districts or parts of existing school districts or any combination thereof pursuant to court order or created by consolidation of whole existing school districts or parts of existing school districts or any combination thereof which occurs after February 1, 1978, but prior to July 30, 1978, except for consolidation of districts created specifically to administer a system of vocational and/or technical education.

(b) The interim board of education or board of education or other authority mandated by the court or by this title for each reorganized school district may annually set a tax rate for current operating expenses not greater than a maximum rate to be determined by the State Board of Education in accordance with the following mathematical procedure:

(1) Determine the total aggregate dollar amount of local tax funded current operating cost expenditure in the school districts (except vocational-technical school districts unless such districts are included in the consolidation) of the consolidated area in the year prior to consolidation. In determining such total amount the State Board shall take the known total aggregate dollar amount of local tax funded current operating cost expenditure in the fiscal year preceding the year prior to consolidation and shall adjust this amount to take into account historic annual percentage changes in such total dollar amounts;

(2) Calculate the average per pupil local tax funded operating cost expenditure by dividing the dollar amount determined in paragraph (b)(1) of this section by the total number of students resident in the consolidated area who attend public schools of the districts (except vocational-technical school districts unless such districts are included in the consolidation) within the consolidated area on September 30 of the year prior to consolidation;

(3) Multiply the per pupil figure determined in paragraph (b)(2) of this section by the projected number of pupils expected to attend school in the reorganized school district in the first year of consolidation, such projected number to be determined by the State Board of Education by whatever tests or standards it finds appropriate;

(4) Determine the tax rate which, when multiplied by the total assessed value of all taxable real estate in the reorganized school district at the time the maximum is calculated, except taxable real estate which is exempt from county taxation, as determined and fixed for county tax purposes, would yield tax dollars collectible equal to 110 percent of the total dollar amount determined in paragraph (b)(3) of this section.

(c) The maximum rate of tax authorized in accordance with subsection (b) of this section includes the percentage for delinquencies and costs of collection provided for in § 1913 of this title.

(d) The interim board of education or the board of education or other authority mandated by the court or by this title for each reorganized school district may at an appropriate time during each fiscal year set a tax rate for debt service for the next fiscal year that shall be adequate to make the payments for principal and interest on debts evidenced by bonds or bond obligations of the reorganized district and bonds or bond obligations in each of the whole component school districts included in the reorganized district and for that fraction of the bond obligation of each component school district partially included in the reorganized district equal to the fraction of the assessed value (except taxable real estate which is exempt from county taxation, as determined and fixed for county tax purposes) of such partially included district located in the reorganized district.

(e) The interim board of education or board of education or other authority mandated by the court or by this title for each reorganized school district may each fiscal year determine and set tax rates for tuition and for minor capital improvements for the next fiscal year.

(f) Each reorganized school district may annually levy and collect taxes at rates set in accordance with this section upon the assessed value of all taxable real estate in such district, except taxable real estate which is exempt from county taxation, as determined and fixed for county tax purposes. Whenever this section provides for a maximum rate of tax, the levy of any taxes in excess of such maximum rate of tax shall in all respects be subject to this subchapter, notwithstanding this section.

(61 Del. Laws, c. 211, § 1.)

### § 1925. School tax districts.

(a) If the State Board of Education divides a school district pursuant to the authority of § 1028(k) of this title, the geographical area encompassed by the district being divided shall be established as a school tax district for the collection of taxes at a uniform rate throughout the school tax district, said taxes to be distributed according to § 1028(k) of this title. Such a school tax district shall serve no other function nor shall any staff or governing board be established for such a district.

(b) The tax rate for current operating expenses shall be the rate of taxes levied for current operating expenses in the district being divided in the fiscal year in which the State Board of Education adopts the plan dividing the district.

(c) The tax rate for the meeting of bond obligations shall be set by the taxing authorities of the county wherein the school tax district is located after consultation with the Treasurer of the State and levied throughout the school tax district in order to meet the obligations of §§ 1028(k) and 2121 of this title.

(d) The official of the county wherein the school tax district is located who is authorized to collect school taxes pursuant to § 1917 of this title shall annually set the tax rate, in compliance with subsections (b) and (c) of this section, for taxes to be collected in the following year.

(e) This section shall supersede § 1924 of this title upon the effective date of the division pursuant to § 1028(k) of this title.

(62 Del. Laws, c. 351, § 3.)

## Subchapter II

## Tax on Mobile Homes

### §§ 1930-1943.

Transferred.

# Part I
# Free Public Schools

## Chapter 20
## Standard School Construction

### § 2001. Definitions.

As used in this chapter:

(1) “District” means a reorganized school district.

(2) “School board” means a board of education of a reorganized school district.

(14 Del. C. 1953, § 2001; 53 Del. Laws, c. 353, § 1; 57 Del. Laws, c. 113.)

### § 2002. Establishment of standard formula.

The Department of Education shall establish a standard school construction formula which shall be uniform throughout the State. The standard formula so established shall take into consideration the different educational requirements at the various grade levels and the number of pupils for whom the facilities are planned.

(14 Del. C. 1953, § 2002; 53 Del. Laws, c. 353, § 1; 71 Del. Laws, c. 180, § 122.)

### § 2003. Determination of costs for state aid.

The Department of Education shall use the standard school construction formula for determining the cost of school construction, either new or additions, for the various districts. Such costs shall be used as the base upon which state aid for school construction to the various districts shall be allocated.

(14 Del. C. 1953, § 2003; 53 Del. Laws, c. 353, § 1; 71 Del. Laws, c. 180, § 122.)

### § 2004. Construction of facilities exceeding the standard formula.

This chapter shall not prevent the Department of Education from approving school construction requests submitted by districts when such requests vary from the standard formula; provided, however, that when the costs of the facilities so approved exceed the costs determined by the standard formula, the voters in the districts so affected may authorize and limit by referendum the expenditure of funds to the amount based on the standard formula, such referendum to be held in accordance with Chapter 21 of this title. The election may be conducted by the use of printed paper ballots or by the use of voting machines. Provisions shall be made for the following form to appear on the printed paper ballots next to squares added for convenience in marking and on the voting machine:

Section I — Vote for one

A. For a bond issue at this time

B. Against a bond issue at this time

Section II — Vote for one

In the event that the majority of votes cast in Section I is for a bond issue, which bond issue would you prefer?

A. For the bond issue in the amount of $ as recommended by the school board.

B. For the bond issue in the amount of $ as determined from the standard formula by the Department of Education.

The amounts of the proposed bond issues shall be inserted in the appropriate spaces on the ballot. Section I of the ballot shall be counted first. If the majority is for issuance of a bond (Section I) then Section II shall be counted and in no case shall the bond issue recommended by the school board be authorized with less than a majority of the total ballots validated for count; the lack of which majority will constitute a positive bond issue authorization by the standard formula of the Department of Education.

(14 Del. C. 1953, § 2004; 53 Del. Laws, c. 353, § 1; 58 Del. Laws, c. 8; 62 Del. Laws, c. 184, § 3; 71 Del. Laws, c. 180, § 122; 74 Del. Laws, c. 122, § 48.)

### § 2005. Satellite schools.

(a) Reorganized school districts and charter schools authorized pursuant to Chapter 5 of this title are authorized to enter into satellite school agreements pursuant to this section. For purposes of this section, a “satellite school” is defined as a public school that operates in physical facilities leased from, donated by or located on property that is owned or leased by a private sector or governmental employer which is not the school district or charter school operating the satellite school.

(b) The Department of Education shall promulgate rules and regulations for the approval of satellite school agreements. Such rules and regulations shall ensure that the physical facilities in which satellite schools operate are sufficient to protect the health and safety of the students who attend such schools, but shall not require that those physical facilities meet the same requirements established by the Department pursuant to § 2002 of this title for schools constructed and owned by reorganized districts. The State Risk Manager shall

provide assistance to the Department in establishing regulations governing the respective obligations of the school district or the charter school operating the satellite school and the employer or employers providing the physical facility for the operation of the satellite school for any liabilities that may be incurred pursuant to a separate provision of this Code or other provision of law. Satellite schools and their employees shall have the same immunities from liability as other public schools and their employees.

(c) Reorganized districts shall establish procedures for admissions to non-charter school satellite schools consistent with those established by Chapter 4 of this title and charter schools shall establish procedures for admissions to satellite schools consistent with those established by Chapter 5 of this title; provided however, that preference in admissions to satellite schools may also be given to students whose parents are residents of the State and who work at the worksite at which the satellite facility is located so long as such preference is made equally available to such students without regard to the jobs their parents hold at the worksite or without regard to whether the student's parents work for the employer who controls the worksite or a contractor of such employer. Such preference may also be extended to students whose parents work at a physical facility located within a 1-mile radius of the satellite school for an employer or the contractor of any employer, which is a party to a satellite school agreement with a reorganized district and which provides assistance pursuant to such agreement in the provision of the physical facility for the operation of the satellite school.

(70 Del. Laws, c. 366, § 1; 71 Del. Laws, c. 180, § 123.)

## § 2006. Subdivision impact and permit fees.

(a) Notwithstanding any law, rule, ordinance, or charter provision to the contrary, no county or municipality is permitted to assess permit fees, impact fees, or other assessments on a school district for any school construction project. This section does not prohibit a political subdivision from charging utility fees for usage of such utility provided the rate is no higher than that of other properties within the political subdivision nor shall this section prohibit the charging of a surcharge relating to building permit construction value to provide funding for volunteer fire or ambulance companies.

(b) For the purposes of this section:

(1) "Impact fees" or "other assessments" shall not include any fee assessed for maintaining or increasing water supply, wastewater transmission line capacity, or wastewater facility capacity.

(2) "Permit fees" or "other assessments" shall not include a fee or assessment to reimburse the jurisdiction for the approximate and reasonable cost to inspect and enforce applicable building, zoning, water, and wastewater codes or ordinances.

(c) *Arbitration procedure.* — (1) If a school district disagrees with the reasonableness of fees imposed and subject to this section, a right to an arbitration procedure in front of a 3-member panel is hereby established. The municipality or county and the school district shall each choose a member of the panel, and the third member shall be chosen by agreement of the remaining members of the panel and shall chair the panel. The decision of this panel shall be final and binding on the parties.

(2) For the purposes of this section, it shall be reasonable to base a fee upon the actual cost incurred, and 10% administrative support costs to provide the service.

(75 Del. Laws, c. 355, § 1.)

# Part I
# Free Public Schools
## Chapter 21
## Local School Bonds

### § 2101. Definitions.

As used in this chapter:

(1) “District” means a reorganized school district.

(2) “School board” means a board of education of a reorganized school district.

(14 Del. C. 1953, § 2101; 57 Del. Laws, c. 113.)

### § 2102. Power of district to issue bonds.

The school board of any district may issue bonds for the purpose of carrying out any plan or program for the acquisition of lands or the acquisition or construction of buildings or for improvements to lands or buildings as may be authorized by this title when such plan or program shall have been approved by the Department of Education.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2718; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 1; 14 Del. C. 1953, § 2102; 52 Del. Laws, c. 99, § 1; 64 Del. Laws, c. 444, § 1; 71 Del. Laws, c. 180, § 124.)

### § 2103. Temporary use of funds.

The school board of any district may advance funds which by law may be used only for stated purposes and which are not immediately required for the purpose or purposes for which the same were raised, or otherwise made available for the purpose or purposes for which an issue of bonds has been authorized. Suitable records shall be kept of the temporary diversion of such funds. Such funds shall be made again available to the district from the proceeds of such bonds, or from the proceeds of the sale of bond anticipation notes issued in anticipation of the sale of such bonds.

(14 Del. C. 1953, § 2102A; 57 Del. Laws, c. 636, § 1.)

### § 2104. Faith and credit of district; exemption of bonds from taxation.

The faith and credit of the district which issues bonds under this chapter is hereby expressly pledged for the full and complete payment of the principal of and interest on any bonds authorized to be issued under this chapter, and the said bonds shall be exempt from taxation, with respect to both principal and interest, by the State or any political subdivision thereof for any purpose.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2718; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 1; 14 Del. C. 1953, § 2103.)

### § 2105. Validity of bonds; incontestability.

When any bonds shall be sold and delivered pursuant to this chapter, the certification by the Department of Elections conducting the election pursuant to § 1083(d)(2) of this title and the certification by the school board of the district issuing such bonds that the bonds have been issued in due compliance with this chapter shall be conclusive upon the district and all and every other person whatsoever of the right, power and authority for the issuance of said bonds and the legality and validity thereof and of the principal debt and interest represented thereby, and the legality and validity of such bonds shall thereafter not be subject to question in any court by the district or by any person for or on its behalf, and this provision shall be and become part of the contract and obligation represented by each such bond.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2718; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 1; 14 Del. C. 1953, § 2104; 71 Del. Laws, c. 180, § 125; 74 Del. Laws, c. 122, § 49.)

### § 2106. Procedure governing sale of bonds to State.

The school board of any district, with the exception of the Board of Public Education in Wilmington, shall sell any bonds to be issued pursuant to the authority contained in this chapter or pursuant to any other provision of law to the State at private sale. The State may require that the validity of the bonds be approved by the Attorney General or the Attorney General’s designate. The board shall cause a complete record of the proceedings taken in relation to the issuance of the bonds to be made and kept with the other records of the board, and shall cause a duplicate of such record to be made and filed with the Department of Education.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, §§ 2718, 2719; 47 Del. Laws, 2nd Spec. Sess., c. 1, §§ 1, 2; 14 Del. C. 1953, § 2105; 58 Del. Laws, c. 315, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 124.)

### § 2107. Limitation on amount of bonds that may be issued.

A school board shall not issue bonds, except for the purpose of refunding outstanding bonds, in an amount which would cause the aggregate amount of bonded debt of the district, less the amount of sinking funds on hand for the payment of such bonded debt, to exceed 10% of the assessed value of the real property in the district or in the case of Sussex County school districts, 10% of 50% of the full market value of real estate, in Kent County school districts, 10% of 60% of the full market value of real estate; and in New Castle County school

districts, 10% of 100% of the full market value of real estate, whichever is greater. For purposes of this section, the full market value of real estate shall be determined by the Assessment to Sales Ratio Study conducted annually by the Office of Management and Budget.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2719; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 2; 48 Del. Laws, c. 175, § 1; 14 Del. C. 1953, § 2106; 71 Del. Laws, c. 3, § 1; 75 Del. Laws, c. 88, § 21(7).)

## § 2108. Terms and form of bonds.

The bonds shall be in such denomination or denominations, in such form and shall bear such rate of interest as shall be determined by the State pursuant to § 7506 of Title 29; provided, however, that the school board of any district shall be consulted regarding the term of such bonds. The bonds shall bear interest from and after their date, payable semiannually on the days designated in the bonds. The bonds shall consist of a single bond registered as to both principal and interest with the principal thereof payable in installments and interest thereon payable semiannually. The amounts of principal payable and the dates on which such payments are due shall be noted on the bond form. The dates on which the interest is due shall also be noted on the bond form. Such bonds shall be payable in serial installments beginning not more than 1 year after the date of the bonds and ending not more than 20 years after such date; the amount of any installment payable in any 1 year, except the last year, shall be not less than $^{1}/_{20}$ of the aggregate principal amount of the bonds of such issue.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, §§ 2719, 2720; 47 Del. Laws, 2nd Spec. Sess., c. 1, §§ 2, 3; 14 Del. C. 1953, § 2107; 57 Del. Laws, c. 92, § 1; 58 Del. Laws, c. 315, § 2; 77 Del. Laws, c. 329, § 63.)

## § 2109. Designation, numbering and date of bonds.

Any bonds issued pursuant to this chapter shall be designated by the name of the district issuing the bonds and the year in which the bonds are issued. The bonds shall be numbered consecutively and shall bear date as of the date approved by the school board of the district issuing the bonds. Each of the bonds shall be numbered consecutively and the coupons attached thereto shall bear the same number as the bond itself.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2720; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 3; 14 Del. C. 1953, § 2108.)

## § 2110. Place of payment of principal and interest.

The principal of and interest on the bonds shall be payable at a state or national bank within or without the State designated by the issuing officers as that term is defined in § 7401 of Title 29.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2720; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 3; 14 Del. C. 1953, § 2109; 63 Del. Laws, c. 142, § 34.)

## § 2111. Signing and sealing bonds.

The bonds shall be signed by the president or chairperson and 1 other member of the school board. The school board may adopt a seal to be used in the execution of the bonds. The school board may, in lieu of the signatures required by this section, authorize by special resolution that the signatures of the persons required to sign the bonds may be engraved or facsimiles thereof printed or otherwise transcribed upon the bonds and when such engraved or facsimile signatures shall be so authorized and engraved, printed or otherwise impressed upon said bonds they shall have the same effect as written signatures of such persons. The coupons attached to said bonds shall bear upon their face the engraved or printed signature of the president or chairperson of the school board.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2720; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 3; 14 Del. C. 1953, § 2110; 70 Del. Laws, c. 186, § 1.)

## § 2112. Temporary bonds.

Until bonds in definite form can be prepared, the school board issuing the bonds may cause temporary bonds with appropriate coupons to be prepared which shall be executed and signed as provided in §§ 2108-2111 of this title, which said temporary bonds shall be exchangeable for definitive bonds at the request of the holder.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2720; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 3; 14 Del. C. 1953, § 2111.)

## § 2113. Cancellation and destruction of paid bonds and coupons.

After any bonds issued under the authority of this chapter or the coupons annexed thereto shall have been paid, they shall be immediately cancelled, a record of payment shall be made and the bonds or coupons destroyed.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2721; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 4; 14 Del. C. 1953, § 2112; 52 Del. Laws, c. 64; 58 Del. Laws, c. 315, § 3; 63 Del. Laws, c. 142, § 35.)

## § 2114. Replacement of lost, destroyed or defaced bonds.

The school board of any district may issue a new bond to replace an unmatured bond which has been lost, destroyed or defaced, upon the written request of the owner thereof, the owner's legal representatives, successors or assigns, and upon giving:

(1) Proof of ownership;

(2) Proof of loss or destruction, or, in the case of a defaced bond, the bond and coupons, if any;

(3) Adequate security to indemnify the district and the bank or banks at which the bond and coupons are payable against any loss that may be suffered on account of such replaced bond and coupons; and

(4) Payment of the cost of preparation of the new bond and coupons, if any.

Any new bond and coupons shall be executed by the officials (including, in the case of a school district, a member of the board of school trustees of the district) in office at the time of such replacement and shall bear the seal of the district. The coupons, if any, shall be signed by the facsimile of the signatures of the appropriate officers. There shall be endorsed on the new bond a statement in substantially the following form:

"This bond has been reissued to replace a lost, destroyed or defaced bond."

The replacement shall be authorized by a resolution of the school board which shall set forth a copy of the written request of the owner, the owner's legal representatives, successors or assigns, and the designation, date, maturity, interest rate, denomination and number of the replaced bond.

(14 Del. C. 1953, § 2112A; 57 Del. Laws, c. 280; 70 Del. Laws, c. 186, § 1.)

## § 2115. Rules and regulations governing fiscal records pertaining to bonds.

The Permanent Budget Commission shall promulgate and enforce rules and regulations governing the fiscal records to be maintained by the State Treasurer and the districts pertaining to bonds of such districts and school bonds of the City of Wilmington.

(Code 1935, § 2721A; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 5; 14 Del. C. 1953, § 2113.)

## § 2116. Taxing power of district.

The authority to issue bonds shall be construed to be authority to provide funds for the payment of the interest and annual payments on such bonds, which without further authority shall be provided for by an additional tax levy on the property subject to taxation for county purposes in the district issuing the bonds.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2722; 14 Del. C. 1953, § 2114; 84 Del. Laws, c. 256, § 3.)

## § 2117. Assessment list; objections; posting; hearing.

The school board of the district in which the tax is to be levied under § 2116 of this title shall use the assessment list of the county in which that district is located, in order to determine all the taxables of the district, the property of each taxable and the assessed value thereof. Such list shall constitute the assessment list of the district for purposes of levying a tax under § 2116 of this title.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2722; 14 Del. C. 1953, § 2115; 51 Del. Laws, c. 240, § 16; 58 Del. Laws, c. 78, § 2.)

## § 2118. Assessment, levy and collection of taxes.

(a) Based on the total value of all taxable property as shown on the county assessment list and on the amount to be raised, the board of the district shall fix the rate of taxation plus 10 percent for delinquencies.

(b) The board shall execute and deliver its warrant, with a duplicate of the assessment list, to the receiver of taxes and county treasurer of the county or counties wherein the district is situated.

(c) The receiver of taxes and county treasurer shall collect such taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes.

(d) All money so collected shall be paid to the State Treasurer and shall be deposited by the State Treasurer in a separate account in the depository for other school moneys to the credit of the district.

(e) The Secretary of Finance is hereby authorized and directed to draw warrants or drafts on such fund in the amount of the principal of and interest on such bonds or other obligations as the same shall become due and payable, and to deposit such money, so drawn, to the credit of the General Fund of the State. Warrants or drafts on the said fund may also be drawn for the purpose of paying school construction costs as authorized by referenda pursuant to § 7507 [repealed] of Title 29.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; 36 Del. Laws, c. 216, §§ 1, 3; 37 Del. Laws, c. 195, § 1; Code 1935, § 2723; 14 Del. C. 1953, § 2116; 50 Del. Laws, c. 80, § 1; 51 Del. Laws, c. 240, § 17; 58 Del. Laws, c. 315, § 4; 59 Del. Laws, c. 205, § 4; 70 Del. Laws, c. 186, § 1.)

## § 2119. Report of tax collections and payment of collected taxes.

(a) Each receiver of taxes and county treasurer shall, on the first day of each month, make a report to the school board of the district for which the receiver or treasurer is collecting taxes, to the State Treasurer and the Department of Education of all taxes collected in the previous month.

(b) Each receiver of taxes and county treasurer shall, not less than once each calendar month, pay over to the State Treasurer all funds collected by that receiver of taxes or county treasurer for any district.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; 36 Del. Laws, c. 216, § 2; Code 1935, § 2724; 14 Del. C. 1953, § 2117; 51 Del. Laws, c. 240, § 18; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 124.)

## § 2120. Jurisdiction of justices of the peace.

Whoever, being a receiver of taxes and county treasurer of any county, or other person authorized to collect school taxes, or a member of any school board, fails, neglects or refuses to perform all or any of the duties imposed upon that person by this chapter shall be fined not less than $10 nor more than $100.

Justices of the peace shall have jurisdiction of offenses under this section.

(36 Del. Laws, c. 216, § 4; Code 1935, § 2724; 14 Del. C. 1953, § 2118; 70 Del. Laws, c. 186, § 1.)

## § 2121. Authority to tax; scope of this chapter.

The board of education of any school district which has issued bonds under the authority of any former school law of this State shall levy and collect taxes to provide funds for the payment of the interest on the bonds and for the retirement of the bonds as they shall fall due. The provisions of this chapter relative to the assessment, the rate of taxation and the levy and collection of taxes, and the deposit of taxes collected, and the disbursement thereof, shall apply to the case of school districts which have issued bonds under any former law of this State which have not been paid in whole or in part both principal and interest.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2724; 14 Del. C. 1953, § 2119; 57 Del. Laws, c. 113.)

## § 2122. Election to authorize bond issue; rules governing; referendum to transfer tax funds.

(a) Before any school board issues bonds under this chapter, it shall call a special election.

(b) At any such special election every person qualified to vote under § 1077 of this title may vote, and §§ 1078 and 1085 of this title shall apply to such election.

(c) The polls must open at 7:00 a.m. and must close at 8:00 p.m., prevailing local time, on the day advertised.

(d) An election under this chapter for the purpose of authorizing a bond issue shall be conducted by use of voting machines. The wording on the voting machine shall include a statement of the question which accurately reflects the issue being voted for and against.

(e) An election under this chapter for the purpose of increasing the real estate tax rate under Chapter 19 of this title, while simultaneously decreasing the real estate tax rate under this chapter by the same amount, shall be by the use of voting machines. The wording on the voting machine shall include a statement of the question which accurately reflects the issue being voted for and against.

(f) There shall be not more than 2 such special elections held during any 12-month period.

(g) The Department of Elections conducting the election shall provide a sufficient number of voting machines necessary to carry out the election hereunder, and the cost of transportation of the voting machines and other necessary charges for use of the voting machines shall be borne by that Department of Elections.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2725; 14 Del. C. 1953, § 2120; 50 Del. Laws, c. 284, § 1; 51 Del. Laws, c. 232; 55 Del. Laws, c. 86, § 2; 56 Del. Laws, c. 292, § 28; 60 Del. Laws, c. 582, §§ 2, 3; 62 Del. Laws, c. 25, § 2; 62 Del. Laws, c. 184, §§ 4-6; 63 Del. Laws, c. 253, § 2; 64 Del. Laws, c. 255, § 3; 66 Del. Laws, c. 359, § 4; 67 Del. Laws, c. 243, §§ 5, 9; 69 Del. Laws, c. 192, § 2; 74 Del. Laws, c. 122, §§ 50-54; 76 Del. Laws, c. 138, § 6; 81 Del. Laws, c. 326, § 2; 82 Del. Laws, c. 5, § 3.)

## § 2123. Election results; publication of results.

(a) If at an election called under § 2122(a) of this title a majority of the vote cast shall be for the bond issue, then bonds to the amount voted upon shall be issued as provided for by this chapter, but if at such election a majority of the votes cast shall be against the bond issue, then the bond issue proposed shall not be made.

(b) Within 10 days of the certification of the results of the election in accordance with § 1083(a) of this title, the Department of Elections conducting the election shall declare the results of the election by an advertisement published on 2 consecutive days in at least 1 newspaper of the county with countywide circulation or a combination of newspapers whose circulation covers the area of the school district.

(c) The Department of Elections conducting the election shall make a certificate of the result of such vote which shall be filed and kept in the offices of that Department of Elections as a public record.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; 38 Del. Laws, c. 139, § 1; Code 1935, § 2726; 14 Del. C. 1953, § 2121; 71 Del. Laws, c. 180, § 126; 74 Del. Laws, c. 122, § 55.)

## § 2124. Purchase of land for school purposes.

Nothing in this chapter shall prohibit any school board, with the prior approval of the Department of Education, from purchasing or from entering into contracts relating to the acquisition of lands for school purposes, if the school board shall have available to it funds for such purposes.

(32 Del. Laws, c. 160, § 53; 34 Del. Laws, c. 173, § 1; Code 1935, § 2727; 47 Del. Laws, 2nd Spec. Sess., c. 1, § 6; 14 Del. C. 1953, § 2122; 71 Del. Laws, c. 180, § 127.)

# Part I
# Free Public Schools
## Chapter 23
## School Building Program

### § 2301. Definitions.

As used in this chapter:

(1) "District" means a reorganized school district.

(2) "Evaluation detail component" is a site inspection template and assessment system that allows for individual district comment, incorporated within the facilities evaluation instrument, used to evaluate the areas of a school on a category by category basis.

(3) "Facilities evaluation instrument" means a document established by regulations by March 1, 2027, by the Department of Education that includes the evaluation detail component and the standard of good repair that is used to determine whether a school facility is in good repair. The facilities evaluation instrument may not require capital improvements beyond the standards to which the facility was designed and constructed.

(4) "School board" means a board of education of a reorganized school district.

(5) "School facilities" means any permanent building, portable building or structure, or commercial space owned, rented, operated, or leased by boards of education, including donated space, used as a classroom or for child care or any other space for education services including classrooms, cafeterias, staff lounges, staff offices, auditoriums, gymnasiums, or libraries.

(6) "Standard of good repair" means that part of the facilities evaluation instrument which outlines the school facility systems and components, as specified in this section, that should be considered in the inspection of a school facility to ensure that it is maintained in a manner that assures it is clean, safe, and functional.

(14 Del. C. 1953, § 2301; 57 Del. Laws, c. 113; 83 Del. Laws, c. 435, § 1; 85 Del. Laws, c. 364, § 1.)

### § 2302. Gifts of buildings or grounds; title.

School boards may receive donations of playgrounds, school grounds and school sites, or of buildings already built suitably located and adapted to school purposes, but in no case shall any site be built upon or any building accepted until a good and sufficient title has been obtained for the same in the name of the school board.

(32 Del. Laws, c. 160, § 51; 33 Del. Laws, c. 176, § 1; Code 1935, § 2715; 14 Del. C. 1953, § 2302; 56 Del. Laws, c. 292, § 29.)

### § 2303. Condemnation.

(a) When lands are required for the site of a school house, or for enlarging a school house lot, or for playgrounds or other school purposes and the Department of Education or the school board shall for any cause be unable to contract with the owner or owners thereof upon what they deem to be a fair valuation thereof, the Department and the school board, or either of them, may institute condemnation proceedings in accordance with Chapter 61 of Title 10.

(b) No lot so taken or enlarged shall exceed, in the whole, including the land occupied by the school building, more than 15 acres for a school whose certified enrollment is less than 500 pupils.

(c) No lot so taken or enlarged shall exceed, in the whole, including the land occupied by the school building, more than 25 acres for schools having a certified enrollment in excess of 500 pupils.

(d) Certified enrollment, as used in this section, means the official net enrollment at the end of any school years as determined by the Department of Education, or, in the case of a proposed new school, the normal capacity of the proposed school building as approved by the Department of Education.

(e) Any proposed action pursuant to Chapter 61 of Title 10 shall be approved by appropriate resolutions of the local board of education and by the Department of Education. The Department shall, in the usual manner, review the building and site needs of the local district before deciding whether or not to adopt a resolution indicating the need for procuring the land as provided by Chapter 61 of Title 10 and the maximum number of acres involved.

(32 Del. Laws, c. 160, § 52; 34 Del. Laws, c. 165; Code 1935, § 2716; 48 Del. Laws, c. 46, § 1; 14 Del. C. 1953, § 2303; 52 Del. Laws, c. 230; 57 Del. Laws, c. 113; 71 Del. Laws, c. 180, § 128.)

### § 2304. Financing and construction funded before Code recodification.

The School Building Program Acts of 1951, and 1949, being Chapter 148 of Volume 48, Laws of Delaware, and Chapter 2 (Second Special Session) of Volume 47, Laws of Delaware (pages 1076 to 1090), are continued in full force and effect and shall govern the financing and construction of the school building programs and projects dealt with therein.

(14 Del. C. 1953, § 2304.)

### § 2305. Sidewalks.

(a) The engineering, maintenance and construction supervision for sidewalks leading to a school site shall be performed for the district by the State Highway Department except for snow removal. Such sidewalks may be located on land or rights-of-way under the control of the State Highway Department or on other land or rights-of-way provided for such purpose.

(b) Sidewalks financed by issuance of bonds by a school board may be constructed only after the need for such sidewalks is ascertained by the school board by careful examination of transportation facilities in the district and the project has been approved by the State Highway Department and the Department of Education.

(c) When considering granting approval for sidewalk construction, the local board and State Department of Education shall take into consideration the current rule governing permanent free bus transportation and shall make sure there is no overlapping. Both shall also consider frequency of exposure to traffic hazards and the possible existence of mechanical hazards. The procedure prescribed by § 2106 of this title must be fulfilled.

(14 Del. C. 1953, § 2305; 52 Del. Laws, c. 99, § 2; 54 Del. Laws, c. 319, §§ 1, 2; 71 Del. Laws, c. 180, § 128.)

## § 2306. Safety features in new school construction or major renovations [For applicability of this section, see 81 Del. Laws, c. 267, § 3].

(a) For purposes of this section, "major renovation" means a renovation project with costs equal to or greater than the threshold amount established for a Major Capital Improvement Program project under 14 DE Admin. Code 401.

(b) Whenever a new school is constructed or a major renovation undertaken, the construction or renovation must include, at a minimum, all of the following:

(1) Secured vestibule, which serves as the primary entrance to screen visitors, equipped with an intercom or video call box and interior doors that can be electronically released by school staff.

(2) Ballistic-resistant glass or other ballistic-resistant material, or security film in all secured vestibule, lobby, and office areas used to screen visitors.

(3) Classroom doors that can be locked from the outside using a key or magnetic card locking system. Classroom doors that can be locked from both sides must comply with the requirements under the current edition of the Delaware State Fire Prevention Regulations or the current edition of the National Fire Protection Association, Life Safety Code 101.

(4) Installation of a panic button or intruder alert system that is capable of being activated from the school office and a handheld device.

(c) The Comprehensive School Safety Program (CSSP) and Department of Education shall provide emerging best practices for ballistic and alarm capabilities to school districts and the Office of Management and Budget Division of Facilities Management annually.

(d) If, after the review conducted under § 6307A(b)(7) of Title 29, the Department of Safety and Homeland Security finds that the district's construction plan does not comply with the requirements of this section, then the district may request an additional review by the Secretary of the Department of Safety and Homeland Security. The Secretary of the Department of Safety and Homeland Security shall conduct a review of the district's construction plan and make the final determination about the construction plan's compliance with this section.

(81 Del. Laws, c. 267, § 1; 84 Del. Laws, c. 441, § 1; 85 Del. Laws, c. 312, § 1.)

## § 2307. School building maintenance standards.

(a) On or before January 1, 2024, the Department of Education shall develop the facilities evaluation instrument and inspection cycle in consultation with the Division of Public Health, experts in school facilities maintenance, district superintendents, the Delaware State Education Association, and the Delaware Association of State Administrators.

(b) The facilities evaluation instrument is used to determine if a school facility is in good repair. The facilities evaluation instrument must be designed to identify areas of a school site that are in need of repair based upon a thorough inspection of the site. The facilities evaluation instrument must include a standard of good repair and an evaluation detail component.

(c) The standard of good repair must include the following facility categories and provide a description of a minimum standard of good repair for various facility categories:

(1) Gas leaks.

(2) Mechanical systems.

(3) Sewer.

(4) Interior surfaces.

(5) Overall cleanliness.

(6) Pest or vermin infestation.

(7) Electrical (interior and exterior).

(8) Restrooms.

(9) Sinks and fountains (inside and outside).

(10) Water quality.

(11) Fire safety.

(12) Hazardous materials (interior and exterior), including lead-based paint and lead-based paint hazards.

(13) Structural damage.

(14) Roofs (observed from the ground, inside and outside the building).

(15) Windows, doors, gates, and fences (interior and exterior).

(16) Visible mold or mildew.

(d) The evaluation detail component must be designed to allow for the determination of the scope of conditions across the school campus. In evaluating each area or space, the user should review each of the categories identified in the standard of good repair and make a determination of whether a particular area is in good repair.

(e) A school district may contract out inspection services.

(f) Each school district shall annually present the completed inspection findings and assessments at a public school board meeting.

(g) By May 1 of each year, the superintendent will submit a report of facility inspection findings and a board-approved repair and maintenance plan to the Department of Education, the chairs of the Bond Committee, the chairs of the House and Senate Education Committees, the Director of the Office of Management and Budget, and the Controller General.

(83 Del. Laws, c. 435, § 1; 85 Del. Laws, c. 364, § 1.)

# Part I
# Free Public Schools

## Chapter 24
## Prison Educational Unit

### § 2400. Purpose.

The Secretary of Education will maintain a Prison Education Program which will provide educational services for the Department of Correction.

(79 Del. Laws, c. 251, § 1.)

### § 2401. Staffing.

Staffing for Prison Education Program shall be delineated each year in the Annual Appropriations Act. The qualification of employees for the Prison Education Program shall be the same as the qualification for public education employees pursuant to § 122(c) of this title.

(79 Del. Laws, c. 251, § 1.)

### § 2402. Qualifications.

The qualifications of employees for the Prison Education Program, except secretaries, shall be the same as those qualifications for employees in public high schools. Teachers/supervisors shall have teaching responsibilities as defined by job responsibilities and duties developed by the Department of Education.

(79 Del. Laws, c. 251, § 1.)

### § 2403. Job duties.

Teachers/supervisors shall have teaching responsibilities as defined by job responsibilities and duties developed by the Department of Education.

(79 Del. Laws, c. 251, § 1.)

### § 2404. Salary.

Salary for employees in the Prison Education Program when paid from funds of this State shall be in accordance with regularly adopted salary schedules set forth in Chapter 13 of this title. The salary so computed shall be divided by 0.7 for 10 months employment. If employed on an 11 or 12 month basis, the 10 month amount shall be multiplied by 1.1 or 1.2 respectively. In addition to the above calculation, teachers and administrators qualifying for professional development clusters in accordance with § 1305 (k) of this title shall receive an additional amount equal to the approved cluster percentage multiplied by the base salary amount defined in § 1305(b) of this title. This calculation shall not be increased for 11 or 12 month employment. The percentage shall only be applied to the base 10 month salary for 10, 11, 12 month employees. In accordance with § 1305 (o) of this title the cluster percentage is capped at 15 percent.

Employees whose primary job location is onsite within the institution shall also receive hazardous duty supplements as provided in the Merit System as defined in Chapter 59 of Title 29. Teachers/supervisors shall receive an administrative supplement of 4 to 8 percent to be determined by the Department of Education with the approval of the Co-Chairs of the Joint Finance Committee.

Students served under this program shall not be included in the calculation for unit count purposes as defined in Chapter 17 of this title. The Director of the Office of Management and Budget and Controller General may transfer funds between lines and departments to pay for this program.

In the event the Director of the Office of Management and Budget proposes or implements a position attrition or complement reduction initiative, the Director shall clearly indicate to the Co-Chairs of the Joint Finance Committee when positions outlined in the joint agency Prison Education Program are included in said initiative(s).

(79 Del. Laws, c. 251, § 1; 81 Del. Laws, c. 280, § 365.)

### § 2405. Department of Correction training program.

Persons hired for the Prison Educational unit shall complete a Department of Correction training program before working within correctional facilities.

(79 Del. Laws, c. 251, § 1.)

### § 2406. Security classification.

Prison educational personnel are required to maintain their security classification with the Department of Correction. Loss of security classification shall cause immediate suspension of access to correctional facilities.

(79 Del. Laws, c. 251, § 1.)

## § 2407. Renewal of training.

Prison Educational personnel are required to attend correctional security refresher training a minimum of every 3 years. Training shall be developed and provided by Department of Correction's staff training personnel.

(79 Del. Laws, c. 251, § 1.)

## § 2408. Governor's Advisory Council's review.

The Governor's Advisory Council for Exceptional Citizens (GACEC), in its advisory capacity as authorized by § 3111 of this title shall meet annually with Department of Education and Department of Correction designated representatives to discuss the operation of the joint agency prison education program. No more frequently than every other year, the GACEC may conduct a site visit, which may include interviews and access to public records pursuant to its advisory authority under § 3111 of this title. Prior to commencing the review, the GACEC, Department of Correction and Department of Education shall agree upon the scope and purpose of the review. Any site visit, interviews, and public record reviews shall be coordinated by a representative(s) of the joint agency prison education program and shall be conducted in a manner consistent with any common law privileges, applicable federal and state laws, and security procedures and considerations. The GACEC will include findings related to site visits and program review and assessment in its annual report.

(79 Del. Laws, c. 251, § 1.)

## § 2409. Assignment of duties.

Excluding the education associate to operate the Prison Educational Program and 1 secretary, all other employees shall be assigned and perform their duties within the grounds of a correctional facility.

(79 Del. Laws, c. 251, § 1.)

## § 2410. Hiring of prison employees.

(a) The Department of Correction shall provide a minimum of 1 member to the employee application review committee and 1 member to the interview committee for the selection of new employees.

(b) The Department of Education shall provide names of all selected new employees to the Department of Correction a minimum of 15 working days before the starting date of a scheduled Department of Correction training program set forth in § 2405 of this title. The Department of Correction shall provide the date of any Department of Correction Training Program (CEIT) in sufficient time to allow for the selection of new employees prior to the upcoming training.

(c) Prior to an official employment offer, all candidates for employment under this program shall successfully pass a background clearance to be performed by the Department of Correction.

(79 Del. Laws, c. 251, § 1; 81 Del. Laws, c. 79, § 20.)

## § 2411. Trained correctional officers.

Persons who have completed the correctional officer training and worked within the correctional officer series for a minimum of 6 consecutive years and are currently working within the series, have satisfied the requirements of § 2405 of this title and are exempt from retaking this training.

(79 Del. Laws, c. 251, § 1.)

# Part I
# Free Public Schools

## Chapter 24A
## DSCYF Education Unit

(85 Del. Laws, c. 385, § 1.)

### § 2400A. Definitions.

For purposes of this chapter, "DSCYF" means the Department of Services for Children, Youth and Their Families, under Chapter 90 of Title 29.

(85 Del. Laws, c. 385, § 1.)

### § 2401A. Purpose.

The Department of Services for Children, Youth and Their Families (DSCYF) must maintain an Education Unit that will provide educational services for the children and youth residing in facilities operated by DSCYF.

(85 Del. Laws, c. 385, § 1.)

### § 2402A. Staffing and qualifications.

The qualifications of employees for the DSCYF Education Unit, except secretaries, shall be the same as those qualifications for public education employees pursuant to § 122(c) of this title.

(85 Del. Laws, c. 385, § 1.)

### § 2403A. Job duties.

Employees of the DSCYF Education Unit shall have responsibilities as defined and developed by DSCYF.

(85 Del. Laws, c. 385, § 1.)

### § 2404A. Salary.

(a) Salary for employees of the DSCYF Education Unit shall be in accordance with the regularly adopted salary schedules set forth in § 1305 of this title. The salary so computed shall be divided by 0.7 for 10 months employment and the 10-month amount shall be multiplied by 1.2 to calculate the 12-month salary.

(b) An employee whose primary job location is onsite within a facility operated by the Division of Youth Rehabilitation Services shall also receive hazardous duty supplements as provided in the Merit System, under § 5916 of Title 29.

(c) DSCYF Education Unit employees with supervisory responsibilities shall receive an administrative supplement in accordance with § 1321 of this title.

(d) Should the standard work hours for DSCYF Education Unit employees exceed the number of hours identified in § 1335 of this title, Education Unit employees shall have their annual salary adjusted accordingly to account for hours worked under § 2406A of this title.

(85 Del. Laws, c. 385, § 1.)

### § 2405A. Work hours and school schedule.

The work week for employees of the DSCYF Education Unit shall be 37½ hours per week in accordance with the standard work hours for executive branch employees. The school schedule will be developed by DSCYF in coordination with the respective facility operation schedule.

(85 Del. Laws, c. 385, § 1.)

### § 2406A. Limited local education agency.

The DSCYF Education Unit shall be considered a local education agency only for the purposes of:

(1) Any federal, state, or private loan forgiveness programs available to educators.

(2) Any federal, state, or private competitive grant made available to, and awarded directly to, local education agencies, provided that any specific qualifying requirements are met.

(3) Credits issued for youth who complete the requirements for credit-bearing courses provided through the DSCYF Education Unit and credits for youth returning from placement by the Department.

(85 Del. Laws, c. 385, § 1.)

# Part I
# Free Public Schools
## Chapter 26
## Vocational School

### § 2601. Power of county vocational-technical high school districts and county vocational-technical school districts to levy taxes for school purposes.

(a) Any county vocational-technical high school district or county vocational-technical center district may, in addition to the amounts appropriated to it by the General Assembly, levy and collect additional taxes for school purposes upon the assessed value of real estate in such district, as determined and fixed for county taxation purposes, however:

(1) The amount to be raised by taxation for current expense must not exceed 26.50 cents on each $100 value of real property in Sussex County for the tax year 2021, 27.50 cents for tax year 2022, 28.50 cents for tax year 2023, 29.50 cents for tax year 2024 and all years thereafter.

(2) The amount to be raised by taxation shall not exceed 14 cents on each $100 of value of real property in Kent County for the tax year 1993 and all years thereafter.

(3) The amount to be raised by taxation shall not exceed 13 cents on each $100 of the value of real property in New Castle County for the tax year 1982 and shall not exceed 14 cents on each $100 of the value of real property in New Castle County for the tax year 1983 and all tax years thereafter.

(b) Any county vocational-technical high school district, or county vocational-technical center district, shall not charge tuition to cover the cost of vocational-technical education for nonresident pupils and shall not, in formulating admission policy, give preference to any applicant for admission based on the residence of such applicant.

(c) After a general reassessment of all real estate in the county changes the total assessed valuation of a county vocational-technical high school district or a county vocational-technical center, the board of education of that district shall calculate a new tax rate under § 1916(b) of this title.

(d) The provisions of subsection (a) of this section to the contrary notwithstanding, a vocational-technical school district which is required to provide a local share for a school construction project may establish a countywide tax sufficient to pay the principal and interest on the bonds for the local share of the project.

(14 Del. C. 1953, § 2601; 56 Del. Laws, c. 111; 60 Del. Laws, c. 429, § 1; 60 Del. Laws, c. 435, § 1; 62 Del. Laws, c. 84, §§ 1, 2, 4; 63 Del. Laws, c. 30, § 1; 63 Del. Laws, c. 172, § 1; 66 Del. Laws, c. 146, § 1; 68 Del. Laws, c. 41, § 1; 68 Del. Laws, c. 156, § 72(c); 68 Del. Laws, c. 256, § 1; 68 Del. Laws, c. 257, § 1; 69 Del. Laws, c. 11, § 1; 76 Del. Laws, c. 91, § 1; 80 Del. Laws, c. 19, § 1; 80 Del. Laws, c. 24, § 1; 83 Del. Laws, c. 14, § 1; 85 Del. Laws, c. 354, § 2.)

### § 2602. Establishment and notification of tax rate.

(a) The board of education for each vocational technical high school district shall, no later than the second Thursday in July, deliver its warrant, with a duplicate of the assessment list, to the receiver of taxes and county treasurer of the county or counties where the district is located.

(b) [Repealed.]

(14 Del. C. 1953, § 2602; 56 Del. Laws, c. 111; 57 Del. Laws, c. 113; 60 Del. Laws, c. 435, § 2; 62 Del. Laws, c. 84, §§ 3, 5; 63 Del. Laws, c. 30, § 1; 68 Del. Laws, c. 41, § 2; 71 Del. Laws, c. 180, § 129; 75 Del. Laws, c. 88, § 21(7); 76 Del. Laws, c. 80, § 424; 83 Del. Laws, c. 14, § 2.)

### § 2603. Collection, deposit and disbursement of school taxes.

(a) The Department of Finance for New Castle County and the Receiver of Taxes and County Treasurer for Kent and Sussex Counties shall collect such taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes; provided, however, that after June 30, 1981, in New Castle County the Department of Finance and the Receiver of Taxes and County Treasurer in Kent and Sussex Counties shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them; and for all tax years commencing after June 30, 1981, shall, after September 30 in the year in which the tax rolls shall be delivered to them, add to the taxes to be paid thereafter a penalty of $^1/_2$ of 1 percent per month until the same shall be paid.

(b) All money so collected shall be paid to the State Treasurer and shall be deposited by the State Treasurer in a separate account in the depository for other school moneys to the credit of the district. Warrants or drafts on the said fund shall be drawn by the school board of the district and shall be applied only for the purpose for which the levy is made.

(14 Del. C. 1953, §§ 2603, 2604; 56 Del. Laws, c. 111; 63 Del. Laws, c. 30, § 1; 70 Del. Laws, c. 186, § 1.)

### § 2604. Report of school tax collections and payment of collected taxes.

(a) The Department of Finance for New Castle County and each Receiver of Taxes and County Treasurer for Kent and Sussex Counties shall, on the first day of each month, make a report to the school board of the district for which the Receiver or Treasurer is collecting taxes

to the State Treasurer and to the Department of Education of all taxes collected in the previous month. The forms shall show a complete breakdown of taxes collected, such as capitation, debt service and current expenses, and such other information as may be required.

(b) The Departments of Finance for New Castle and Sussex Counties and the Receiver of Taxes and County Treasurer for Kent County shall, not less than once each calendar month, pay over to the State Treasurer all funds collected by him or her for any district.

(14 Del. C. 1953, § 2605; 56 Del. Laws, c. 111; 63 Del. Laws, c. 30, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 130.)

## § 2605. Enrollment in the Sussex County Vocational-Technical High School District.

(a) [Repealed.]

(b) For any school year in which the number of applications for admission exceeds the District's allowed student enrollment capacity, the Sussex County Vocational-Technical High School District shall conduct a random lottery admitting student number "1" and progressing consecutively thereafter until the total number of students to be admitted has been reached.

(c) The Sussex County Vocational-Technical High School District may only provide preferences in student admissions to any of the following:

(1) Siblings of students currently enrolled at the school.

(2) Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the Sussex County Vocational-Technical High School District.

(d) The Sussex County Vocational-Technical High School District is prohibited from denying any applicant for enrollment whose GPA falls below the 70th percentile or who has failed any eighth grade course from its lottery for admission, unless the student does not remain academically eligible for promotion according to the standards set by the Department of Education.

(e) Except in cases of expulsion subject to the provisions of § 4130 of this title, the Sussex County Vocational-Technical High School District shall be prohibited from removing a student from its enrollment for disciplinary reasons without the consent of the student's parents/guardians and the student's school district of residence.

(80 Del. Laws, c. 24, § 2; 83 Del. Laws, c. 14, § 3; 85 Del. Laws, c. 199, § 1.)

# Part I
# Free Public Schools
## Chapter 27
## School Attendance
### Subchapter I
### School Attendance Requirements

## § 2701. Free public schools.

Subject to other provisions of this title, all the public schools of this State shall be free to all children who are residents of the State and who are of the ages required or authorized for attendance in a public school.

(21 Del. Laws, c. 67, § 22; Code 1915, § 2296; 32 Del. Laws, c. 160, § 41; Code 1935, § 2684; 14 Del. C. 1953, § 2701; 59 Del. Laws, c. 87, § 9.)

## § 2702. Compulsory attendance requirements; evaluation of readiness; exit interview.

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and 16 years of age, including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title, shall enroll the child in a public school in the school district of the person's residence.

(2) Every person who has legal custody, guardianship of the person, or legal control of a student, including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title, who is enrolled in a public school of this State shall send the student to the school each day of the minimum school term and to any academic improvement activities required by § 153 of this title.

(3) Every student who is enrolled in a public school of this State shall attend the school each day of the minimum school term and any academic improvement activities required by § 153 of this title. A student who has been absent from school without a valid excuse for more than 3 school days in a school year is a truant. A truant and the parent of a truant are subject to the administrative procedures and court proceedings set out in subchapter II of this chapter.

(b) For the purposes of this section, a child shall be considered 5 years of age if that child celebrates the child's fifth birthday according to the following schedule:

| | |
|---|---|
| 1993-94 school year | Fifth birthday on or before November 30, 1993. |
| 1994-95 school year | Fifth birthday on or before October 31, 1994. |
| 1995-96 school year | Fifth birthday on or before September 30, 1995. |
| 1996-97 school year | Fifth birthday on or before August 31, 1996. |
| Subsequent school years | Fifth birthday on or before August 31 of the respective year. |

Local school authorities may grant exceptions to the above schedule for entry into school if they determine that such exception is in the best interest of the child.

(c) The following provisions shall be applicable to the administration of subsection (a) of this section in regard to compulsory attendance in the kindergarten for a child age 5 years:

(1) If a child is a resident of the State at the time of that child's eligibility for admission to the kindergarten at age 5, the parents, guardian or legal custodian of that child may request that school authorities evaluate the child's readiness for attendance and may request a delay of 1 year in that attendance. However, admission to first grade will be authorized only after school authorities evaluate the child's readiness for attendance.

(2) If a child was not a resident of the State at the time of that child's eligibility for admission to the kindergarten at age 5, the parents, guardian or legal custodian of that child may request that school authorities evaluate the child's readiness for attendance and on the basis of that evaluation authorize admission to grade 1.

(3) The parent, guardian, legal custodian or relative care giver, as defined in § 202(f)(2) of this title, of a child who is eligible for admission to kindergarten at age 5 may opt for the child to attend kindergarten for a half-day per day, totaling 440 hours in a school year.

(d) The following provisions shall be applicable in regard to statewide minimum mandatory attendance requirements in each school year for children in grades K through 12.

(1) Following the tenth day of unexcused absence by a student, the school shall immediately notify the parent or parents or guardian and a visiting teacher for the district shall visit the student's home;

(2) Following the fifteenth day of unexcused absence by a student, the student's parent or parents or guardian shall be notified by certified mail to appear at the school within 10 days of notification for a conference and counseling;

(3) Following the twentieth day of unexcused absence by a student, the school shall refer the case for prosecution;

(4) Following the completion of prosecution of the case and the subsequent failure of the student to return to school within 5 school days thereof, the school shall immediately notify the Department of Services for Children, Youth and Their Families requesting intervention services by the Department. The Department shall contact the family within 10 business days.

(e) Following the tenth unexcused day of attendance by a student in grades 6 through 12 inclusive, the building principal shall notify a visiting teacher of such unexcused days.

(f) If contacted by the school pursuant to paragraph (d)(2) of this section, each parent or guardian of a student shall sign a contract with the district agreeing they will make every reasonable effort to:

(1) Have their child or children abide by the school code of conduct;

(2) Make certain their child attends school regularly; and

(3) Provide written documentation for the reasons for any absence.

(g) Any day of summer school, any session of after school or Saturday extra instruction, or any session of mentoring which a child is required to attend as an academic improvement activity in conformity with § 153 of this title shall be considered a school day for purposes of this chapter, and for purposes of § 901 of Title 10, § 1100 of Title 11, and § 301 of Title 31 of this Code, or wherever the term school day or its equivalent is used in a provision of this Code designed to minimize or punish truancy.

(h) Every student who is enrolled in a public school of this State in grades 6 through 12 shall be allowed 1 excused absence per school year to attend a civic engagement activity, which includes visiting Capitol Hill in Washington, D.C. or Legislative Hall in Dover, visiting a site of significant historical or cultural importance, advocating for or testifying on behalf of legislation, or participating in a rally, march, or protest.

(1) For purposes of this subsection, "1 excused absence" is defined as 1 partial or full school day. Students may not take more than 1 excused partial day and combine them to consider them to be "1 excused absence."

(2) For any civic engagement event that occurs on a day when the student's school is not in session, the student may not redeem or exchange this nonschool day for an excused absence on a school day.

(3) For a student to attend a civic engagement event, the student's parent or guardian must provide written permission to the school principal or designee no later than 3 school days prior to the student's planned absence. It is incumbent upon each school to determine what is acceptable as written permission, either a letter or email from the parent or guardian, or a form designed by the school or school district.

(4) The Delaware Department of Education is not responsible for monitoring, tracking, or gathering any information or data regarding students' excused absences to participate in civic engagement activities.

(i) A child over the age of 16 may withdraw from public school prior to graduation if both of the following circumstances exist:

(1) Where the student is fewer than 18 years of age, written consent is granted by the child's parent or guardian.

(2) An exit interview is conducted where the student and the student's parent or legal guardian have been advised that withdrawal from school shall likely reduce the student's future earning potential and increase the student's likelihood of being unemployed in the future. During the exit interview, the student who is withdrawing from school shall be given information that has been prepared and supplied by the Department regarding the detrimental impacts and effects of early withdrawal from school, along with any available information about training and employment opportunities. The school and the student and the student's parent or legal guardian shall also evaluate any available support services, interventions or programs that might assist the student in remaining enrolled until graduation. A school is required to make 3 good faith attempts to contact a student's parent or legal guardian to schedule an exit interview pursuant to this paragraph.

(j) A pupil's absence from school for a mental or behavioral health reason is a necessary and an excused absence. Each school district and charter school shall determine the maximum number of excused absences allowable under this subsection.

(1) For purposes of this subsection, "excused absence" means a full school day and does not require a medical or doctor's note.

(2) A student may not be penalized for an excused absence for the mental or behavioral health of the student and must be given the opportunity to make up any schoolwork missed during such excused absence.

(3) After the second and subsequent excused absence for the mental or behavioral health of the student, the student must be referred to a school-based mental or behavioral health specialist.

(4) The Department of Education shall provide the technical ability, via the state student information system, for local education agencies to code and create reports related to these absences.

(24 Del. Laws, c. 121, § 1; Code 1915, § 2313; 32 Del. Laws, c. 160, § 41; Code 1935, § 2685; 14 Del. C. 1953, § 2702; 49 Del. Laws, c. 403, §§ 1-3; 57 Del. Laws, c. 112; 60 Del. Laws, c. 449, § 3; 63 Del. Laws, c. 290, § 2; 64 Del. Laws, c. 315, §§ 6, 7; 69 Del. Laws, c. 28, § 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 517, § 1; 71 Del. Laws, c. 36, § 1; 71 Del. Laws, c. 399, §§ 3, 4; 72 Del. Laws, c. 6, § 3; 72 Del. Laws, c. 346, §§ 3-5; 73 Del. Laws, c. 341, §§ 1, 2; 74 Del. Laws, c. 175, §§ 2-5; 75 Del. Laws, c. 440, § 6; 78 Del. Laws, c. 290, § 311; 78 Del. Laws, c. 406, § 1; 79 Del. Laws, c. 26, §§ 1, 2; 81 Del. Laws, c. 16, § 1; 83 Del. Laws, c. 77, § 1; 84 Del. Laws, c. 166, § 1; 84 Del. Laws, c. 514, § 24.)

## § 2703. Private school attendance or other educational instruction.

Section 2702 of this title shall not apply to any student enrolled in a private school who is receiving regular and thorough instruction in the subjects prescribed for the public schools of the State in a manner suitable to children of the same age and stage of advancement, provided that such private school is subject to and in compliance with § 2704 of this title. For the purposes of this section, any student who is home-schooled in any manner provided for in § 2703A of this title shall also be exempt from the provisions of § 2702 of this title. Notwithstanding the foregoing, the Justice of the Peace Court may retain jurisdiction over any case of truancy filed pursuant to § 2729 (failure to send) of this title or § 2730 (failure to attend) of this title prior to a student withdrawing from the public school bringing the charge and enrolling in a private or nonpublic school of this State.

(24 Del. Laws, c. 121, § 1; Code 1915, § 2313; 32 Del. Laws, c. 160, § 41; Code 1935, § 2685; 14 Del. C. 1953, § 2703; 49 Del. Laws, c. 403, § 4; 57 Del. Laws, c. 113; 63 Del. Laws, c. 290, § 3; 71 Del. Laws, c. 180, § 131; 74 Del. Laws, c. 79, § 2; 76 Del. Laws, c. 23, § 1.)

## § 2703A. Homeschools defined.

(a) For purposes of this chapter, a "homeschool" is considered a nonpublic school, except that students enrolled in homeschools are deemed to be parentally-placed private school children for purposes of providing equitable services using proportionate share funds under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et. seq.

(b) The 3 types of homeschools are defined as follows:

(1) "Multi-family homeschool" means the education of children, primarily by the parents or legal guardians of the children mainly in 1 or more residences, or other facilities, when the children are not all related to each other as brother or sister. A person shall act as a liaison to the Department of Education for reporting enrollment and attendance information for all families involved.

(2) "Single-family homeschool" means the education of an individual's own child, primarily by the parent or legal guardian of the child, mainly in their own residence.

(3) "Single-family homeschool coordinated with the local school district" means the education of a child primarily by the parent or legal guardian of the child, mainly in their own residence, using a curriculum approved by the local superintendent or the local superintendent's designee. The local superintendent shall determine in writing that the student is or will be provided with regular and thorough instruction by the student's parent or legal guardian in the subjects prescribed for the public schools of the State and in a manner suitable to children of the same age and stage of advancement.

(74 Del. Laws, c. 79, § 1; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 87, § 1.)

## § 2704. Report of non-public schools to Department.

(a) All persons conducting nonpublic schools shall report end of the year attendance information to the Department of Education annually, on or before the July 31, on such forms as shall be prescribed by the Department of Education.

(b) Such persons shall also submit annually, no later than September 30, a statement of pupil enrollment on such forms as prescribed by the Department of Education.

(24 Del. Laws, c. 121, § 1; Code 1915, § 2313; 32 Del. Laws, c. 160, § 55; Code 1935, § 2748; 14 Del. C. 1953, § 2704; 58 Del. Laws, c. 494; 71 Del. Laws, c. 180, § 132; 72 Del. Laws, c. 81, § 1; 74 Del. Laws, c. 79, § 3; 80 Del. Laws, c. 27, § 1; 84 Del. Laws, c. 81, § 376.)

## § 2705. Exemption of children from compulsory attendance requirements.

(a) Other provisions of this title notwithstanding, a child may be exempted from § 2702 of this title upon request of the parent, guardian or other person legally having control of that child when the request is supported by written documentation of a physician, psychiatrist, psychologist or neurologist, as the case may require. The request and documentation shall be addressed to the superintendent of schools of the district in which the child resides and, in the case of a child with a disability or disabilities, the child's Individual Education Program (IEP) team, for the development of an educational program and determination of whether a change of placement is necessary to ensure that the child receives a free and appropriate public education.

(b) Any disputed decision under this section shall be presented first to the board of education of the school district of which the child is a resident and may thereafter be appealed to the State Board of Education. The decision of the State Board of Education shall be final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals with Disabilities Education Act [20 U.S.C. §§ 1411 et seq.] shall apply.

(24 Del. Laws, c. 121, § 1; Code 1915, § 2313; 32 Del. Laws, c. 160, § 41; Code 1935, § 2685; 14 Del. C. 1953, § 2705; 61 Del. Laws, c. 190, § 3; 69 Del. Laws, c. 272, § 1.)

## § 2706. Contagious diseases.

Any child affected with diphtheria, measles, scarlet fever or smallpox shall be excluded from the schools until permission of the proper school officer for the child to return is granted; and intercourse between pupils of the schools and the family or house, when there is any case of 1 of these contagious diseases, must be forbidden until the official permission is given to return to the school.

(17 Del. Laws, c. 68, § 3; Code 1915, § 767; Code 1935, § 773; 14 Del. C. 1953, § 2707; 72 Del. Laws, c. 346, § 7.)

### § 2707. Religious holidays.

(a) A pupil's absence from school for the observance of a religious holiday is a necessary and excused absence.

(b) A list of religious holidays on which a pupil's absence shall be excused shall be created by the Secretary of Education and placed in regulation. The list of approved religious holidays is not a limit on the power of school districts or charter schools to excuse absence on any other day for the purpose of religious or cultural observance.

(c) A signed, written excuse from the pupil's parent or guardian is required in order to excuse an absence under this section.

(d) A pupil of any public school, who is absent by reason of observance of a religious holiday, may not be deprived of any award or eligibility or opportunity to compete for any award.

(e) School districts and charter schools must have a policy discouraging teachers from scheduling major grading events, such as tests, examinations, presentations, or project due dates on religious holidays. A pupil who misses a grading event due to excused absence for observance of a religious holiday must be allowed the opportunity to take an alternate test or given some other means to recover credit.

(83 Del. Laws, c. 78, § 2.)

## Subchapter II

## Truancy

### § 2721. Definitions.

In this chapter:

(1) "Court" means either the Justice of the Peace Court or Family Court.

(2) "Parent" means a biological or natural parent, an adoptive parent, a person legally charged with the care or custody of a person under 18 years of age, a person who has assumed responsibility for the care of a person under 18 years of age, or a person acting as a caregiver pursuant to the provisions of § 202(f) of this title who has enrolled the pupil in grades kindergarten through 12 of a public school in this State.

(3) "Principal" means the highest administrative official of a public school and includes a person or group of persons designated by the principal to deal with school attendance.

(4) "Record" means written materials and exhibits forwarded to a court by the school with a referral under this subchapter or admitted into evidence at a court hearing.

(5) "School year" means the period of attendance determined by a pupil's local school board pursuant to § 1049 of this title, or in the case of a charter school as determined by the board of directors of the charter school consistent with the school's charter, and any additional academic improvement activities identified in § 2702(g) of this title that a pupil may be required to attend during or following such period of attendance.

(6) "Student" means a person who is enrolled in kindergarten through grade 12 of a public school of this State.

(7) "Truant" means a student who has been absent from school without valid excuse for more than 3 school days during a school year.

(8) "Valid excuse" means an excuse which is approved in the regulations of the district board of education of the school district in which the pupil is or should be enrolled pursuant to the provisions of this title, or in the case of a pupil enrolled in a charter school, by the board of directors of the charter school.

(72 Del. Laws, c. 346, § 13; 74 Del. Laws, c. 175, §§ 6-8; 82 Del. Laws, c. 224, § 3.)

### § 2722. Absences and truancy.

(a) Subject to the rules and regulations of the local school board, pupils enrolled in the free public schools may be excused by the superintendent of schools or persons authorized by the superintendent. Pupils enrolled in charter schools may be excused by the principal of the school or persons authorized by the principal, subject to rules and regulations promulgated by the board of directors of the charter school.

(b) No pupil who could otherwise legally fail to attend school pursuant to § 2702(a) of this title may do so without the written consent of such person or persons having legal control of that pupil.

(24 Del. Laws, c. 121, § 1; Code 1915, § 2313; 32 Del. Laws, c. 160, § 41; Code 1935, § 2685; 14 Del. C. 1953, § 2706; 57 Del. Laws, c. 113; 60 Del. Laws, c. 449, § 4; 63 Del. Laws, c. 290, § 4; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 231, § 1; 71 Del. Laws, c. 180, § 133; 72 Del. Laws, c. 346, § 6; 74 Del. Laws, c. 175, § 9.)

### § 2723. Responsibility of police officers.

(a) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be returned to that pupil's home school.

(b) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

(63 Del. Laws, c. 290, § 6; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 346, § 12.)

## § 2724. Notification to parents and students.

At the beginning of a school year each school district or public school shall notify each student and the parent of each student of the school attendance requirements of this Code, including the procedures and penalties applicable to truancy. The school district or school may determine the form of the notification.

(72 Del. Laws, c. 346, § 14.)

## § 2725. Absences without excuse; truancy conferences.

(a) If a student has been absent from school without a valid excuse 1 or more days, the principal of the school may take such action as the principal considers appropriate.

(b) If a student is truant, the principal shall schedule a truancy conference with the student, the student's parent and the principal pursuant to § 2726 of this title. The conference may be attended by other persons as the principal may include.

(c) Following a truancy conference the school shall decide whether or not to file a charge against the parent for a violation of § 2702 of this title; provided however, that the principal shall refer the case for prosecution following the twentieth day of unexcused absence by a student during the school year, in compliance with § 2702(d) of this title, and may refer the case before the twentieth day of unexcused absence if the principal determines it is appropriate to do so.

(d) The fact that a student or student's parent attended or failed to attend a truancy conference does not bar the principal from filing a complaint with the Justice of the Peace Court.

(72 Del. Laws, c. 346, § 14; 79 Del. Laws, c. 26, § 3; 82 Del. Laws, c. 224, § 3.)

## § 2726. Procedure for truancy conferences.

The provisions of § 4122 of this title shall apply to truancy conferences. The principal shall determine the date, time and place of the conference and shall give all participants notice at least 1 week prior to the conference. In conducting a truancy conference, the principal may exclude any person, including a parent or a student, from the conference or part of a conference.

(72 Del. Laws, c. 346, § 14.)

## § 2727. Notice of violation and compliance.

No person shall be prosecuted for violation of § 2702 of this title if that person, within 3 days from the time that the person is notified by the superintendent of schools or persons authorized by the superintendent, presents an excuse in writing satisfactory to such superintendent of schools, and complies with the requirements of such § 2702 of this title. The mailing of a notice to the usual address of the offending party shall be sufficient notification.

(24 Del. Laws, c. 121, § 2; Code 1915, § 2314; 32 Del. Laws, c. 160, § 42; 33 Del. Laws, c. 175, § 1; Code 1935, § 2686; 14 Del. C. 1953, § 2708; 57 Del. Laws, c. 113; 68 Del. Laws, c. 277, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 346, § 8.)

## § 2728. Procedure for court adjudication.

(a) When the school charges a parent or a student with a violation of § 2702 of this title, the school shall file a written complaint in the court. The complaint shall be on such form(s) as the court may require. The school shall be the complainant and the parent or the student shall be the defendant. The court must determine whether probable cause exists to issue a warrant or summons against the person charged. When there is probable cause to find that a student is truant, probable cause to issue a warrant or summons for a parent shall exist when the parent is named as the parent or guardian on the student's school records and the parent resides in Delaware.

(b) The school shall attach to the complaint any record relevant to the allegations of the complaint.

(c) When a complaint is filed, all sanctions imposed by the principal shall remain in effect unless suspended or terminated by the principal or stayed by the court.

(d) The school may request that the court postpone adjudication. The court in its discretion may postpone the proceedings and may impose conditions on the student or parent.

(72 Del. Laws, c. 346, § 14; 75 Del. Laws, c. 107, § 1.)

## § 2729. Failure to send; affirmative defense; penalties.

(a) If a charge is filed against a parent for a violation of § 2702 of this title, the court shall determine whether the evidence establishes beyond a reasonable doubt that the parent has violated the section.

(b) In the prosecution of a parent for a violation of § 2702 of this title, it shall be an affirmative defense that the parent has made substantial and reasonable efforts to comply with the compulsory attendance requirements of § 2702 but is unable to cause the child to attend school. It shall also be an affirmative defense that the parent does not have legal custody of the student. Other affirmative defenses may be permitted as required in the interests of justice. If the court determines the affirmative defense is valid it shall dismiss the complaint against the parent and the school may file a complaint against the student pursuant to § 2730 of this title.

(c) This section shall not apply to a parent whose child is receiving instruction pursuant to § 2703 of this title, to children exempted from compulsory attendance requirements pursuant to § 2705 of this title, or whose children are in compliance with school attendance requirements.

(d) A parent who is determined to have violated § 2702 of this title is guilty of an unclassified misdemeanor and shall be sentenced as follows:

(1) For a first offense, a fine of not less than $25 nor more than $300, or imprisonment for not more than 10 days or both;

(2) For a second offense, a fine of not less than $50 nor more than $500, or imprisonment for not more than 20 days or both;

(3) For a third or subsequent offense, a fine of not less than $230 nor more than $1,150, or imprisonment for not more than 30 days or both.

(e) To the extent possible the fine shall be commensurate with the number of days the student was absent from school without valid excuse.

(f) The court may order the parent to perform unpaid community service in lieu of a fine. The court may require that all or part of the service may be performed for a public school district.

(g) The court may also order as conditions of release prior to judgment or as conditions of sentence upon conviction such conditions as the court considers necessary to obtain compliance with school attendance requirements. These conditions include but are not limited to the following:

(1) Verifying the child's attendance with the school;

(2) Meeting with school officials;

(3) Taking the child to school;

(4) Taking the child to the bus stop;

(5) Attending school with the child;

(6) Undergoing medical, psychological or psychiatric evaluations and following the evaluator's recommendations;

(7) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the evaluator's recommendations; and

(8) Taking the child for medical, psychological or psychiatric evaluation or for drug, alcohol or other substance abuse evaluation and following the evaluator's recommendations.

(h) Upon conviction, the name and address of the parent and a summary of the disposition of any offenses for which the parent was convicted shall be reported by the Court to the Division of Family Services of the Department of Services for Children, Youth and Their Families and to the Division of Social Services of the Department of Health and Social Services.

(i) The provisions of § 4218 of Title 11 (probation before judgment) shall apply to a parent charged with violation of § 2702 of this title.

(72 Del. Laws, c. 346, § 14; 73 Del. Laws, c. 301, § 2; 75 Del. Laws, c. 107, § 2.)

## § 2730. Failure to attend; penalties.

(a) The school may file a civil charge of truancy against the student in the Justice of the Peace Court if:

(1) The student is age 12 or older; and/or

(2) The Court determines that a parent who is charged with violating § 2702 of this title has a valid affirmative defense under § 2729(b) of this title.

(b) The court shall determine whether a preponderance of the evidence establishes that the student has violated § 2702 of this title.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

(1) Community service;

(2) Counseling;

(3) Substance abuse evaluation and treatment;

(4) Mental health evaluation and treatment;

(5) A curfew with hours set by the court;

(6), (7) [Repealed.]

(8) Prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property;

(9) A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title; and

(10) Such other action as is permitted by statute or by court rule.

(d) [Repealed.]

(72 Del. Laws, c. 346, § 14; 73 Del. Laws, c. 301, § 1; 81 Del. Laws, c. 404, § 1.)

## § 2731. Enforcement of court order.

(a) The court with jurisdiction over the matter shall retain jurisdiction until all terms of the court's order have been complied with regardless of any change in the student's age, marital status or choice of educational source or location.

(b) Notwithstanding any provision of this Code to the contrary, if it is alleged that a student has not complied with the terms of the court's order, the noncompliant student may be charged with criminal contempt pursuant to § 1271 of Title 11, which shall, in the first instance, be brought in the Family Court.

(c) A juvenile against whom criminal contempt proceedings pursuant to this section and § 1271 of Title 11 have been initiated shall have the right to counsel at all stages.

(d)-(f) [Repealed.]

(72 Del. Laws, c. 346, § 14; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 12, § 1; 76 Del. Laws, c. 23, §§ 2, 3; 81 Del. Laws, c. 197, § 2; 82 Del. Laws, c. 224, § 3.)

## § 2732. Appeals.

(a) A parent convicted within the Justice of the Peace Court of a violation of § 2702 of this title may appeal to the Court of Common Pleas in the county in which the judgment was given. The appeal shall be filed within 15 days from the date of conviction. On appeal the Court of Common Pleas shall make a de novo determination.

(b) [Repealed.]

(c) A student who has been adjudicated truant within the Justice of the Peace Court pursuant to § 2730 of this title may appeal to the Family Court in the county in which the adjudication occurred. The appeal shall be filed within 15 days of the date of the adjudication. On appeal the Family Court shall make a de novo determination based on the record below.

(d) No appeal of the adjudication of truancy or truancy-related contempt pursuant to subsection (c) of this section shall stay execution of the remedial disposition unless a judge of the Family Court orders a stay.

(72 Del. Laws, c. 346, § 14; 76 Del. Laws, c. 12, §§ 2, 3; 82 Del. Laws, c. 224, § 3.)

## § 2733. Jurisdiction; venue.

(a) The Justice of the Peace Court and the Family Court shall have concurrent jurisdiction of complaints filed pursuant to this subchapter.

(b) All complaints under this subchapter shall be filed in a Justice of the Peace Court in the county where the school the child is required to attend is located or in the county in which the office of the school district which contains the child's school is located.

(c) The matter shall proceed within the Justice of the Peace Court unless that Court determines, upon the complaint's filing, that the matter shall be transferred to the Family Court due to the existence of any of the following conditions:

(1) Pending delinquency proceedings involving the child;

(2) Pending civil proceedings involving a determination of the child's best interests pursuant to § 722 of Title 13;

(3) Pending proceedings with involvement by the Department of Services for Children, Youth and Their Families with the child's family; or

(4) Any other condition exists related to the child that reasonably warrants transfer to Family Court.

(d) In the event that a student withdraws from school for any reason other than age and does not re-enroll in another public school, the Family Court or Justice of the Peace Court, in its discretion, may retain jurisdiction for the purpose of ensuring that the student's alternative educational environment was not an attempt to avoid the compulsory attendance requirements of § 2702 of this title.

(72 Del. Laws, c. 346, § 14; 76 Del. Laws, c. 23, § 4; 82 Del. Laws, c. 224, § 3.)

## § 2734. Disposition and accounting of fines.

The fines provided for by § 2729 of this title shall, when collected, be paid over by the officers collecting the same to the treasurer of the board of education of a reorganized school district according to the residence of the person convicted, to be accounted for by such treasurer or by the Department of Education as other moneys raised for school purposes.

(24 Del. Laws, c. 121, § 2; Code 1915, § 2314; 32 Del. Laws, c. 160, § 43; Code 1935, § 2687; 14 Del. C. 1953, § 2710; 57 Del. Laws, c. 113; 71 Del. Laws, c. 180, § 134; 72 Del. Laws, c. 346, § 10.)

## § 2735. Special procedure for expungement of truancy records.

(a) At the time that a case is closed because there has been compliance with all Family Court or Justice of the Peace Court orders issued pursuant to this subchapter, the following shall be automatically expunged:

(1) Any records of charges against or the conviction of a parent or guardian for failure to send; or

(2) Any records of the charges or adjudication of truancy against a student.

(b) In any case which was closed because there was compliance with all Family Court or Justice of the Peace Court orders and the automatic expungement required by subsection (a) of this section did not occur either due to error or omission on the part of the court or the prosecuting agency or because such expungement was not authorized at the time the case was closed, the court that issued the order shall grant such expungement upon motion of a parent, guardian or student. There shall be no filing fee for such applications.

(c) Following the closing of a case for any reason other than compliance with all Family Court or Justice of the Peace Court orders, the records listed in subsection (a) of this section may only be expunged upon application to the court that issued the order. That court

may, in its discretion, grant or deny the request or make the granting of such request subject to such reasonable terms and conditions as may be appropriate. The civil filing fee shall apply to such applications.

(d) Upon either the automatic expungement of records or the issuance of an order expunging truancy records:

(1) The State Bureau of Identification shall take all necessary steps to ensure that the expunged records or the information contained therein is not released for any reason except as specified in this section. In response to requests from persons other than law-enforcement officers for such information or records, the State Bureau of Identification, law-enforcement officers or Truancy Court officials in the course of another truancy case involving the same parent or child and departments shall reply that there is no record.

(2) Except for the disclosure to law-enforcement officers acting in the lawful performance of their duties in investigating criminal activity or to Truancy Court officials in the course of another truancy case involving the same parent or child, it shall be unlawful for any person having or acquiring access to an expunged truancy record to open or review it or to disclose to another person any information from it without a court order.

(3) Disclosure to law-enforcement officers shall be permitted only for the purpose of investigating particular criminal activity in which the person, whose records have been expunged, is considered a suspect and the crime being investigated is a felony or, with regard to records of parents or guardians for failure to send, pursuant to an investigation of an employment application as an employee of a law-enforcement agency.

(4) Nothing herein shall require the destruction or deletion of records of the Department of Justice, DELJIS or court records, including electronic records. However, all court DELJIS and Department of Justice records relating to a charge or case which has been expunged shall be so handled as to ensure that any information contained therein shall not be disclosed to the public.

(5) An offense for which records have been expunged pursuant to this section shall not have to be disclosed by the person for any reason.

(6) Any person who violates paragraph (d)(2) of this section shall be guilty of a class B misdemeanor, and shall be punished accordingly.

(75 Del. Laws, c. 92, § 1; 82 Del. Laws, c. 224, § 3.)

## § 2736. Payment to Woods Haven School for Girls.

Repealed by 76 Del. Laws, c. 280, § 423, effective July 1, 2008.

# Part I
# Free Public Schools

## Chapter 28
## Utilization of Educational Facilities

### § 2801. Purpose.

It is the intent and purpose of this chapter to encourage the fuller utilization of the educational plants and staff in the school districts of the State.

(14 Del. C. 1953, § 2801; 58 Del. Laws, c. 572.)

### § 2802. Local authority.

Repealed by 72 Del. Laws, c. 6, § 4, effective Feb. 8, 1999.

### § 2803. Local funds.

Any local district initiating an expanded school year program must provide such program within the limits of state funding it would receive absent its decision to operate such program; provided, however, that nothing in this section shall preclude a district from using existing or additional local, federal or other nonstate funding for the provision of an expanded school year program.

(71 Del. Laws, c. 180, § 136.)

### § 2804. Rules and procedures.

(a) The Secretary of Education and Director of the Office of Management and Budget must approve such expanded program at least 4 months before such plan is implemented in the local district. Such approval must be based, in part, on an analysis of a 10-year student population projection for the local district.

(b) Such plan must clearly provide for teacher option for employment and must provide state compensation for days beyond the regular full work days of employment as defined in § 1305 of this title at the daily rate defined in § 1703(j) of this title.

(14 Del. C. 1953, § 2804; 58 Del. Laws, c. 572; 71 Del. Laws, c. 180, §§ 137, 137A; 72 Del. Laws, c. 294, § 49; 75 Del. Laws, c. 88, § 21(7).)

### § 2805. Special provisions.

Repealed by 72 Del. Laws, c. 6, § 4, effective Feb. 8, 1999.

# Part I
# Free Public Schools

## Chapter 29
## Transportation of Pupils

### § 2901. Regulations governing design and operation of school buses; annual student bus passes.

(a) The Secretary of Education, with the advice of the Director of the Division of Motor Vehicles, shall adopt and enforce regulations not inconsistent with the motor vehicle laws of this State to govern the design and operation of all school buses used for the transportation of school children, whether such buses be owned and operated by any public school district or privately owned and operated under contract with the Department or any public school district in this State. Such regulations shall by reference be made a part of every contract entered into by the Department or any school district for the operation of a school bus. Every school district, its officers and employees, and every person employed under contract by the Department or a school district to furnish or operate a school bus shall be subject to the regulations. The Department may conduct a criminal history background check pursuant to the procedures set forth in Chapter 85 of Title 11 for the purposes of employment or contractual employment of any school bus driver.

(b) The regulations adopted relating to the award of school transportation contracts shall provide as follows:

(1) A school transportation contract may be awarded to a party contingent upon approval of the local board and the Department of Education. Such award may be made only after notice is provided to all interested persons by means of a notice published in at least 2 Delaware newspapers of general circulation.

(2) A local board of education must approve the awarding of a transportation contract to a party based on the following criteria: financial stability, insurability, record of service in that or another school district, if applicable, and personal and/or business resume including references. A local board may use a lottery system to select from among the qualified applicants.

(3) No contract shall be deemed effectively awarded until said award is approved by the local board of education and the Department of Education.

(c) School districts and charter schools may purchase annual student bus passes from the Delaware Transit Corporation for use on fixed route public transit by students in grades 6 through 12.

(1) A school district or charter school must negotiate an agreement with the Delaware Transit Corporation regarding the method of purchasing and tracking bus passes under this subsection.

(2) Students may not be directly reimbursed for the cost of public transportation under this subsection.

(3) A school district or charter school may not require a student to use public transportation.

(4) This subsection does not limit the manner in which schools provide transportation for students under the McKinney-Vento Homeless Education Assistance Improvement Act, 42 U.S.C. §§ 11431 through 11435.

(36 Del. Laws, c. 10, § 91B; 40 Del. Laws, c. 38, § 7; Code 1935, § 5631; 48 Del. Laws, c. 119, § 1; 14 Del. C. 1953, § 2901; 70 Del. Laws, c. 59, § 2; 71 Del. Laws, c. 180, § 139; 73 Del. Laws, c. 252, § 8; 76 Del. Laws, c. 226, §§ 1, 2, 4; 77 Del. Laws, c. 312, § 1; 82 Del. Laws, c. 188, § 3.)

### § 2902. Violation of regulations; compliance clause in contracts; penalty.

Any officer or employee of the Department of Education or of any school district who violates any of the school bus regulations or who fails to include an obligation binding a contractor to comply with such regulations in any contract executed by the officer or employee on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment.

(36 Del. Laws, c. 10, § 91B; 40 Del. Laws, c. 38, § 7; Code 1935, § 5631; 48 Del. Laws, c. 119, § 1; 14 Del. C. 1953, § 2902; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 140.)

### § 2903. Breach and cancellation of contract.

Whoever, being the operator of a school bus under a contract with the Department of Education or any school district, fails to comply with any school bus regulation adopted by the Department shall be guilty of breach of contract and the operator's contract shall be cancelled, after notice and hearing, by the responsible officers of the school district or the Department.

(36 Del. Laws, c. 10, § 91B; 40 Del. Laws, c. 38, § 7; Code 1935, § 5631; 48 Del. Laws, c. 119, § 1; 14 Del. C. 1953, § 2903; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 140.)

### § 2904. Minimum insurance coverage requirements.

All buses used, owned, leased, or operated by any person under contract with the Department of Education, a school district, or charter school for the purpose of transporting school pupils either to or from school or for any other purpose under the jurisdiction of any school authority shall be covered by insurance consisting of, at a minimum, all of the following:

(1) Bodily injury and property damage coverage with a combined single limit of $1,000,000.

(2) Personal injury protection coverage of $100,000 individual, $300,000 total.

(3) Medical payment coverage of $2,000 per person.

(4) Uninsured motorist coverage of $300,000.

(Code 1935, § 5631; 48 Del. Laws, c. 119, § 1; 14 Del. C. 1953, § 2904; 71 Del. Laws, c. 180, § 140; 80 Del. Laws, c. 212, § 1; 80 Del. Laws, c. 221, § 1.)

## § 2905. Rules and regulations regarding the transportation of students of public and nonpublic, nonprofit elementary and high schools.

(a) The Department of Education shall make rules and regulations concerning the transportation of students in public elementary and secondary schools in this State.

(b) The Department shall make rules and regulations regarding the transportation of students in nonpublic, nonprofit elementary and secondary schools in this State. The rules and regulations shall provide for at least the following:

(1) All rules and regulations relative to student transportation to nonpublic, nonprofit schools are the same as those applicable to public schools.

(2) The rules and regulations shall limit transportation of students in nonpublic, nonprofit schools to the elementary and secondary schools, except as provisions of this title may assign the transportation responsibility to the Department of Education on behalf of students enrolled at other levels in a public school system.

(3) Out-of-district transportation for nonpublic, nonprofit school students is required in accordance with the Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1400 et seq.], § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794], or any other State or federal law.

(14 Del. C. 1953, § 2905; 56 Del. Laws, c. 270; 71 Del. Laws, c. 180, § 141; 76 Del. Laws, c. 226, § 3; 85 Del. Laws, c. 376, § 1.)

## § 2906. Transportation of pupils to special schools.

The State shall fund school districts that operate special schools for the trainable, hearing impaired, orthopedic or other special school serving students from 1 or more school districts.

(62 Del. Laws, c. 68, § 46; 62 Del. Laws, c. 173, § 1.)

## § 2907. Safety requirements for public school buses.

No rule or regulation made by the Department of Education under this chapter shall preclude the use of district school buses or state school buses 14 model years old, provided such buses meet safety requirements and are approved by the board of education named in the contract. There shall be no capital allowance provided for the contractor other than that provided for in the transportation formula for school bus contracts using the schedule for the model year of the bus used.

(62 Del. Laws, c. 275, § 1; 71 Del. Laws, c. 180, § 142; 77 Del. Laws, c. 327, § 363.)

## § 2908. Renewal of transportation contracts; transfer; letters of commitment.

(a) When a transportation contract is due to expire for a reason other than the fact that the bus described in said contract is of such vintage that it can no longer be used to transport pupils, a renewal of said contract shall be first offered to the school bus contractor who is party to the expiring contract. In the event that a contractor does not wish to renew the contract, said contract shall be opened to all other interested persons in that area by means of notice published in at least 2 Delaware newspapers of general circulation.

(b) If no parties can be found to assume the responsibilities of contracts expiring pursuant to this section, the department or agency responsible for the transportation of public school pupils shall furnish the transportation previously afforded under the expiring contract.

(c) (1) A school transportation contract may be transferred from a contractor to another party contingent upon approval of the local board of education. In the event that a transfer is proposed by the current contractor, the advertising requirement contained in subsection (a) of this section shall not apply.

(2) A local board of education may disapprove the transfer of a transportation contract to another party only for just cause. Just cause shall be limited to the following criteria: Financial stability, insurability, record of service in that or another Delaware school district, and personal and/or business resume including references.

(3) If the school board decides to reject the prospective contractor, it shall notify that contractor of its decision and provide reasons why that contractor is not acceptable to the district. This discussion may be held in a closed session and the results and reasons shall be disclosed only with the approval of the proposed contractor. In the event that the district rejects the proposed contractor, the current contractor shall have the following options:

a. Continue to operate the bus; or

b. Give up the contract at the end of the year or sooner if allowed by the district; or

c. Find a new contractor which will meet the criteria.

(4) In the event the contractor cannot reach agreement with another party which meets the criteria and is acceptable to the school district, the district may use the process identified in subsection (a) of this section to find a new contractor. In the event that the bus associated with the transportation contract is less than 7 years old and still on the depreciation schedule in the transportation formula, the district shall require that the new contractor make an offer to purchase the bus of the current contractor at least at fair market value as described in a national publication. It shall not be mandatory for the current contractor to accept this offer.

(5) No contract shall be deemed effectively transferred until said transfer is approved by the local board of education and the Department of Education.

(d) (1) The Department of Education is authorized to obtain from all contractors currently providing pupil transportation a letter of commitment to provide such service for the following school year. Such letters shall be signed by the contractor and shall legally bind the contractor to provide pupil transportation service in the following school year contingent upon the enactment into law of the succeeding fiscal year's budget appropriation act. A contractor shall not be bound by its letter of commitment should the final budget appropriation act include an inflation factor for the school transportation formula that is less than the inflation factor included in the Governor's proposed budget presented in January of that year.

(2) Failure to sign a letter of commitment shall be interpreted to mean that the contractor does not wish to continue providing pupil transportation services and that an alternative provider shall be found to assume the responsibilities of the existing contractor for the next school year.

(3) The letter of commitment shall be considered an offer of renewal as referenced in subsection (a) of this section. Subsection (b) of this section shall apply to contracts that expire due to the failure of a contractor to sign a letter of commitment.

(4) The Department of Education is hereby authorized to obtain letters of commitment on or before August 1, 1991, for the school year 1991-1992. In all subsequent years the Department of Education is authorized to obtain letters of commitment on or before May 1.

(62 Del. Laws, c. 292, § 1; 63 Del. Laws, c. 184, § 1; 66 Del. Laws, c. 303, § 314; 67 Del. Laws, c. 47, § 293; 68 Del. Laws, c. 74, § 1; 70 Del. Laws, c. 59, §§ 1, 3; 71 Del. Laws, c. 180, § 142.)

## § 2909. Transportation of certain pupils.

Each local board of education shall adopt and enforce rules and regulations whereby a parent or guardian may elect to waive bus transportation for that parent's or guardian's student to and from school in favor of another form of transportation. The principal of each school may issue passes for school bus transportation to certain pupils who have chosen to drive a private vehicle, for use on a temporary and emergency basis; and may also set aside a specific number of parking spaces for use on a temporary and emergency basis by pupils who originally chose transportation by school bus. Any contract between the Department of Education and a supplier of bus transportation, or between a local school board and a supplier of bus transportation, shall be based upon the number of students who elect to be transported by bus, and shall not be based upon the total number of students in the school or school district.

(67 Del. Laws, c. 49, § 2; 71 Del. Laws, c. 180, § 142; 77 Del. Laws, c. 327, § 361.)

## § 2910. School bus drivers; drug and alcohol testing.

(a) In order to coordinate state and federal efforts to insure the safety of school children, the Department of Education is authorized to contract for a program of drug and alcohol testing services necessary to enable public school districts, charter schools and any person or entity that contracts with a school district or charter school to provide transportation for state public school students to comply with such drug and alcohol testing requirements applicable to Delaware public school bus drivers as are now, or may hereafter be, imposed by federal law. Testing services shall be provided at no cost to the bus driver's employer. The nature and extent of testing services to be provided shall be at the discretion of the Department of Education, but shall include pre-employment, reasonable suspicion, random and post-accident testing for alcohol and controlled substances pursuant to 49 U.S.C. § 31306 and the implementing regulations issued by the Secretary of Transportation of the United States pursuant thereto, as the same may from time to time subsequently be amended. In no event shall the Department of Education be responsible for the provision of any post-testing services either to a bus driver or to the driver's employer except to cause the results of such testing to be provided to the driver and to the driver's employer.

(b) Nothing contained herein shall be deemed to impose any additional obligation upon the employer of a public school bus driver beyond those obligations otherwise imposed upon such employer by state or federal law, or pursuant to rules and regulations promulgated in accordance with subsection (d) of this section.

(c) No person shall operate a public school bus while not in compliance with the provisions of all federal drug and alcohol testing requirements relevant to the drivers of Delaware public school buses and any regulations adopted by the Department of Education pursuant to this section.

(d) The Department of Education is authorized to promulgate rules and regulations to implement the provisions of this section, including, without limitation, rules and regulations which:

(1) Require all employers of public school bus drivers in this State to participate in the testing program contracted for by the Department; and

(2) Require public school districts, charter schools and the employers of public school bus drivers to follow such procedures and to maintain such records as the Department deems necessary to insure that public school bus drivers are being tested in accordance with the provisions of federal drug and alcohol testing requirements.

(e) This section does not impose any additional obligations on a school district, charter school, or the Delaware Transit Corporation with a contract under § 2901(c) of this title beyond those obligations otherwise imposed upon the Delaware Transit Corporations under federal and state law.

(69 Del. Laws, c. 371, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 143; 73 Del. Laws, c. 406, § 1; 82 Del. Laws, c. 188, § 4.)

## § 2911. Safety standards for other vehicles.

(a) After July 1, 1998, newly purchased and newly leased vehicles with a rated capacity, as defined by the manufacturer, to carry more than 10 passengers in addition to the driver that are used to transport preprimary, primary, and secondary pupils between home and school or to school-related events shall meet state and federal specifications and safety standards applicable to school buses. Contract charter buses meeting federal DOT standards may be used for field trips.

(b) This section does not impose any additional obligations on a school district, charter school, or the Delaware Transit Corporation with a contract under § 2901(c) of this title beyond those obligations otherwise imposed upon the Delaware Transit Corporations under federal and state law.

(71 Del. Laws, c. 354, § 379; 82 Del. Laws, c. 188, § 5.)

# Part I
# Free Public Schools

## Chapter 30
## Early Childhood Education

(83 Del. Laws, c. 500, § 1.)

### Subchapter I
### General Provisions

(83 Del. Laws, c. 500, § 1.)

### § 3001. State Early Childhood Education Program.

(a) For purposes of this section:

(1) "Department" means the Department of Education.

(2) "Preschool-age child" means a child who is not yet attending kindergarten or a higher grade.

(b) The Department is authorized to provide early childhood educational services to eligible children, as defined by the Department, using funds appropriated by the General Assembly for that purpose.

(c) Subject to the availability of appropriations, the Department shall provide free early childhood educational services for preschool-age children who satisfy the eligibility requirements developed by the Department.

(d) The early childhood educational services under subsection (c) of this section must be high quality and align with the quality standards developed under paragraph (g)(1) of this section in all the following categories:

(1) Learning environment and curriculum.

(2) Qualifications and professional development.

(3) Family and community partnerships.

(4) Management and administration.

(e) (1) The Department shall provide the early childhood educational services by contracting with public and private providers, including providers administering federal Head Start programs within this State.

(2) The Department may identify priorities when awarding contracts, including programs offering at least 6 hours per day of early childhood educational services.

(3) State funds paid to the contracting providers may not be used to supplant Delaware state- or federally funded programs or to make a federal Head Start provider ineligible for a Head Start expansion grant.

(4) A contract under this subsection may be in place for up to 5 years, including renewals, if there is sufficient funding contained within the annual appropriations act and the contractor adheres to program standards, as defined by the Department.

(5) A contract under this paragraph must comply with State procurement requirements under Chapter 69 of Title 29.

(f) Each contracting provider shall establish written agreements within the provider's respective service area with the provider's local Head Start, other Early Childhood Initiative contracting provider, or both, as well as the local school district, to address issues including service areas, recruitment, transition of children and families, and sharing resources and information.

(g) The Department shall establish a quality improvement system. The quality improvement system must measure the level of quality of service provided by an early care and education program to safeguard and ensure the growth, development, and learning of the children. The quality improvement system must do all of the following:

(1) Establish quality standards that build upon the child care licensing regulations and include quality standards in the categories of learning environment and curriculum, qualifications and professional development, family and community partnerships, and management and administration. The Department shall ensure that the quality improvement system standards are consistent with the regulations of the Office of Child Care Licensing.

(2) Ensure that the standards are based on research on best practice related to early care and education and that support children in being physically and emotionally healthy and eager to learn.

(3) Inform families and other purchasers of early care and education about the level of quality in a simple and easy-to-understand manner.

(4) Develop a quality improvement plan that informs participating early care and education programs of their strengths, weaknesses and strategies to improve the quality of their programs.

(5) Target resources to support and recognize programs as they work on implementing improvement plans and increasing the quality of services to children and families.

(6) Provide professional development and technical assistance to assist programs in accomplishing targeted improvements.

(7) Establish public-private partnerships to implement and sustain the quality improvement system including state agencies, higher education, adult education programs, early childhood organizations, and community-based agencies.

(8) Evaluate the quality improvement system to ensure continuous improvement of the system.

(h) The Interagency Resource Management Committee (IRMC) has administrative responsibility for all appropriations made to the Department under this section. This administrative responsibility includes all of the following:

(1) Determining unserved and underserved areas within the State, to be addressed in any given year. These identified areas will be specified within the Request for Proposal (RFP) issued to prospective providers.

(2) Reviewing, recommending and disbursing grant awards for contracts to qualifying providers to deliver early childhood educational services to preschool-age children who live in poverty.

(3) Reallocating unobligated or unspent appropriations made to the Department under this section.

(4) Verifying that the contracting providers use Delaware state funds paid to them for the purposes specified in their contracts.

(i) All public and private providers contracting with the Department under this section shall ensure that every employee receives a minimum of 1 hour of training every year in the detection and reporting of child abuse. The Division of Family Services shall prepare this training, and all materials used in the training.

(69 Del. Laws, c. 351, § 1; 71 Del. Laws, c. 132, § 336; 71 Del. Laws, c. 180, § 144; 72 Del. Laws, c. 94, § 355; 72 Del. Laws, c. 173, § 3; 73 Del. Laws, c. 321, §§ 9, 10; 76 Del. Laws, c. 313, §§ 1, 2; 82 Del. Laws, c. 184, § 1; 83 Del. Laws, c. 500, § 1; 84 Del. Laws, c. 464, § 1; 85 Del. Laws, c. 68, § 20.)

## § 3002. Early Childhood Council.

(a) The Delaware Early Childhood Council (ECC) shall be the State Advisory Council on Early Childhood for children from birth to 8 years of age, and carry out all such functions designated in the federal Improving Head Start for School Readiness Act of 2007 [P.L. 110-134] et seq., and those functions designated herein and those assigned by the Governor, the General Assembly, and the Interagency Resource Management Committee (IRMC), provided sufficient moneys are available from the annual State appropriations act, federal funding, private funding, or a combination thereof.

(b) The ECC shall be comprised primarily of private sector members but shall include all representatives as designated in the above-referenced federal legislation and shall advise the Governor and General Assembly on a continuing basis, working with the IRMC, concerning the status and improvement of services of the early childhood sector and the implementation of the State's early childhood strategic plan. In addition to any responsibilities assigned by the Governor through the IRMC, the Delaware Early Childhood Council shall make recommendations to the Governor, the General Assembly, and the IRMC that promote the appropriate coordination and effectiveness of state services and policies. The ECC shall be responsible for maintaining and expanding a statewide network of early care and education institutions that includes providers, advocates, state program officers, private and nonprofit community institutions, and others who support the development and delivery of high quality early childhood services.

(c) In addition to the ECC's other functions, the ECC shall do all of the following:

(1) Advise and consult with Office of Child Care Licensing (OCCL) regarding the development, adoption, promulgation, and amendment of the rules, regulations, and policies required to carry out Chapter 30A of this title with respect to early care and education, family and large family child care homes, and school-age centers.

(2) Encourage OCCL to communicate with individuals and entities licensed under Chapter 30A of this title and to facilitate the communication.

(3) Encourage OCCL to enforce Chapter 30A of this title in a manner that recognizes that most child care providers are private businesses that need stable and reasonable regulations.

(69 Del. Laws, c. 351, § 1; 71 Del. Laws, c. 180, § 144; 76 Del. Laws, c. 53, § 1; 77 Del. Laws, c. 363, § 2; 83 Del. Laws, c. 500, § 1; 84 Del. Laws, c. 90, § 1.)

## § 3003. Organization and composition.

(a) The Governor shall appoint the members of the Delaware Early Childhood Council (ECC) based upon recommendation from the Interagency Resource Management Committee. The members of the ECC must meet the following criteria:

(1) Represent the racial, economic, and geographic diversity of the State.

(2) Serve for staggered, renewable terms of 3 years, except in the case of public employees continuing in the same designated position.

(3) Consist of the following members:

a. Three center-based early care and education providers.

b. One family-home-based early care and education provider.

c. One parent whose child participates in early childhood services.

d. One Delaware Head Start/Early Childhood Assistance Program Association representative.

e. One representative of a statewide early care and education resource and referral agency.

f. Two representatives from advocacy organizations focused on children's health and well-being.

g. One representative of the Delaware Association for the Education of Young Children.

h. One public school district superintendent.

i. One higher education representative who also serves on the P-20 Council.

j. One business community representative.

k. Two community members.

*l.* One representative of the General Assembly.

m. The State Director of Head Start Collaboration.

n. A representative of the Delaware Department of Health and Social Services, representing children's health and child care.

o. A representative of the Delaware Department of Services to Children, Youth and Their Families, representing child mental health and family services.

p. A representative of the Delaware Department of Education, representing child care licensing early childhood professional development, § 619 of the IDEA (20 U.S.C. § 1419), child care licensing, and state early learning guidelines.

q. The chair of the Interagency Coordinating Council, representing Part C of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1431 et seq.).

r. Nonvoting members must include the director of the Office of Early Learning, the chair of the Family Support Coordinating Council, and the director of the State's Institute for Excellence in Early Childhood Education. The ECC may appoint nonvoting members and advisors to assist them in meeting their responsibilities.

(b) The Governor shall appoint a Chairperson from the nongovernmental members of the ECC, and who shall serve as a member of the State's P-20 Council. The Chairperson shall coordinate the activities of the ECC. The Governor shall also appoint a Vice-Chairperson from the nongovernmental members of the ECC.

(76 Del. Laws, c. 53, § 2; 77 Del. Laws, c. 363, § 3; 83 Del. Laws, c. 213, § 4; 83 Del. Laws, c. 280, § 6; 83 Del. Laws, c. 500, § 1; 84 Del. Laws, c. 526, § 1.)

### § 3004. Meetings; organizational structure.

The Delaware Early Childhood Council (ECC) shall convene regularly-scheduled meetings at least 6 times annually. The ECC may form an executive committee from its members and other subcommittees. The ECC may form standing subcommittees including professional development, quality improvement system, data, and higher education. The ECC shall fulfill all the responsibilities designated under the federal Improving Head Start for School Readiness Act of 2007 (P.L. 110-134) for the State's Advisory Council on Early Childhood Education and Care.

(76 Del. Laws, c. 53, § 3; 77 Del. Laws, c. 363, § 4; 83 Del. Laws, c. 500, § 1; 84 Del. Laws, c. 464, § 2; 85 Del. Laws, c. 68, § 21.)

### § 3005. Staffing and annual reporting.

The Department of Education shall staff the Delaware Early Childhood Council (ECC) with support from the Interagency Resource Management Committee (IRMC) as needed. The ECC will report annually to the IRMC, the Governor, President Pro Tempore, Speaker of the House, and the General Assembly's committees on Education, Health and Social Services, and Health and Human Development regarding the status of its work and the progress of Council plans and proposals. A summary of the Council's work shall be included in the IRMC's annual report.

(77 Del. Laws, c. 363, § 5; 83 Del. Laws, c. 500, § 1.)

## Subchapter II

## Early Childhood Workforce

(83 Del. Laws, c. 500, § 1.)

### § 3011. Early childhood workforce study.

Beginning in 2022, the Department of Education (Department), in consultation with stakeholders including the Delaware Early Childhood Council, shall annually produce, by November 15, an early childhood workforce study, which shall include all of the following:

(1) The number of individuals receiving state financial support.

(2) The number and percentage of early childhood professionals with credentials or degrees, both in total and disaggregated by race and ethnicity.

(3) The demographics of the early childhood workforce including age, race, ethnicity, and gender.

(4) The estimated cost to close the gap between current wages and the target wage scale, including parity with public school teaching staff and individuals with similar credentials.

(5) Gaps in data gathering and analysis and potential measures to close the gaps.

(83 Del. Laws, c. 500, § 1.)

## § 3012. Comprehensive support program for early childhood professionals.

(a) By September 1, 2023, the Department of Education (Department) shall implement a comprehensive support program for early childhood professionals including those employed by a public school.

(b) By January 31, 2023, the Department, in consultation with the Delaware Early Childhood Council, shall produce a plan for the comprehensive support program, informed by the early childhood workforce study required by § 3011 of this title. The Department shall consider inclusion of the following components:

(1) An educational loan forgiveness program.

(2) Scholarship and other financial support for early childhood professionals pursuing degrees and credential attainment.

(3) Salary supplements for early childhood professionals and a proposed scale for such supplements that increases based on higher levels of educational attainment, and policy proposals to have such supplements excluded as income for purposes of determining eligibility for assistance programs.

(4) Formalized alternative routes to credentialing and certification in early childhood professions, including development of an alternative route to certification similar to the programs currently employed for K-12 educators.

(5) Improvements and coordination for aspiring early childhood professionals of professional pathway programs and the Teacher Academy program in district and charter schools, including strategies to support more diversity, to provide meaningful work-based learning opportunities, and to accelerate postsecondary credit and credentials during high school.

(6) Supports for early childhood professionals in the workforce and aspiring professionals including paraprofessionals, community members, parents, bilingual candidates, and those without degrees.

(7) Partnerships with institutions of higher education to support pathways and career development and support for early childhood professionals. The partnership should consider the viability and effectiveness of the following completion supports for individuals seeking credentials and degrees in fields relevant to early childhood education including:

a. Tutoring.

b. Academic counseling and assistance in navigating credential requirements.

c. Embedded coaching and professional learning.

d. Community-based delivery of training at licensed child care and early learning providers.

e. Courses in languages other than English.

f. Developing or providing funding for substitutes when training or courses are offered during the work day.

(8) Assisting aspiring and current early childhood professionals to access other available financial supports, such as the Student Excellence Equals Degree (SEED) and Inspire scholarships.

(83 Del. Laws, c. 500, § 1.)

# Part I
# Free Public Schools

## Chapter 30A
## The Delaware Child Care Act

(82 Del. Laws, c. 184, § 3.)

### § 3001A. Short title.

This chapter may be referred to and cited as “The Delaware Child Care Act.”

(82 Del. Laws, c. 184, § 3.)

### § 3002A. Definitions.

For the purpose of this chapter:

(1) a. “Child care” means an individual or entity that meets all of the following:

1. Has in custody or control 1 child or more under the age of 18 years, unattended by parent or guardian, for the purpose of providing care, education, protection, supervision, or guidance.

2. Is compensated for the individual’s or entity’s services.

3. Holds the individual’s or entity’s self out as conducting child care.

b. “Child care” includes all of the following:

1. Family child care homes.

2. Large family child care homes.

3. Child care centers, including programs for children below the grade of kindergarten that are operated by private schools.

4. Child placing agencies.

5. Residential child care facilities.

6. Day treatment programs.

7. Child care programs operating part-day or full-day.

c. “Child care” does not include any of the following:

1. Individual foster or adoptive homes in which children have been placed by a State-licensed child placing agency.

2. Military family child care providers.

(2) “Department” means the Department of Education.

(3) “Early education program” means a public program operated by an entity under state ownership and control, including local education agencies, for children below the grade of kindergarten.

(4) “Entity” means an estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(5) “Military family child care provider” means a family child care home or large family child care home that serves only dependent children eligible for Department of Defense subsidized care and is 1 or both of the following:

a. Located on a military base or federal property.

b. Certified as a family child care provider by a branch of the U.S. Department of Defense or the U.S. Coast Guard.

(6) “OCCL” means the Office of Child Care Licensing within the Department of Education.

(7) “Youth camp” means a child-serving entity that is all of the following:

a. Operating in a space or location that is not otherwise licensed under this chapter.

b. Providing a program of recreational, athletic, educational, or religious instruction or guidance.

c. Taking custody or control of 1 or more school-age children, unattended by the child’s parent or guardian.

d. Operating during 1 or more of the following:

1. The months of May through September for no more than 12 weeks and for 3 or more hours a day.

2. A break in the course of the school year.

(82 Del. Laws, c. 184, § 3; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 248, § 2; 83 Del. Laws, c. 249, § 1; 83 Del. Laws, c. 277, § 1; 83 Del. Laws, c. 283, § 17; 85 Del. Laws, c. 105, § 1; 85 Del. Laws, c. 198, § 1; 85 Del. Laws, c. 434, § 1.)

### § 3003A. OCCL; powers.

(a) (1) The Office of Child Care Licensing is established within the Department of Education to do all of the following:

a. Promulgate and enforce regulations for child care.

b. License child care facilities.

c. Develop and implement policies and procedures for ensuring compliance with child care regulations.

(2) An individual or entity shall provide OCCL or OCCL's authorized agents right of entrance, privilege of inspection, and access to the individual's or entity's accounts and reports.

(b) [Repealed.]

(c) OCCL may prescribe and enforce, by regulation or otherwise, any reasonable standards for the conduct of child care facilities and shall license child care facilities that conform to these standards. Regulations promulgated under this chapter must include all of the following:

(1) Any application form required to apply for any of the following:

a. Licensure under this chapter.

b. A license exemption.

(2) The specific requirements to obtain, retain, or renew any of the following:

a. A license under this chapter.

b. A license exemption, including for all of the following:

1. A youth camp that has a valid permit from the Division of Public Health under § 122(3)g. of Title 16.

2. Programs that offer school-age care, lessons, or classes on a limited basis.

(3) Due process provisions that provide all of the following:

a. That notice is required when a deficiency is alleged.

b. The informal and formal procedures to contest an alleged deficiency.

(4) A youth camp license under paragraph (c)(2)a. of this section must include all of the following requirements:

a. The youth camp must have a valid permit from the Division of Public Health under § 122(3)g. of Title 16.

b. The health and safety requirements necessary to qualify for Purchase of Care provider reimbursement, established in collaboration with the Department of Health and Social Services under § 512 of Title 31.

c. For outdoor youth camps, that the youth camp have access to a shelter or building that provides protection from inclement weather. The requirements under this paragraph (c)(4)c. may not require a specific size or square footage.

(82 Del. Laws, c. 184, § 3; 83 Del. Laws, c. 249, § 2; 83 Del. Laws, c. 277, § 1; 85 Del. Laws, c. 434, § 2.)

## § 3004A. Child care licenses; investigation; requirements; notice; hearings and appeals.

(a) An individual or entity may not engage in child care unless the individual or entity first obtains a license from OCCL. Unless renewed, a license expires 1 year from the date the license is issued.

(1) Beginning on July 1, 2023, when applying for a license or upon renewal of a license, an applicant must ensure that all children age birth to 5 years old not yet in kindergarten, who have been enrolled by a licensee seeking renewal or to be enrolled, will undergo developmental and social emotional screening using the Department's approved developmental and social emotional screening system by requiring the parent or guardian of an enrolled child to complete the Department's approved developmental and social emotional screening at the time the child is enrolled and at least 1 time per year during enrollment unless the parent, in writing, declines developmental screening or notifies the licensee that the child is already receiving early intervention services or special education and related services. If an enrolled child's parent or guardian does not conduct the yearly developmental and social emotional screening, the child care provider shall conduct the screening upon receipt of written parental consent.

a. For children age birth to 35 months old, developmental and social emotional screening results will be processed and referrals for additional evaluation, if warranted, will be implemented by the Department under Chapter 31A of this title.

b. For children age 3 to 5 years old, developmental and social emotional screening results will be processed and referrals for additional evaluation, if warranted, will be implemented in partnership with the local education agency (LEA) having jurisdiction over the geographical location where the child is enrolled.

c. Developmental screenings must be reviewed and processed within 2 weeks of receipt.

(2) When a licensee seeks to renew its license, the Department will review the paper or electronic file of each child enrolled in the licensee's child care facility to ensure that each enrolled child has received developmental and social emotional screening within the preceding 12 months and any warranted referrals have been made as required by this section.

(b) OCCL may not issue a license to an individual until OCCL has made a thorough investigation and has determined all of the following, in accordance with reasonable standards:

(1) The good character and intention of the individual.

(2) That the individual home or facility meets the physical, social, moral, mental, and educational needs of the average child.

(3) Whether OCCL regulations are properly met.

(4) That the required criminal background checks are completed and approved.

(c) OCCL may not issue a license to an entity until OCCL has made a thorough investigation and has determined all of the following, in accordance with reasonable standards:

(1) The good character and intention of the entity.

(2) [Repealed.]

(3) The employment of capable, trained, and experienced workers.

(4) Sufficient financial backing to ensure effective work.

(5), (6) [Repealed.]

(7) Whether OCCL regulations are properly met.

(8) That the required criminal background checks are completed and approved.

(d) (1) This section does not apply to an early education program. An early education program must be monitored by OCCL and meet OCCL regulatory requirements.

(2) This section does not apply to any of the following:

a. A maternity ward of a general hospital.

b. A military family child care provider.

(3) The U.S. Department of Defense or the U.S. Coast Guard, or their agents, including an installation commander of a military base on which a military family child care provider is located, must assume responsibility for approving or determining which children are served by the military family child care providers that are exempt from this section.

(e) Before a license issued under this chapter is revoked or a license application is denied, notice must be given in writing to the individual or entity who is licensed or applying for a license setting forth the particular reasons for the action.

(1) a. Except as provided under paragraph (e)(1)b. of this section, a license revocation or license application denial becomes effective 30 business days after the date of the receipt by certified mail, regular U.S. mail, or personal delivery of the notice.

b. If, within 10 business days from the date of receipt of the notice under paragraph (e)(1)a. of this section, the individual or entity gives written notice to OCCL requesting a hearing, the proposed action is suspended.

(2) If a hearing has been requested, the individual or entity must be given an opportunity for a prompt and fair hearing before a hearing officer designated by the Department of Education under§ 10125 of Title 29.

(3) At any time, during or before the hearing, OCCL may rescind a notice on being satisfied that the reasons for a revocation or license application denial have been or will be removed.

(f) [Repealed.]

(g) A full and complete record must be kept of all proceedings, and all testimony must be reported but need not be transcribed unless the decision is appealed under this section. A copy of the transcript may be obtained by a party on payment of the cost of preparing the transcript. Witnesses may be subpoenaed by either party.

(h) Within 10 business days of a revocation or license application denial hearing, or within 5 business days of a suspension hearing, the hearing officer shall issue recommendations to the Secretary of the Department of Education, with a copy to each party. The hearing officer's recommendations must include all of the following:

(1) A brief summary of the evidence and recommended findings of fact based on the evidence.

(2) Recommended conclusions of law.

(3) Recommended decision.

(i) The Secretary of the Department of Education shall accept, deny, or accept in part, and deny in part the recommendations of the hearing officer in the case and issue a final decision within 10 business days of the date of the recommendations.

(j) A copy of the Department's decision setting forth the finding of facts and the particular reasons for the decision must be sent by certified mail, regular U.S. mail, or delivered to the individual or entity. The decision becomes final 10 business days after it is mailed or delivered.

(k) If an individual or entity is dissatisfied with the decision of the Department as a result of the hearing under this section, the individual or entity may, within 30 business days after the mailing or delivery of the notice of decision, file a notice of appeal to the Superior Court in the office of the Prothonotary of the Superior Court of the county in which the child care facility is located or to be located and serve a copy of the notice of appeal on the Department. The Department shall promptly certify and file with the Court a copy of the record and decision, including the transcript of the hearings on which the decision is based. The Rules of the Superior Court and § 10142 of Title 29 govern the appeal.

(*l*) *Emergency suspension order. —*

If the health, safety, or well-being of children in care of an individual or entity is in serious or imminent danger, OCCL may immediately suspend the license on a temporary basis without notice.

(1) The emergency suspension may be verbal or written, and the individual or entity shall cease all operation as stated in the emergency suspension order.

(2) Any verbal suspension order must be followed by a written emergency suspension order within 1 business day.

(3) The order is temporary and must state the reason for the suspension.

(4) Within 10 business days of the issuance of the suspension order, the individual or entity may give written notice to OCCL requesting a hearing. This hearing must be scheduled within 10 business days of the receipt of the request.

(5) If a hearing is not requested under paragraph (*l*)(4) of this section, the temporary order becomes a final order.

(6) At any time, during or before the hearing, OCCL may reinstate the individual's or entity's license on being satisfied that the reasons for the emergency suspension order have been removed.

(82 Del. Laws, c. 184, § 3; 83 Del. Laws, c. 248, § 3; 83 Del. Laws, c. 249, § 3; 83 Del. Laws, c. 277, § 1; 83 Del. Laws, c. 283, § 18; 84 Del. Laws, c. 28, § 2; 85 Del. Laws, c. 105, § 1; 85 Del. Laws, c. 198, § 1.)

## § 3005A. Penalties for violations.

(a) OCCL may impose civil penalties not to exceed $1,000 for each violation of § 3004A of this title.

(b) OCCL may proceed for the collection of the monetary civil penalty not otherwise paid through an action brought by OCCL in any court of competent jurisdiction.

(c) An individual or entity that violates this chapter may be fined not more than $1,000 or imprisoned not more than 6 months, or both.

(82 Del. Laws, c. 184, § 3; 83 Del. Laws, c. 249, § 4; 83 Del. Laws, c. 277, § 1.)

## § 3006A. Provider Advisory Board; appointments; composition; terms; vacancies [Repealed].

(82 Del. Laws, c. 184, § 3; 83 Del. Laws, c. 248, § 4; 83 Del. Laws, c. 249, § 5; 83 Del. Laws, c. 277, § 1; repealed by 84 Del. Laws, c. 527, § 2, effective Nov. 1, 2024.)

## § 3007A. Provider Advisory Board; powers and duties [Repealed].

(82 Del. Laws, c. 184, § 3; 83 Del. Laws, c. 37, § 16; 83 Del. Laws, c. 249, § 6; 83 Del. Laws, c. 277, § 1; repealed by 84 Del. Laws, c. 527, § 3, effective Nov. 1, 2024.)

## § 3008A. Transfers and continuity.

(a) All orders, enforcement actions, agreements of understanding, rules, and regulations made by within the Department of Services for Children, Youth and Their Families and which are in effect on July 1, 2020, remain in full force and effect until revoked or modified in accordance with the law by the Department of Education. Notwithstanding this chapter, all contracts and obligations of the Department of Services for Children, Youth and Their Families made or undertaken in the performance of a function transferred to the Department of Education by this chapter and being in force on July 1, 2020, remain in full force and effect and must be performed by the Department of Education until and unless the Department of Education takes formal action to modify any such contracts or obligations.

(b) Employees of OCCL within the Department of Services for Children, Youth and Their Families whose functions are consistent with and have been transferred to the Department of Education by this chapter continue and are deemed to be the employees of the Department of Education on July 1, 2020, and, where applicable, with all the benefits accrued as merit employees as of July 1, 2020.

(82 Del. Laws, c. 184, § 3; 83 Del. Laws, c. 249, § 7; 83 Del. Laws, c. 277, § 1.)

# Part I
# Free Public Schools

## Chapter 30B
## Parents' Right to Know Act

### § 3001B. Short title.

This section may be referred to and cited as the “Parents’ Right to Know Act.”

(83 Del. Laws, c. 194, § 1.)

### § 3002B. Definitions.

For the purpose of this chapter, “child-care facility” means all licensed facilities within the State where care is provided for children ages birth through 12 years. Licensure for programs providing services solely for children ages 13 years and older is voluntary.

(83 Del. Laws, c. 194, § 1.)

### § 3003B. Inspection of child-care facility records.

(a) Each licensed child-care facility shall provide to each person seeking child-care services written notice as defined in subsection (c) of this section, which explains the person’s right to inspect the active records and complaints of any licensed child-care facility. Notice shall be provided during in-person tours of the facility. If a tour of the facility is not conducted, the notice shall be provided as part of the enrollment materials provided to the person seeking child-care services. In addition, the application packet shall include the address of the nearest Office of Child Care Licensing (OCCL) office and the OCCL website.

(b) Every child-care facility shall obtain a statement, signed by the prospective purchaser of care, which attests to timely receipt of the notice provided for in subsection (a) of this section. The child-care facility shall keep the signed statement on file for no less than 3 months after the child is no longer enrolled.

(c) The Department of Education shall provide a standardized form of the notice and statement as defined in subsections (a) and (b) of this section respectively, to each licensed facility.

(d) The Office of Child Care Licensing shall have available for public request a summary of each child-care facility’s records.

(e) The public shall have access to child-care information including a list of all child-care facilities, licensed facilities, enforcement actions, and agency contact persons via the Delaware Department of Education website on the Internet.

(f) All requests to inspect these records shall be made in writing to the Office of Child Care Licensing. Individuals shall be allowed to inspect such records within 10 business days from the date the request is received.

(g) Failure of a child-care facility to provide the notice required in subsection (a) of this section or obtain the statement required in subsection (b) of this section from any prospective purchaser shall be a violation of Delaware law, subject to a fine of not more than $100 for each violation and the total of such fines shall not exceed $1,000 per calendar year. Justice of the Peace Courts shall have original jurisdiction of such offenses.

(83 Del. Laws, c. 194, § 1.)

# Part I
# Free Public Schools

## Chapter 31
## Exceptional Children

### Subchapter I
### Definitions

### § 3101. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them except when the context clearly indicates a different meaning:

(1) "Child" means a person of 3 years of age, or an earlier age if otherwise provided in this title, until the receipt of a regular high school diploma or the end of the school year in which the person attains the age of 22, whichever occurs first.

(2) "Child with a disability" means a child who because of mental, physical, emotional, developmental, speech or learning disability problems, as defined by the Department of Education rules and regulations approved by the State Board of Education, requires special education and related services in order to develop that person's own capabilities. A child with a disability is eligible for services beginning on the child's third birthday, or earlier if otherwise provided in this title.

(3) "Disruptive child" means a child who continually exhibits behavior that does not meet minimal standards of conduct established by the school authorities and that are required in the school and classrooms; whose behavior is in defiance of school personnel, disrupts the school instructional program and is antagonistic to other students and the purpose of the school.

(4) "Exceptional child" means a child with a disability or a gifted and talented child, as defined herein.

(5) "Free appropriate public education" means special education that is specially designed instruction including classroom instruction, instruction in physical education, home instruction and instruction in hospitals and institutions, and related services as defined by Department of Education rules and regulations approved by the State Board of Education and as may be required to assist a child with a disability to benefit from an education that:

a. Is provided at public expense, under public supervision and direction and without charge in the public school system;

b. Meets the standards of the Department of Education as set forth in this title or in the rules and regulations of the Department as approved by the State Board;

c. Includes elementary, secondary or vocational education in the State;

d. Is individualized to meet the unique needs of the child with a disability;

e. Provides significant learning to the child with a disability; and

f. Confers meaningful benefit on the child with a disability that is gauged to the child with a disability's potential.

No court, administrative tribunal, school district, or school shall use a definition of "free appropriate public education" that states or implies that the term encompasses a lesser educational program than enumerated in this definition. Courts, administrative, tribunals, and schools may use a definition of "free appropriate public education" that states or implies that the term encompasses a more enhanced educational program than described in this definition, if consistent with a decision of the United States Third Circuit Court of Appeals or the United States Supreme Court.

The related services to be provided shall be based upon a program for each child as approved by the Department; provided, that the State Board may review any objection to the Department's decision. Funds for such services are to be paid from the Educational Contingency Fund of the Department of Education.

(6) "Gifted or talented child" means a child in the chronological age group 4 through the end of the school year in which the child attains the age of 21 or until receipt of a regular high school diploma, whichever occurs first, who by virtue of certain outstanding abilities is capable of a high performance in an identified field. Such an individual, identified by professionally qualified persons, may require differentiated educational programs or services beyond those normally provided by the regular school program in order to realize that individual's full contribution to self and society. A child capable of high performance as herein defined includes one with demonstrated achievement and/or potential ability in any of the following areas, singularly or in combination:

a. General intellectual ability;

b. Specific academic aptitude;

c. Creative or productive thinking;

d. Leadership ability;

e. Visual and performing arts ability;

f. Psychomotor ability.

(7) “Parent” means a biological or natural parent of a child with a disability, or, as appropriate, a stepparent, guardian, educational surrogate parent, appointed educational representative, relative caregiver or custodian. The identity and authority of a person qualifying as a parent is subject to modification by Family Court or Court of Chancery order. Subject to § 3132 of this title, if a child with a disability has reached that child’s own eighteenth birthday, and no guardian of the person has been appointed, all rights and entitlements accorded to parents by this chapter shall be deemed accorded directly to the child with a disability.

(8) [Repealed.]

(48 Del. Laws, c. 194, § 2; 14 Del. C. 1953, § 3101; 49 Del. Laws, c. 410, § 2; 51 Del. Laws, c. 287, § 2; 55 Del. Laws, c. 198, § 2; 57 Del. Laws, c. 237, § 2; 60 Del. Laws, c. 571, § 4; 61 Del. Laws, c. 190, §§ 4, 7; 62 Del. Laws, c. 411, § 1; 63 Del. Laws, c. 410, § 1; 64 Del. Laws, c. 63, § 2; 65 Del. Laws, c. 381, § 2; 68 Del. Laws, c. 84, §§ 214, 215; 68 Del. Laws, c. 126, §§ 10, 11; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 145; 77 Del. Laws, c. 301, § 1; 77 Del. Laws, c. 424, §§ 2-7; 80 Del. Laws, c. 252, § 1; 83 Del. Laws, c. 39, §§ 1, 2; 83 Del. Laws, c. 357, § 1.)

## Subchapter II

## General Provisions

### § 3110. Rules and regulations.

(a) The Department of Education is designated as the state agency that, with the approval of the State Board, shall make rules and regulations to carry out this and other titles relative to the identification, evaluation, education, training and transportation of exceptional children including specific definitions for the categories of units for exceptional children authorized for funding in § 1703 of this title.

(b) The rules promulgated by the Department of Education with the approval of the State Board of Education shall provide the criteria by which identified children with disabilities, as defined in § 3101 of this title, shall be assigned to a public school facility, or, if otherwise eligible for admission, to an institution of another state agency, or released for authorized placement in a private school or agency, pursuant to subchapter III of this chapter.

(c) The Department of Education, with the approval of the State Board of Education, shall establish and maintain procedures, by regulation, to assure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free, appropriate, public education.

(d) The Department of Education shall promulgate regulations that provide that when a due process hearing is requested by a parent or guardian of a child with disabilities a notice of such request shall be provided to members of the school board for the appropriate school district at the next scheduled school board meeting. Additionally, the regulations shall provide that upon notification of a due process hearing request, a school board president must sign a statement stating that the members of the board of education are aware of said due process hearing. The statement shall be sent by certified mail to the parents or guardian.

Furthermore, the regulations will provide that upon conclusion of a due process hearing a copy of the decision shall be sent to members of the school board for the appropriate district and a signed certified letter shall be sent to the parents notifying them that the members of the school board are aware of the decision. The regulations shall also provide that if the parents or guardian of the child appeal the decision of a due process hearing then the members of the school board for the appropriate school district shall be notified of the appeal at the next regularly scheduled board of education meeting. A certified letter, signed by the president of the board receiving the appeal, shall be sent to the parents notifying the parents that members of the school board are aware of the appeal. Lastly, the regulations shall provide that before a school district can appeal the decision of a due process hearing, a majority of the members of the school board for such district must by affirmative vote decide to appeal.

(e) With respect to any child with a disability who is not beginning to read by age 7, each IEP prepared for such student until that student is beginning to read shall:

(1) Enumerate the specific, evidence-based interventions that are being provided to that student to address the student’s inability to read; and

(2) Provide for evidence-based interventions through extended year services during the summer absent a specific explanation in the IEP as to why such services are inappropriate.

(48 Del. Laws, c. 194, § 2; 14 Del. C. 1953, § 3102; 51 Del. Laws, c. 287, § 2; 61 Del. Laws, c. 190, § 7; 64 Del. Laws, c. 63, § 3; 68 Del. Laws, c. 84, § 217; 71 Del. Laws, c. 180, § 146; 77 Del. Laws, c. 315, § 1; 77 Del. Laws, c. 424, §§ 8, 9; 78 Del. Laws, c. 179, § 135; 79 Del. Laws, c. 300, § 2.)

### § 3111. Advisory council for exceptional citizens.

(a) The Governor shall appoint an advisory council to act in an advisory capacity to the Department of Education, the State Board of Education and other state agencies on the needs of exceptional citizens. The General Assembly shall provide for the maintenance of the council. The council shall also serve in the capacity of the advisory panel as required by the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq.

(b) The council shall hold at least 1 joint meeting with the Interagency Coordinating Council each calendar year.

(14 Del. C. 1953, § 3108; 51 Del. Laws, c. 287, § 3; 61 Del. Laws, c. 190, § 7; 71 Del. Laws, c. 180, § 147; 77 Del. Laws, c. 424, § 10; 83 Del. Laws, c. 213, § 5.)

## § 3112. Bill of Rights for Children Who Are Deaf or Hard of Hearing.

(a) Given the unique communication needs for children who are deaf and hard of hearing there is a need to further develop the comprehensive statewide program which implements a systematic approach to service these children in areas which may include overseeing the development, delivery, and data tracking of these children across the State.

(b) The term "communication mode or language mode" means 1 or more of the following systems or methods of communication applicable to children who are deaf or hard of hearing:

(1) American Sign Language;

(2) English-based manual or sign systems;

(3) Oral, aural, speech-based training;

(4) Spoken and written English, including speech reading or lip reading; and

(5) Communication with assistive technology devices to facilitate language and learning.

(c) In developing an individualized education plan (IEP) for a child who is deaf or hard of hearing, in addition to any other requirements established by the Department of Education, the district or charter school shall consider the related services and program options that provide the child with an appropriate and equal opportunity for communication access. The school system shall consider the child's specific communication needs and address those needs as appropriate in the child's individualized education program. In considering the child's needs, the district or charter school shall expressly consider the following:

(1) The child's individual communication mode or language;

(2) The availability to the child of a sufficient number of age, cognitive, academic, and language peers of similar abilities if the parents so desires;

(3) The availability to the child of deaf or hard of hearing adult models of the child's communication mode or language;

(4) The provision of optimal, direct, and ongoing language access to teachers of the deaf and hard of hearing, interpreters, psychologists, educational audiologists, administrators, and other special education personnel who are knowledgeable due to specific training and who are proficient in the child's primary communication mode or language;

(5) The provision of communication-accessible academic instruction, school services, and direct access to all components of the educational process, including but not limited to, recess, lunch and extracurricular social and athletic activities including the equal opportunity to participate in advanced course work and/or technical vocational course work and academic classes as identified by the Individual Education Program team;

(6) Enabling a parent or guardian to make informed decisions concerning which educational options are best suited to the parent's or guardian's child, and be involved in determining the optimal services, placement and content of their individual program; and

(7) Equipping children who are deaf or hard of hearing with appropriate assistive technology across a full spectrum.

(d) No child who is deaf or hard of hearing shall be denied the opportunity for instruction in a particular communication mode or language solely because another communication mode or language was originally chosen for the child.

(e) A variety of factors may be considered when determining the optimal instruction in a communication mode, including but not limited to:

(1) Changes in the child's hearing or vision;

(2) Development in or availability of assistive technology;

(3) The physical and acoustic design of the learning environment; and

(4) The subject matter.

(f) A child may receive instruction in more than 1 communication mode or language.

(77 Del. Laws, c. 474, § 1; 78 Del. Laws, c. 179, §§ 136-140.)

## § 3113. Academic excellence start-up grants.

The Department of Education, through the process described herein, shall award start-up grants to public schools for the purpose of initiating new programs to offer specialized educational services to students who are capable of performing accelerated academic work, or renewing existing programs of the same description whose funding sources are expiring. The number of schools receiving such grants and the amount of such grants shall be determined based upon funds available during the relevant fiscal year. Grants shall not be awarded to supplant existing funds for current programs.

(1) Start-up grants shall be made for a single year, with the rebuttable assumption that they will be renewed for a single additional year pending available funding.

(2) Grants shall be awarded based upon the following criteria:

a. Grants shall be awarded to programs that offer educational services specifically targeted at students who are capable of performing accelerated academic work.

b. The quality of the proposed curriculum, qualifications of persons acting as instructors, integration with existing school programs, and sustainability of the program after expiration of its start-up grant shall be primary considerations in the awarding of grants.

c. Programs that contain programming of the type enumerated in § 3101(6) of this title, including but not limited to programs focused on the visual and performing arts, shall be eligible to receive grants under this section, provided that they otherwise qualify under this section.

d. Preference shall be given to programs that are offered during the traditional school day, or alternatively programs that provide a means for after-school transportation. Preference shall also be given to:

1. Programs that can demonstrate that they incorporate components of existing successful programs targeted at students who are capable of doing accelerated academic work; and

2. Programs that minimize costs that do not have a direct impact in the classroom (including professional development).

e. Preference shall be given to programs that explicitly provide for the encouragement of participation by students from diverse backgrounds, including students with disabilities.

f. All programs awarded grants must provide a means for assessing the impact of the program on participating students' academic growth.

g. The Department of Education shall also consider such other factors as may be recommended by the Gifted and Talented Student Task Force or its successor organization.

(3) The Department shall develop by regulation an explicit formula for evaluating proposals for grants under this section, and the scoring of such grant applications shall be considered public information. The Department shall also prepare an annual list of existing Delaware programs targeted at students who are capable of performing accelerated academic work for use by prospective grant applicants. The Department shall annually catalog the programs started with grants awarded under this section for the purpose of allowing replication of successful programs in additional schools and school districts.

(4) "Academic work" for purposes of this statute shall consist of work in the areas of writing, reading, science, math, or engineering, or work in other areas (including history and social studies) that specifically incorporates 1 of those academic fields.

(79 Del. Laws, c. 67, § 1.)

## Subchapter III
## Children With Disabilities

### § 3120. Right to receive public education.

The State shall provide, in the school districts and charter schools of the State, or in other state institutions and agencies or in special programs and private agencies as established or approved by the Department with the approval of the State Board, that each child with a disability as defined in this chapter shall receive a free and appropriate public education designed to meet that child with a disability's own needs. The Department of Education shall be the agency responsible for the implementation of this required provision.

(61 Del. Laws, c. 190, § 7; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 148, 148A; 77 Del. Laws, c. 424, § 12.)

### § 3121. Special classes and facilities.

Each school district, charter school and other state agencies responsible for the care of Delaware citizens shall provide and maintain, under appropriate regulations of the Department of Education approved by the State Board of Education, special classes and facilities to meet the needs of children with a disability as herein defined and recommended for special education or training who are residents of any geographical area within the State and who can be served by such special classes and facilities. This and other sections of this chapter and this title may be carried out by assigning children who are residents of 1 school district to attend classes in facilities of another school district according to Chapter 6 of this title concerning tuitions. Placement in a state agency that is not part of the public school system shall be in accordance with rules developed under § 3110 of this title.

(42 Del. Laws, c. 125, § 1; 14 Del. C. 1953, § 3103; 51 Del. Laws, c. 287, § 2; 61 Del. Laws, c. 190, § 7; 71 Del. Laws, c. 180, §§ 148A, 149; 77 Del. Laws, c. 424, § 13.)

### § 3122. Identification and reporting of child with a disability.

(a) Except as noted in subsection (b) of this section regarding parentally-placed private school children, each school district shall be required to identify, locate and evaluate, or reevaluate, any children with disabilities residing within the confines of that school district, including children with disabilities who are homeless children or wards of the State, regardless of the severity of the disability, and who are in need of special education and related services.

(b) Each school district, excluding vocational school districts, shall be required to identify, locate and evaluate, or reevaluate, any children with disabilities who are enrolled by their parents in private schools located within the confines of that school district, regardless of the severity of the disability, and who are in need of special education and related services.

(42 Del. Laws, c. 125, § 1; 14 Del. C. 1953, § 3105; 51 Del. Laws, c. 287, § 2; 61 Del. Laws, c. 190, § 7; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 148A, 150; 77 Del. Laws, c. 424, § 14; 78 Del. Laws, c. 397, § 1.)

### § 3123. Supportive services and residential programs.

(a) Any school district administering a program for children with autism may provide from its own personnel or contract with another state agency or a private service provider if necessary for appropriate supportive services, including, but not limited to, physical, art and music education, psychological services, language and speech therapy, physical and occupational therapy. The supportive services to be

provided shall be based upon a program for each child as approved by the Department of Education; provided, that the State Board may review any objection to the Department's decision. The school district designated by the Department with State Board approval as the administering agency for a statewide program for autistic pupils shall annually submit in its budget a request for funds for such services.

(b) Community-based residential units for children with autism may be operated by a school district designated and approved by the Department with State Board approval as the administering agency for a statewide program for autistic pupils. When the school district operates a community-based residential program, that program shall meet the following minimum standards:

(1) Pre-puberty and post-puberty children shall be housed separately. In no case shall a child under age 12 be housed with a child over age 16 except as approved by the Human Rights and Peer Review committees of the statewide autistic program.

(2) Residential units shall be provided at the rate of 1 residential unit for each 4 residential pupils except that a maximum of 5 pupils may be housed in 1 residential unit. At no time shall the total number of pupils exceed 6.

(3) Residential teacher coordinators shall be provided for a period of 12 months per year at the rate of 3 full-time equivalent teacher coordinators per residential unit.

(4) Residential child care specialists shall be provided for a period of 12 months per year at the rate of 6 full-time equivalent residential child care specialists per residential unit. The Department with the approval of the State Board of Education shall determine the necessary educational requirements for the residential child care specialists.

(61 Del. Laws, c. 190, §§ 5, 8; 64 Del. Laws, c. 381, §§ 1, 2; 71 Del. Laws, c. 180, § 151; 77 Del. Laws, c. 424, § 15; 83 Del. Laws, c. 325, § 389.)

## § 3124. Private placement with financial aid.

(a) Private placement with financial aid may be sought when an Individual Education Program (IEP) team finds that an eligible child with a disability cannot benefit from the regularly offered free appropriate public educational programs which include regular classes, special classes or special schools. The determination shall be made by the IEP team and by the Department of Education that no school district or other state agency has a suitable free and appropriate program of education for that particular child with a disability. Such private placement shall be in a school or institution approved by the Department of Education in keeping with its oversight responsibilities. Given the nature of these services, such placements shall be exempt from the requirements of Chapter 69 of Title 29.

(b) Before the Department of Education can authorize expenditures for new placements according to this section, the case must be reviewed by the Interagency Collaborative Team (ICT).

(1) The ICT shall consist of:

a. Division Director, Division of Prevention and Behavioral Health Services of the Department of Services for Children, Youth and Their Families (DSCYF);

b. Division Director, Family Services of DSCYF;

c. Division Director, Division of Youth Rehabilitation Services of DSCYF;

d. Division Director, Division of Developmental Disabilities Services of the Department of Health and Social Services (DHSS);

e. Division Director, Division of Substance Abuse and Mental Health of DHSS;

f. Director of the Office of Management and Budget or designee;

g. The Controller General or designee;

h. Director, Exceptional Children's Group, Department of Education (DOE), who will serve as Chair; and

i. Associate Secretary, Curriculum and Instructional Improvement, DOE.

(2) A director assigned to the ICT may designate staff to represent the director on the ICT only if these designated representatives are empowered to act on behalf of the division director, including commitment of division resources for a full fiscal year.

(3) The ICT shall invite to its meetings:

a. A representative of a responsible school district for the case under consideration;

b. The parents of the child;

c. Other persons the team believes can contribute to their deliberations.

(4) The ICT shall:

a. Review existing assessments of new referrals;

b. Prescribe, if required, additional assessments for new referrals;

c. Review proposed treatment plans of new referrals;

d. Recommend alternatives for treatment plans of new referrals;

e. Coordinate interagency delivery of services;

f. Review, at least annually, current unique alternatives for the appropriateness of treatment plans and transition planning;

g. If appropriate, designate a primary case manager for the purpose of coordination of service agencies;

h. If appropriate, designate agencies to be involved in collaborative monitoring of individual cases.

(5) The ICT will ensure that state costs incurred as the result of a Team recommendation or assessment of a child currently funded from the Unique Alternatives appropriation will be covered from the existing appropriation. New referrals will be assessed in the

interagency manner described above. The ICT shall accept and review cases initiated by other agencies, but in all cases the school district of residence must be involved in the review.

(6) Cases reviewed by the ICT will employ Unique Alternatives funding to cover state costs to the extent determined appropriate by the Interagency Collaborative Team. Other agencies may recognize a portion of the responsibility for the treatment of these children if determined appropriate by the Team. Cases involving individuals who are wards of the State shall be fully funded from Unique Alternatives funding. Funds may be transferred upon the approval of the Director of the Office of Management and Budget and the Controller General.

(7) The ICT shall report on its activities to the Governor, Director of the Office of Management and Budget, President Pro Tempore, Speaker of the House and the Controller General by February 15 of each year. The report shall address the status of items addressed in the previous February ICT Annual Report.

(c) Disputes concerning the private placement of a child are subject to the hearing procedures set forth in § 3135 of this title. Subject to the parties' right to appeal, the decision of the hearing panel appointed by the Secretary of Education is final and binding on all parties and the State Board of Education.

(d) Financial aid shall include tuition for special education and related services as defined in the Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1400, et seq.] to include daily transportation for a private day program and room and board for a residential program. Transportation for a residential program will include, at a minimum, transportation to and from the facility at the start and end of each school term and when the school is officially closed to students. Reimbursement for other trips home or for the parents' travel costs to accompany the child or to attend conferences at the facility shall be determined on a case-by-case basis.

(e) The Department of Education is authorized to continue utilizing funds appropriated for this section to develop unique educational alternatives, in lieu of private placement, for children who have been found unable to benefit from the regularly offered free, appropriate public educational programs and students in present education programs within this State whose individual education plan requires services not presently available within the present unit funding system. Unique educational alternatives shall be defined and approved by the Department of Education and may include, but not be limited to, related and supportive services. Any placement made pursuant to this subsection shall be considered a special program placement and shall be eligible for inclusion in local school district tuition tax rate setting per § 604(c) of this title.

(61 Del. Laws, c. 190, §§ 5, 8; 61 Del. Laws, c. 271, § 1; 61 Del. Laws, c. 337, §§ 1, 2; 64 Del. Laws, c. 63, § 4; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 148A, 152; 73 Del. Laws, c. 321, §§ 12, 13; 74 Del. Laws, c. 98, § 1; 75 Del. Laws, c. 88, § 21(7); 76 Del. Laws, c. 280, § 383; 77 Del. Laws, c. 327, § 210(a); 77 Del. Laws, c. 424, §§ 16-20; 81 Del. Laws, c. 58, § 366.)

## § 3125. Parent councils.

Each school district and charter school enrolling any child with disabilities shall, on an annual basis, contact the parents of each such child to attempt to facilitate the creation and maintenance of a parent council for the parents of students with disabilities. Parent councils will advocate generally for students with disabilities and provide person-to-person support for individual parents and children. The charter schools and school districts shall collaborate and coordinate with existing parent groups and other information and support groups to facilitate creation, maintenance, and effectiveness of the parent councils.

(80 Del. Laws, c. 37, § 1.)

## § 3125A. Individualized education program (IEP) training for charter schools.

Effective January 1, 2016, each charter school will designate and maintain at least 1 professional staff member who has completed training approved by the Department of Education regarding the legal responsibilities of charter schools with respect to preparation of IEPs for students with disabilities and resources available to charter schools to assist in preparation of such programs. The Department of Education, by regulation, shall define the scope and timetable of initial and refresher training.

(80 Del. Laws, c. 37, § 1.)

# Subchapter IV
# Gifted or Talented Children

## § 3126. Rules and regulations.

The extent of programs and facilities provided for children determined to be gifted or talented shall be in accordance with the rules and regulations of the Department as approved by the State Board of Education.

(48 Del. Laws, c. 194, § 2; 14 Del. C. 1953, § 3102; 51 Del. Laws, c. 287, § 2; 61 Del. Laws, c. 190, § 7; 71 Del. Laws, c. 180, § 153; 77 Del. Laws, c. 424, § 21.)

# Subchapter V
# Procedural Safeguards

## § 3130. Opportunity to examine records and educational program.

(a) The parents of a child with a disability, either personally or through a representative, shall be afforded an opportunity to inspect and review all records with respect to:

(1) The identification, evaluation and educational program and placement of the child; and

(2) The provision of a free, appropriate, public education to the child.

(b) The parents, either personally or through a representative, shall have the right to obtain copies of all records, except the actual evaluation or examination instrument, described in subsection (a) of this section either without charge, or, at the discretion of the district or state agency, at a fee not to exceed actual cost. Under no circumstances shall a fee be assessed which effectively prevents parents from exercising their right to inspect, review and copy records.

(c) The parents of a child with a disability shall have the right to visit and observe, either personally or through a representative, their child's current or proposed public educational program.

(64 Del. Laws, c. 63, § 1; 77 Del. Laws, c. 424, § 22; 85 Del. Laws, c. 8, § 1.)

## § 3131. Conduct of meetings.

(a) No charter school or school district, or any person acting under the authority of a charter school or school district, shall discriminate or take any adverse employment or contract action against any person based upon statements that person makes while advocating for a student in connection with an individualized education program (IEP), including statements made in preparation for or at a meeting, review, or conference concerning a child with a disability's free, appropriate public education. Entities or persons who violate this subsection shall be subject to the same injunctive and monetary sanctions as persons or entities that engage in unlawful employment practices under Chapter 7 of Title 19.

(b) Subject to confidentiality requirements of applicable state or federal law, minutes may be taken, by disclosed recording device or stenographer, of any meeting, review or conference concerning a child with a disability's free, appropriate, public education, at the option of the parents of the child with a disability, their authorized representative or the agency conducting the meeting, review or conference. Costs of the recording shall be borne by the person or agency exercising the option under this section.

(c) Discussions about employment options with children and parents during the IEP process should be consistent with Delaware's employment first policy articulated by § 743 of Title 19. Progress made toward post-secondary goals in transition IEPs will be reported with the same frequency as that for academic goals.

(d) The Department of Education, in consultation with the Department of Justice, shall annually survey a material number of parents and children who have individualized education programs with respect to the parents' and children's satisfaction with the IEP process. Information gathered through this survey shall be used by the Department of Education and Department of Justice to conduct follow-up examinations with school districts and charter schools as to their good faith compliance with state and federal laws and regulations.

(64 Del. Laws, c. 63, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 424, § 23; 80 Del. Laws, c. 37, § 2.)

## § 3132. Educational surrogate parents and educational representatives.

(a) *Educational surrogate parents. —*

The Department with the approval of the State Board of Education shall establish and maintain procedures to protect the rights of a child with a disability whenever the parents of the child are not known, unavailable or the child is a ward of the State, or an unaccompanied homeless youth as defined in § 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)), including the assignment of an individual, who shall not be an employee of any public agency involved in the education or care of the child, to act as an educational surrogate parent for the child. The educational surrogate parent shall exercise and be accorded all rights of a parent to assure the provision of a free, appropriate, public education to the child.

(b) *Educational representatives. —*

The Department of Education, with the approval of the State Board of Education, shall establish and maintain procedures, by regulation, to assure that children with disabilities who have reached age 18 have an identified decision-maker, which may be the child with a disability, to exercise rights under this chapter. Such regulations shall be developed in consultation with the Governor's Advisory Council for Exceptional Citizens and incorporate the following minimum standards, including a timeline to review the need for an educational representative.

(1) A child with a disability without a court-appointed guardian of the person shall be presumed to have capacity and be accorded the rights of a parent upon attainment of age 18.

(2) A child with a disability with capacity may authorize an agent to exercise rights through execution of a power of attorney or a standard voluntary grant of authority form published by the Department.

(3) The determination of capacity shall be made by the Individualized Education Program (IEP) team during an IEP meeting and shall conform to the following standards:

a. In cases where capacity is uncertain, a school psychologist familiar with the child must attend the initial meeting. For purposes of this section, the term "familiar with the child" means the school psychologist has conducted a recent in-person evaluation of the child which conforms to evaluation procedures established by Department regulations.

b. The child with a disability and parent, as defined in § 3101(7) of this title, must be invited to participate in the meeting regardless of whether the child has already attained the age of 18.

c. The IEP team may consider information from sources apart from school personnel and may authorize evaluation if necessary to inform its deliberations.

d. If information is ambiguous, any benefit of the doubt shall be exercised in favor of a finding of capacity.

(4) If the IEP team determines that the child lacks capacity, the IEP team shall appoint an individual to serve as an educational representative in the following descending order of priority:

a. Willing and available biological or adoptive parent;

b. Willing and available relative.

If such an individual is not identified, the IEP team shall promptly facilitate a referral to the Department for appointment of an educational surrogate parent. An appointed educational representative shall have the same authority as a parent under § 3101(7) of this title.

(5) If a child with a disability or parent disagrees with the capacity determination, either may contest the determination by pursuing dispute resolution options described in the procedural safeguards of this chapter or its implementing regulations regardless of the child's attainment of age 18.

(6) The capacity determination is limited to exercise of rights under this chapter and its implementing regulations and shall not affect exercise of rights in any other context. In furtherance of this limitation, any other statute notwithstanding, the capacity determination shall not be admissible as evidence of competency or capacity in any noneducational judicial or administrative proceeding.

(64 Del. Laws, c. 63, § 1; 71 Del. Laws, c. 180, § 154; 77 Del. Laws, c. 424, § 24; 80 Del. Laws, c. 252, § 2.)

## § 3133. Notice required.

Written notice which meets the requirements under § 3134 of this title must be given to the parents of a child with a disability a reasonable time before any school district or state agency:

(1) Proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of a free and appropriate public education to the child; or

(2) Refuses to initiate or change the identification, evaluation or educational placement of the child or the provision of a free, appropriate, public education to the child.

(64 Del. Laws, c. 63, § 1; 77 Del. Laws, c. 424, § 25.)

## § 3134. Contents of notice.

The notice under § 3133 of this title must include all of the following:

(1) A full explanation of all of the procedural safeguards available to the parents under state and federal law and regulations.

(2) A written description of the action proposed or refused by the district or agency, an explanation of why the district or agency proposes or refuses to take the action, and a description of any options the district or agency considered and the reasons why those options were rejected.

(3) A written description of each evaluation procedure, test, record or report the district or agency uses as a basis for the proposal or refusal.

(4) A written description of any other factors which are relevant to the district or agency's proposal or refusal.

(5) A written statement that the parents of a child with a disability have protection under the procedural safeguards of state and federal law and regulations and the means by which a copy of a description of the procedural safeguards can be obtained.

(6) Sources for parents to contact to obtain assistance in understanding the provisions of this subchapter, including specific contact information for existing parent assistance programs, legal assistance programs, and the Delaware State Bar Association.

(7) A separate questionnaire requesting the input of a child's parent and, where appropriate, a child, with respect to the child's progress to date and additional proposed steps that should be taken to adjust the child's goals, curriculum, services, aids, modifications, or other elements of the child's individualized education program (IEP). The questionnaire may be sent prior to the written notice of an IEP meeting or its equivalent and, if it is, does not need to be included in the notice under this section.

(8) A copy of the draft IEP accompanied by a letter clearly indicating to the parent and child that the document is a draft for discussion and subject to revision at the noticed meeting, if a draft IEP will be presented to a child or parent, or otherwise utilized at the IEP meeting for which notice is provided. If such a draft IEP is prepared subsequent to the notice required by this section but prior to the noticed meeting, it shall be provided to the parent and child prior to the noticed meeting, along with the explanatory letter required by this paragraph. Any draft document provided to a child or parent pursuant to this paragraph shall be clearly labeled on each page as a draft document for discussion purposes only. The Department in collaboration with the Governor's Advisory Council on Exceptional Citizens shall create a draft letter and associated guidance to assist the charter schools and school districts with the content and application of the above letter.

(9) A notice that a parent or child may request prior to an IEP meeting any data in the charter school's or school district's possession relevant to the child's needs or disability.

(10) A notice that a parent or child may request the presence of any teacher, paraprofessional, and any additional staff members of their choosing at an IEP meeting.

(64 Del. Laws, c. 63, § 1; 77 Del. Laws, c. 424, § 26; 80 Del. Laws, c. 37, § 2.)

## § 3135. Administrative hearing.

(a) A parent, district or state agency may initiate a hearing concerning any right or entitlement conferred by this chapter.

(b) A hearing is initiated by submission of a written request to the Secretary of Education.

(c) The Secretary of Education, upon receipt of a request for hearing, shall appoint a hearing panel whose membership shall meet the requirements of § 3137 of this title.

(d) The district or state agency shall inform the parent of any free or low-cost legal and other relevant services available in the area whenever:

(1) The parent requests the information; or

(2) A hearing is initiated pursuant to this section.

(64 Del. Laws, c. 63, § 1; 71 Del. Laws, c. 180, § 155.)

## § 3136. Timeliness of administrative hearings.

(a) The Secretary of Education shall ensure that, not later than 45 days after the expiration of the 30-day period in subsection (d) of this section, or the adjusted time periods in subsection (e) of this section:

(1) A hearing is conducted;

(2) A final decision is reached in the hearing; and

(3) A copy of the decision is mailed to each of the parties.

(b) The hearing panel, for good cause, may grant specific extensions of time beyond the time periods set out in subsection (a) of this section at the request of either party; provided, however, that a final decision shall be reached and a copy of the decision mailed to each of the parties within 15 days of the date of the hearing, or, where applicable, within 15 days of the completion of post-hearing argument.

(c) Within 15 days of receiving notice of the parents' complaint and prior to the opportunity for an impartial due process hearing, the district or state agency shall convene a meeting with the parents and the relevant member of the Individual Education Program (IEP) team who have specific knowledge of the facts identified in the due process complaint where the parents of the child discuss their complaint, and the facts that form the basis of the complaint, and the district or charter school is provided the opportunity to resolve the complaint, unless the parents and the district or state agency agree in writing to waive such meeting, or agree to use the mediation process. The IEP team shall include a representative of the district or state agency that has decision making authority on behalf of the district or state agency and may not include an attorney of the district or state agency unless the parent is accompanied by an attorney.

(d) If the district or state agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur.

(e) The 45-day timeline for the due process hearing in subsection (a) of this section starts the day after the occurrence of 1 of the following events:

(1) Both parties agree in writing to waive the resolution meeting; or

(2) Either the mediation or resolution meeting starts, but before the end of the 30-day period, the parties agree in writing that no agreement is possible; or

(3) Both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent, district or state agency withdraws from the mediation process.

(64 Del. Laws, c. 63, § 1; 71 Del. Laws, c. 180, § 155; 77 Del. Laws, c. 424, §§ 27-29.)

## § 3137. Hearing panel.

(a) A hearing panelist may not be:

(1) A person who is an employee of a district or agency which is involved in the education or care of the child; or

(2) A person having a personal or professional interest which would conflict with that person's own objectivity in the hearing.

(b) The Secretary of Education shall maintain a list of the persons who serve as hearing panelists. The list must include a statement of the qualifications of each of those persons.

(c) All hearing panelists shall have successfully completed such training as may be required by the Secretary of Education to ensure the adequate knowledge and competent performance of panelists.

(d) Each panel shall consist of 3 panelists, appointed by the Secretary of Education on a rotating basis, as follows:

(1) One attorney admitted to practice and in good standing with the bar of a state;

(2) One educator knowledgeable in the field of special education and special educational programming;

(3) One lay person with demonstrated interest in the education of children with disabilities included on an approved list compiled by the Advisory Council for Exceptional Citizens and submitted to the Secretary of Education.

(e) The Department with approval of the State Board of Education shall promulgate regulations which, consistent with this subchapter, further define hearing procedures and the conduct of hearing panelists which shall include standards of competency, expertise and training for hearing panelists.

(64 Del. Laws, c. 63, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 155, 156; 77 Del. Laws, c. 424, § 30; 78 Del. Laws, c. 397, § 2.)

## § 3138. Hearing rights; procedure.

(a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) Present evidence and confront and cross-examine adverse witnesses;

(3) Compel the attendance of witnesses as authorized by § 3139 of this title;

(4) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 business days before the hearing;

(5) Obtain a written or, at the option of the parents, electronic verbatim record of the hearing, at public expense;

(6) Obtain a written or, at the option of the parents, electronic decision which includes findings of fact and law.

(b) Parents involved in hearings must be given the right to:

(1) Have the child who is the subject of the hearing present; and

(2) Open the hearing to the public.

(c) The hearing panel shall ensure that parents who have requested a hearing have been advised of the procedural safeguards provided by this subchapter.

(d) Any hearing must be conducted at a time and place which is reasonably convenient to the parents and child involved.

(e) Any testimony presented at a hearing authorized by this section shall be under oath or affirmation.

(f) Copies of all written decisions shall be provided to the Advisory Council for Exceptional Citizens after deleting any personally identifiable information.

(g) Following any disposition under this chapter which entitles a parent to attorneys' fees under state or federal law, said parent shall also be awarded the reasonable fees of expert witnesses and the reasonable costs of any tests or evaluations necessary for the preparation of the parent's hearings. Awards made pursuant to this section shall not be made with the use of funds previously designated for the direct provision of education or services to children. Each school district and charter school shall report annually to the Department of Education, in a form to be determined by the Department, the amount of all awards made pursuant to this subsection and the source of funds for such awards.

(64 Del. Laws, c. 63, § 1; 71 Del. Laws, c. 180, § 157; 74 Del. Laws, c. 98, §§ 2-4; 77 Del. Laws, c. 424, § 31; 78 Del. Laws, c. 393, § 1.)

## § 3139. Subpoenas.

(a) Authority to issue subpoenas is conferred upon the Secretary of Education, or the Secretary's designee, in order to implement § 3138(a)(3) of this title.

(b) Upon the application of any party at least 12 days prior to hearing, a subpoena shall be issued requiring the attendance of the person or persons listed in the application.

(c) If a person subpoenaed to attend a hearing fails to obey without reasonable cause, or if such a person in attendance refuses, without lawful excuse, to be examined or to answer pertinent questions, an application may be filed with the Family Court for an order directing such person to show cause why that person should not appear or testify. Upon return of the rule, the Court shall examine such person under oath, and if the Court shall determine, after giving such person an opportunity to be heard, that the person refused without legal excuse to attend or testify at the hearing, despite the subpoena, the Court may order such person to comply therewith. Any failure to obey the order may be punished as a contempt of the Family Court, pursuant to the Rules of the Family Court.

(64 Del. Laws, c. 63, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 157.)

## § 3140. Burden of proof.

The burden of proof and persuasion in any proceeding convened pursuant to § 3135 of this title shall be on the district or state agency which is a party to the proceeding.

(64 Del. Laws, c. 63, § 1.)

## § 3141. Finality of decision.

A decision made by a hearing panel under this subchapter is final, unless a party to the hearing brings a civil action under § 3142 of this title.

(64 Del. Laws, c. 63, § 1.)

## § 3142. Judicial review.

(a) Any party aggrieved by the decision of the hearing panel may file a civil action in the Family Court. Such proceeding shall be initiated by the filing of a complaint within 90 days of the date of the decision.

(b) In any action brought under this section, the Court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party and, basing its decision on the preponderance of the evidence, shall grant such relief as the Court determines is appropriate.

(c) The Secretary of Education, or the Secretary's designee, shall certify and file with the Court the record of the administrative hearing, which shall include all documents submitted, a transcript of all testimony, and the decision of the hearing panel.

(64 Del. Laws, c. 63, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 157; 74 Del. Laws, c. 98, § 5.)

## § 3143. Child's status during proceedings.

(a) During the pendency of any administrative or judicial proceedings regarding a complaint, unless the district or state agency and parents of the child agree otherwise, the child involved in the complaint shall remain in that child's present educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, shall be placed in the public school program until the completion of all proceedings.

(64 Del. Laws, c. 63, § 1; 70 Del. Laws, c. 186, § 1.)

# Part I
# Free Public Schools

## Chapter 31A
## Infants and Toddlers Early Intervention Program

(83 Del. Laws, c. 213, § 1.)

### § 3101A. Short title.

This chapter may be cited as the “Infants and Toddlers Early Intervention Act.”

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

### § 3102A. Purpose.

(a) The General Assembly finds that early intervention services are cost-effective and effectively serve the developmental needs of eligible infants and toddlers and their families. The purpose of this chapter is to provide a comprehensive, coordinated, interagency, interdisciplinary early intervention services system for eligible infants and toddlers and their families that enhances the capacity to provide quality early intervention services, expand and improve existing services, and facilitate the coordination of payments for early intervention services from various public and private sources.

(b) The specific purposes of this chapter are to do all of the following:

(1) Enhance the development of all eligible infants and toddlers in the State in order to minimize developmental delay and enhance individual potential for adult independence.

(2) Reduce educational costs by minimizing the need for special education and related services after infants and toddlers reach school age by identifying children eligible for early intervention services at a younger age.

(3) Enhance opportunities for inclusion in the community of eligible children and their families.

(4) Enhance the capacity of families to meet the individual needs of infants and toddlers with disabilities.

(5) Enact regulations and fully implement the infants and toddlers program established under the IDEA, including all of the following:

a. Affirm the importance of the family in all areas of the child’s development and reinforce the role of the family as a participant in the decision-making processes regarding their child.

b. Identify and coordinate all available resources for early intervention within the State including those from federal, state, local, and private sources.

c. Affirm that eligible infants and toddlers with disabilities have a right to receive early intervention services to the maximum extent appropriate, in natural environments in which infants and toddlers without disabilities would participate.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

### § 3103A. Definitions.

For purposes of this chapter:

(1) “Collaborating agencies” means the Department of Health and Social Services, Department of Education, and Department of Services for Children, Youth and Their Families.

(2) “Department” means the Department of Education.

(3) “Developmental delay” means a significant delay in 1 or more of the following developmental domains:

a. Cognition.

b. Communication, expressive or receptive.

c. Physical, including hearing or vision.

d. Social emotional functioning.

e. Adaptive behavior.

(4) “Early intervention service” means a service that meets all of the following:

a. Is provided under public supervision.

b. Is provided at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees.

c. Is designed to meet the developmental needs of each eligible child with a developmental delay and the needs of the family related to enhancing the development of their child.

d. Meets all applicable federal and state standards.

e. Is provided by an early intervention service provider.

f. Is provided in conformity with an individualized family service plan adopted under § 3107A of this title and are selected in collaboration with the parent or guardian.

g. Are provided, to the maximum extent appropriate, in natural environments including the home and community settings in which children without disabilities participate.

h. Includes any of the following:

1. Family training.

2. Special instruction.

3. Speech language pathology and audiology.

4. Occupational therapy.

5. Physical therapy.

6. Psychological services.

7. Service coordination services.

8. Medical services, but only for diagnostic or evaluation purposes.

9. Early identification, screening, evaluation, and assessment services.

10. Health services specified by the lead agency as necessary to enable an eligible child to benefit from the other early intervention services.

11. Social work services, including counseling.

12. Vision services.

13. Assistive technology devices and services.

14. Transportation and related costs that are necessary to enable an eligible child or family to receive another service under this paragraph (4)h.

15. Nursing services.

16. Nutrition services.

17. Sign language or cued language services.

18. Other supportive services identified by the Department through regulation.

(5) "Early intervention service provider" means an individual who has the professional qualifications to provide an early intervention service as established by the lead agency under this chapter.

(6) "Eligible child with a disability" or "eligible child" means an individual from birth through 35 months of age and any of the following apply:

a. The child has a significant developmental delay, as measured by appropriate diagnostic instruments and procedures, including informed clinical opinion, in 1 or more of the following domains:

1. Cognitive development.

2. Physical development, including vision or hearing.

3. Communication development.

4. Social or emotional development.

5. Adaptive development.

b. The child is diagnosed with a physical or mental condition which has a high probability of resulting in developmental delay and the condition requires 1 or more of the services under paragraph (4)h. of this section.

(7) "Federal infants and toddlers program" or "IDEA" means the program established for infants and toddlers with disabilities under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431 et seq.

(8) "Individualized family service plan" or "IFSP" means a written plan for providing early intervention services to an eligible child with a disability and the child's family under § 3107A of this title.

(9) "Infant or toddler" or "child" means an individual from birth through 35 months of age.

(10) "Informed clinical opinion" means both clinical observations and parental participation to determine eligibility by a consensus of a multidisciplinary team of 2 or more members based on the team members' professional experience and expertise.

(11) "Lead agency" means the state agency responsible for administering this chapter and receiving and disbursing public funds received in accordance with state and federal law and rules.

(12) "Service coordination" means a flexible process of interaction facilitated by a service coordinator to assist the family of an eligible child with a disability within a community to identify and meet the child's needs. Service coordination must not duplicate any case management services which an eligible child with a disability or the child's family are already receiving or eligible to receive from another source.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

## § 3104A. Powers and duties.

(a) The Department shall do all of the following:

(1) Develop and implement a statewide, comprehensive, coordinated, multi-disciplinary, interagency system which ensures that appropriate early intervention services based on scientifically-based research, to the extent practicable, are available to all eligible children and families.

(2) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed assessment of the needs of each family of each infant or toddler, to assist appropriately in the development of the infant or toddler.

(3) Promote public awareness to all primary referral sources and ensure prompt identification and evaluation of eligible children and their families.

(4) Develop and implement IFSPs for eligible children and their families under § 3107A of this title.

(5) Maintain a central directory that includes information on early intervention services, resources, experts, and research and demonstration projects in the State.

(6) Adopt and implement a comprehensive system of personnel development and qualifications.

(7) Serve as the State's lead agency for early intervention services, including providing a single line of responsibility to carry out all the following:

a. The general administration and supervision of programs and activities receiving assistance under the IDEA.

b. The monitoring of programs and activities used to implement this State system.

c. Identifying and coordinating all available resources within the State from federal, state, local, and private sources.

d. The development and adoption of interagency agreements that ensure meaningful cooperation and coordination, including the financial responsibility for each agency and procedures to resolve disputes.

e. The development of procedures to ensure that services are provided to eligible children with disabilities and their families in a timely manner pending the resolution of any disputes among public agencies or service providers.

(8) A system for compiling data regarding early intervention services provided under this chapter that aligns with the Department's system for children ages 3 through 21 and includes all of the following:

a. The number of eligible children in this State in need of appropriate early intervention services.

b. The number of children served.

c. The types of services provided, including a referral tracking and monitoring system.

(9) A policy pertaining to the contracting or making of other arrangements with public and private service providers to provide early intervention services in this State, consistent with the provisions of this chapter, including the contents of the application used and the conditions of the contract or other arrangements.

(10) Otherwise meet and implement funding and eligibility requirements of the IDEA.

(11) Make all reports prepared regarding work under this chapter available on the Department website.

(b) The Department may charge a fee for services under this chapter to cover the cost of the program.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

## § 3105A. Early intervention service providers; requirements.

(a) The Department shall promote the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services.

(b) (1) To provide early intervention services under this chapter, an individual must be licensed under Title 24 or licensed or certified under subchapter I of Chapter 12 of this title, to provide the specific service.

(2) In addition to meeting the requirement under paragraph (b)(1) of this section, an early intervention service provider must participate annually in the Department's child abuse detection and prevention training under § 4163 of this title.

(c) The Department shall assign a unique identification number to each early intervention service provider providing early intervention services under this chapter. The Department shall use the early intervention service provider's unique identification number to track licensure, certification, employment, and professional development.

(d) The Department shall maintain an online, public database of early intervention service providers that can be searched by an individual's name and provides all of the following information:

(1) Education history.

(2) Current licensure or certification.

(3) Current place of employment.

(e) The Department shall ensure that early intervention service providers complete the background checks required under § 309 of Title 31.

(83 Del. Laws, c. 213, § 2; 84 Del. Laws, c. 233, § 27.)

## § 3106A. Child Find.

(a) The Department shall conduct Child Find activities to ensure early identification and assessment of children who may be eligible for services under this chapter. Child Find must include the opportunity for all children from birth through 35 months, who have not already been found eligible for services under this chapter, to receive annual developmental screening.

(b) Child Find must include online developmental screening and collaboration with home visiting programs and child care providers, including school districts and Head Start.

(83 Del. Laws, c. 213, § 2.)

## § 3107A. Individualized family service plan.

(a) The Department must ensure that eligible children and their families annually receive an IFSP that includes all of the following:

(1) A multi-disciplinary assessment of the unique strengths and needs of each eligible child and identification of services appropriate to meet those needs.

(2) A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the eligible child.

(3) A written IFSP in the format specifically prescribed by regulation, developed and approved as follows:

a. The IFSP must be prepared by a multi-disciplinary team which includes the child's parents.

b. The contents of the IFSP must be fully explained to the parents and informed written consent obtained prior to providing the services described in the IFSP.

c. If parental consent to a particular service is withheld, the early intervention services to which consent is obtained must be provided.

(4) Services under the IFSP must be provided, to the maximum extent appropriate, in the natural environment.

(b) An IFSP must be reviewed every 6 months, or more often when appropriate based on the needs of the child and family.

(c) The initial evaluation, assessment, and plan meeting must be held within 45 calendar days after the initial referral to the early intervention program, except under exceptional family circumstances as allowed under the IDEA.

(d) An IFSP must provide for the child to smoothly transition from services provided under this chapter as required under the IDEA.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

## § 3108A. Cooperation of participating agencies.

(a) All state agencies and contractors participating in the provision of early intervention services under this chapter shall cooperate with the Department and Interagency Coordinating Council to ensure effective system implementation, coordination, and nonduplication of activities.

(b) The IFSP under § 3107A of this title serves as the primary comprehensive service plan for all cooperating agencies and contractors and must be accorded deference in determining the developmental, educational, and medical necessity of included early intervention services.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

## § 3109A. Procedural safeguards.

The Department shall provide procedural safeguards which include all of the following:

(1) Provide the opportunity for a parent to resolve complaints through mediation and an impartial, timely administrative hearing where the burden of proof rests with the respondent agency.

(2) Maintain the confidentiality of personally identifiable information.

(3) Provide the option to accept or decline early intervention services without jeopardizing eligibility for other early intervention services.

(4) Provide a parent the opportunity to examine and obtain copies of relevant records either without charge, or, if authorized by departmental regulation, at a fee that does not exceed actual cost.

(5) Ensure the appointment of a surrogate decision-maker if the State has custody of an eligible child or the child's parent cannot be identified or located.

(6) Provide prior written notice to a child's parent if a participating agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, or placement of an eligible child or the provision of early intervention services.

(7) Procedures to ensure that notice required under paragraph (6) of this section fully and effectively informs parents of the procedural safeguards under this section.

(8) Procedures to ensure, in the absence of contrary agreement, the continuation of early intervention services during the pendency of any proceeding or action involving a complaint by a parent or, in the context of initial application, provision of services not in dispute.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

## § 3110A. Compulsion prohibited.

Nothing in this chapter may be construed to compel any person to submit to any medical or public health examination, treatment, or supervision.

(83 Del. Laws, c. 213, § 2.)

## § 3111A. Interagency Coordinating Council.

(a) There is hereby established the Interagency Coordinating Council (Council).

(b) The Council shall advise and assist the Department and the Delaware Early Childhood Council with implementation of this chapter and otherwise fulfill any requirements of an advisory council under the IDEA. The Department shall ensure that the Council is provided with sufficient staff and other supports to effectively meet its obligations.

(c) (1) The Council is composed of 23 members appointed by the Governor. The term of a member is 3 years and a member may serve more than 1 term. Appointments must be made to ensure that membership reasonably represents the geographical diversity of the State and meets composition requirements of the advisory council under the IDEA.

(2) The Governor shall designate a member of the Council to serve as the chair of the Council. A member of the Council who is a representative of the lead agency may not serve as the chair of the Council.

(3) A majority of the total membership of the Council constitutes a quorum. A quorum is required for the Council to take official action. A vacant position is not counted for quorum purposes.

(4) The Council may adopt rules and bylaws necessary for its operation.

(d) Members of the Council serve without compensation, except that members may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.

(e) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term is filled for the remainder of the term.

(f) The Council shall hold at least 1 joint meeting with the Governor’s Advisory Council for Exceptional Citizens each calendar year.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

## § 3112A. Regulations.

(a) The Department shall promulgate regulations necessary to carry out this chapter and to ensure full funding eligibility and compliance with the IDEA.

(b) Regulations prepared by the Department under this chapter are subject to review and comment by the Council. The Department shall provide the Council with proposed regulations, including proposed revisions, before publication for public comment under Chapter 101 of Title 29.

(71 Del. Laws, c. 286, § 4; 83 Del. Laws, c. 213, § 2.)

# Part I
# Free Public Schools

## Chapter 32
## Vocational Youth Organizations

### § 3201. Purpose.

It is the intent and purpose of the General Assembly of this State through this chapter to encourage the youth of Delaware to pursue vocational and occupational education when such pursuit is deemed in the best interest of the student and of this State.

(14 Del. C. 1953, § 3201; 57 Del. Laws, c. 490.)

### § 3202. Administration.

This chapter shall be administered by the Department of Education.

(14 Del. C. 1953, § 3202; 57 Del. Laws, c. 490; 71 Del. Laws, c. 180, § 158.)

### § 3203. Vocational Youth Organization Fund.

The General Assembly shall each year in the budget act appropriate a sum to be known as the “Vocational Youth Organization Fund” for the purpose of carrying out this chapter.

(14 Del. C. 1953, § 3203; 57 Del. Laws, c. 490.)

### § 3204. Grants.

The Department is hereby authorized to award grants from the Vocational Youth Organization Fund to such vocational organizations which are an integral part of the instructional program in the following, but not limited to, occupational-vocational areas such as: agriculture, business and office occupations, distributive education, home economics and trade and industrial education.

(14 Del. C. 1953, § 3204; 57 Del. Laws, c. 490; 71 Del. Laws, c. 180, § 159.)

# Part I
# Free Public Schools

## Chapter 33
## Vocational Education and Vocational Rehabilitation

### § 3301. Definitions.

As used in this chapter:

(1) "Person with a disability" means any person who by reason of a disability or impairment, whether congenital or acquired by accident, injury, disease or developmental circumstance, is or may be expected to be totally or partially incapacitated for remunerative occupation.

(2) "Vocational rehabilitation" means the rendering of a person with a disability fit to engage in remunerative occupation.

(42 Del. Laws, c. 201, § 2; 45 Del. Laws, Spec. Sess., c. 6, § 2; 14 Del. C. 1953, § 3301; 58 Del. Laws, c. 130; 78 Del. Laws, c. 179, §§ 141-143.)

### § 3302. Vocational rehabilitation.

There shall be a division of the Department of Labor which shall be responsible for the vocational rehabilitation and placement in remunerative employment of persons whose capacity to earn a living has been destroyed or impaired due to disability.

(42 Del. Laws, c. 201, § 1; 45 Del. Laws, Spec. Sess., c. 6, § 1; 14 Del. C. 1953, § 3302; 57 Del. Laws, c. 669, § 13B.)

### § 3303. Eligibility for rehabilitation.

To be eligible for rehabilitation a person must possess an employment disability and must be susceptible of rehabilitation.

(42 Del. Laws, c. 201, § 2; 45 Del. Laws, Spec. Sess., c. 6, § 2; 14 Del. C. 1953, § 3303.)

### § 3304. Duties of Department of Labor — Rehabilitation Division.

The Department of Labor shall:

(1) Make rules and regulations for the disbursing of funds provided for the vocational rehabilitation of persons with disabilities;

(2) Appoint and provide for the compensation of the personnel necessary to administer this chapter;

(3) Rehabilitate vocationally and place in remunerative occupations persons eligible for the benefits of this chapter;

(4) Make such rules and regulations necessary for the administration of this chapter;

(5) Report annually to the Governor on the administration of this chapter.

(42 Del. Laws, c. 201, § 3; 14 Del. C. 1953, § 3304; 50 Del. Laws, c. 102, § 2; 57 Del. Laws, c. 669, § 13A; 78 Del. Laws, c. 179, § 144.)

### § 3305. Cooperation with Industrial Accident Board.

The Department of Labor and the Industrial Accident Board shall formulate a plan of cooperation to become effective when approved by the Governor.

(42 Del. Laws, c. 201, § 4; 14 Del. C. 1953, § 3305; 57 Del. Laws, c. 669, § 13A.)

### § 3306. Gifts and donations.

The Department of Labor may receive such gifts and donations as may be offered unconditionally or under such conditions as in the judgment of such Department are proper and consistent with this chapter. All moneys received as gifts or donations shall be deposited in the State Treasury and shall constitute a special fund to be used by the Department in carrying out the purposes of this chapter. A report of all gifts and donations received and all disbursements made therefrom shall be submitted annually to the Governor.

(42 Del. Laws, c. 201, § 5; 14 Del. C. 1953, § 3306.)

### § 3307. Acceptance of federal Vocational Rehabilitation Act; cooperation with federal agencies.

The State accepts the provisions and benefits of the act of Congress popularly known as the "Vocational Rehabilitation Act," approved June 2, 1920, as amended [see now the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.]. The State Treasurer shall be the custodian of all moneys received by the State from appropriations made by the Congress of the United States for vocational rehabilitation of persons with disabilities in industry or otherwise and the State Treasurer may make disbursements therefrom upon the order of the Department of Labor. The Department shall cooperate with the Department of Health, Education, and Welfare or other federal agency authorized by Congress, in carrying out the national Vocational Rehabilitation Act and amendments thereto.

(42 Del. Laws, c. 201, § 6; 45 Del. Laws, Spec. Sess., c. 6, § 3; 14 Del. C. 1953, § 3307; 49 Del. Laws, c. 220, § 14; 57 Del. Laws, c. 669, § 13A; 78 Del. Laws, c. 179, § 145.)

## § 3308. Acceptance of federal vocational education acts.

The State accepts the benefits of the federal Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) [20 U.S.C. § 2301 et seq.], and any subsequent reauthorization thereof, and subject to its requirements and any implementing regulations thereto. The State Treasurer shall be the custodian of any funds accruing to the State from the aforesaid Act and shall make disbursements therefrom upon the order of the Department of Education.

(32 Del. Laws, c. 160, § 56; Code 1935, § 2750; 14 Del. C. 1953, § 3308; 50 Del. Laws, c. 102, § 3; 79 Del. Laws, c. 83, § 2.)

## § 3309. Cooperation with United States Office of Education.

The Department of Labor shall cooperate with the United States Office of Education in the Department of Health, Education, and Welfare in the administration of this chapter.

(32 Del. Laws, c. 160, § 56; Code 1935, § 2751; 14 Del. C. 1953, § 3309; 49 Del. Laws, c. 220, § 15; 50 Del. Laws, c. 102, § 4.)

## § 3310. Duties of State Board of Education in the area of vocational-technical education (career and technical education).

The State Board of Education is the “eligible agency” and sole agency responsible for the supervision of administration of career and technical education for purposes of the federal Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) [20 U.S.C. § 2301 et seq.], and any subsequent reauthorization thereof, and subject to its requirements and any implementing regulations. As used in this title, “career and technical education” shall have the same meaning as “vocational-technical education.”

(14 Del. C. 1953, § 3310; 50 Del. Laws, c. 102, § 5; 71 Del. Laws, c. 180, § 160; 75 Del. Laws, c. 77, § 42; 79 Del. Laws, c. 83, § 2.)

# Part I
# Free Public Schools
## Chapter 34
## Financial Assistance for Higher Education
## Subchapter I
## Delaware Higher Education Office Student Assistance Programs

### § 3401. Purpose.

It is the intent and purpose of the General Assembly through this chapter to standardize aspects of and streamline administration of a variety of student assistance programs administered by the Delaware Higher Education Office.

(73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12.)

### § 3402. Administration.

(a) This chapter is administered by the Delaware Higher Education Office, hereinafter referred to as the "Office."

(b) The Office is authorized to award student financial aid from the programs described in this chapter subject to the limits of appropriations for this purpose.

(c) The Department of Education, through the Office and subject to the approval of the State Board of Education, is authorized to adopt rules and regulations to implement this subchapter and the student assistance programs that it administers.

(d) [Repealed.]

(e) The Office shall inform college financial aid officers and high school counselors within the State of application procedures and deadlines.

(f) Unless otherwise provided, no student is eligible for student assistance programs authorized in this chapter who has not been a resident of the State for at least 12 consecutive months immediately prior to the program application deadline. The place of residence of a student who is dependent on parental financial support is deemed to be the legal residence of the student's parent or guardian. The place of residence of an independent student is deemed to be the legal residence of the student. Whether a student is considered to be independent is determined on the basis of the federal government's financial aid independent student definition. No student is deemed to satisfy for the first time the residence requirement of these programs while the student's principal occupation is that of student in a postsecondary program. Evidence of legal residence in Delaware that is deemed satisfactory to the Office must be provided. Such evidence may include: prior year Delaware income tax return, a valid Delaware driver's license, a valid Delaware vehicle registration card or other evidence of bona fide residence in Delaware. Delaware residence is considered terminated 12 months after a move from the State.

(g) Unless otherwise provided, awards from the programs authorized in this chapter may be used only at a higher education institution with accreditation from an accrediting agency recognized by the U.S. Department of Education.

(h) Unless otherwise provided, awards from the programs authorized in this chapter are intended for full-time study. The Office may, however, in its discretion, make prorated awards to recipients enrolled less than full-time in specific programs.

(i) By applying to the programs authorized in this chapter, an applicant agrees to release that applicant's own academic and financial aid records to the Office.

(j) Disbursement of scholarship funds shall be made only to institutions, not to individual recipients, upon receipt of institutional verification that the student's academic, financial, and enrollment status meet program requirements.

(k) (1) If, at the end of the drop/add period for a term, a recipient has withdrawn from school or otherwise does not qualify for full payment, the following refund policies apply:

a. A student who will not be charged tuition or will receive a full refund of tuition paid is not entitled to receive any portion of the award and the full amount shall be refunded to the Office.

b. A student who will be charged full tuition shall receive the full amount of the award for that term.

c. A student who will be charged a percentage of tuition is entitled to that same percentage of the award, and the balance shall be refunded to the Office.

(2) If a recipient's school closes, the school must refund the full payment amount to the Office.

(*l*) The Office may grant leaves of absence to students under circumstances including but not limited to: severe or prolonged illness; family emergency; local, state, or national state of emergency; religious obligation; or to pursue activities directly related to the student's educational program.

(m) [Repealed.]

(n) Calculation of high school grade point average shall include unweighted grades in a core curriculum defined by the Office.

(o) Calculation of cumulative grade point average in postsecondary coursework shall include grades earned at the most recent postsecondary institution attended.

(p) The number and amount of awards shall be determined annually by the Office, except that awards may not exceed the cost of tuition, mandatory fees, room, board, books and other direct and indirect educational expenses.

(q) The Office shall annually report the number of recipients and the total amount of expenditures made under this chapter for the programs administered by the Office. The report shall be delivered to the General Assembly, the Director and the Librarian of the Division of Legislative Services, Office of Management and Budget, and the Delaware Public Archives. Members of the General Assembly may request the institutions attended by recipients.

(r) The Office is authorized to allocate unused funds among the various programs, with prior approval of the Secretary of Education, the Director of the Office of Management and Budget, and the Controller General, to meet state priorities, achieve program objectives, and respond to student demand.

(s) Unused funds appropriated for these programs in any fiscal year shall be carried forward to the next fiscal year.

(t) The General Assembly shall each year in the Budget Act appropriate a sum to be known as "Scholarships" for the purpose of carrying out the provisions of this chapter. Awards shall be made based on the amount of funds appropriated by the General Assembly and student demand.

(73 Del. Laws, c. 188, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 88, § 21(7); 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1; 84 Del. Laws, c. 81, § 373; 84 Del. Laws, c. 255, § 12.)

### §§ 3403-3406. [Reserved.]

## Subchapter II

## Need-Based Scholarships Administered by the Office

(83 Del. Laws, c. 413, § 1.)

### § 3411. Scholarship Incentive Program (ScIP).

(a) It is the intent and purpose of the General Assembly through this section to do the following:

(1) Provide financial aid to Delaware residents with demonstrated financial need so that within the limits of the fiscal capabilities of the State they are not denied an opportunity for a college education because of financial need.

(2) Encourage qualified Delaware students to pursue courses of undergraduate, graduate, and professional education when such courses are unavailable in state-supported institutions.

(b) The Office is hereby authorized to award scholarships from the Scholarship Incentive Program (ScIP) subject to the limits of its appropriations and the following limitations:

(1) Scholarships shall be awarded only to persons who will enroll as full-time students in degree programs.

(2) No student may receive more than 5 annual scholarships for either undergraduate or graduate study.

(3) Scholarships may be used only at educational institutions that are accredited by an accrediting agency recognized by the U.S. Secretary of Education for either of the following:

a. For undergraduate study, inside of the State.

b. For undergraduate or graduate study outside of the State in degree programs that are not offered by a publicly-assisted institution in Delaware.

(4) Scholarships shall be awarded on the basis of financial need. Financial need shall be determined by a federally-approved need analysis system. The financial need calculation shall consider the student's expected family contribution, the expense of attending the institution selected, and the student's eligibility for Pell grants and other federal, state or private grant assistance.

(5) Students must reapply for the scholarships annually, maintain satisfactory academic progress at their educational institution, and continue to meet all qualifications of the Program.

(14 Del. C. 1953, §§ 3401, 3404; 54 Del. Laws, c. 208, § 1; 61 Del. Laws, c. 472, § 1; 62 Del. Laws, c. 258, § 2; 70 Del. Laws, c. 161, §§ 1, 4; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

### § 3412. Administration [Repealed].

(14 Del. C. 1953, § 3402; 54 Del. Laws, c. 208, § 1; 61 Del. Laws, c. 472, § 1; 62 Del. Laws, c. 258, § 2; 70 Del. Laws, c. 161, § 2; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

### § 3413. Scholarships [Transferred].

Transferred to § 3411 of this title by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.

## Subchapter III

## Career-Based Scholarships and Incentive Loans Administered by the Office

(83 Del. Laws, c. 413, § 1.)

## § 3416. Career-based scholarships.

(a) It is the intent and purpose of the General Assembly through this subchapter to enable and encourage academically talented Delawareans to pursue careers in specific fields identified as areas of need within the State.

(b) A committee of 5 to 8 members chosen by the Office for their knowledge of and expertise in employment trends in Delaware will review employment trends in Delaware and identify no more than 8 to 10 high need career fields from which scholarship applicants will be chosen. The career fields will be reviewed every 5 years by the committee. Additionally, the committee will define retention strategies to encourage recipients to pursue careers in Delaware. Contingent upon funding from the General Assembly and based on the size of the applicant pool, at least 1 student in each high need career field will be awarded a career-based scholarship annually.

(c) To be eligible for a career-based scholarship an applicant must meet all of the following criteria:

(1) The applicant must be enrolled in an undergraduate program of study leading to a career in a high need field as determined by the committee under subsection (a) of this section.

(2) The applicant must be a resident of this State.

(3) The applicant must be enrolled at a college or university that is located in Delaware and is accredited by an accrediting agency recognized by the U.S. Secretary of Education.

(d) The amount of an award is determined by the Office.

(e) Awards are renewable for up to 3 additional years if the student remains enrolled in a program of study leading to a career in a high need field as determined under subsection (a) of this section and maintains satisfactory academic progress.

(f) If the committee determines that a particular high need field is no longer high need, students enrolled in a program of study leading to a career in that field will be eligible to renew their scholarship up to 3 additional years.

(65 Del. Laws, c. 437, § 1; 73 Del. Laws, c. 188, § 1; 83 Del. Laws, c. 413, § 1.)

## § 3417. Incentive loans awarded prior to July 1, 2022.

(a) [Repealed.]

(b) For the purpose of this section, an award is a scholarship that is not repaid to the State. Recipients awarded incentive loans prior to July 1, 2022, will be awarded a scholarship instead of an incentive loan if they are eligible to renew their award as provided in subsection (c) of this section. Recipients will be required to repay the full amount of any incentive loans made to them prior to July 1, 2022, unless the amount is forgiven as provided in this subchapter.

(c) Renewal of awards is limited to the number of years that constitute the standard full-time completion rate. To be eligible for renewal of an award, the recipient must meet the academic progress standards set by the Office and communicated in writing to the recipient at the time the initial award is granted. Except for recipients of incentive loans under the Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program [14 Del. C. § 3423], the Office will determine whether a recipient is eligible to renew an award. The Division of Libraries will determine whether a recipient of an incentive loan under the Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program is eligible to renew an award.

(d), (e) [Repealed.]

(73 Del. Laws, c. 188, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

## § 3418. Repayment and forgiveness of incentive loans awarded prior to July 1, 2022.

(a) The Office shall determine payment amounts, length of repayment period, and the rate and type of interest to accrue on awards, within the limitations specified in this chapter.

(b) The Office shall communicate the terms of repayment and interest accrual to the recipient and secure a promissory note from the recipient attesting to the recipient's agreement to such terms at the time the award is made.

(c) Repayment or forgiveness will commence following completion of the program of study and a grace period not to exceed 12 months, or immediately after the student discontinues full-time enrollment or discontinues the specified program of study.

(d) If after 12 months following graduation the recipient is engaged in qualifying employment, no repayment of award principal or interest will be required. The recipient's awards will be forgiven in accordance with the service repayment ratios specified in this chapter and in the order in which they were made.

(e) If during the period of service repayment, the recipient terminates qualifying employment, the recipient will be required to commence repayment of the awards or portions thereof which have not been forgiven at the time qualifying employment was terminated.

(f) If after 12 months following graduation the recipient is not engaged in qualifying employment, the recipient shall be obligated to make monthly payments until the amount of the award and interest on the award from the date of disbursement is paid in full.

(g) If during the period of cash repayment the recipient begins qualifying employment, payments will be deferred and the service repayment ratio specified in this chapter will be applied. Under no circumstances will payments already made by the recipient be reimbursed as a result of obtaining qualifying employment.

(h) The Office may, in its discretion, grant deferments from repayment in cases of economic hardship, inability to secure qualifying employment, severe or prolonged illness, or other circumstances that can be documented to the satisfaction of the Office. Such deferments

will be limited to periods not to exceed 1 year and only 1 deferment may be granted. The length and terms of a deferment shall be communicated in writing to the recipient.

(i) The Office may grant a deferment of repayment obligations of up to 1 year to students who have a compelling reason to interrupt coursework temporarily. Students must submit a written request for deferment and provide such documentation as the Office deems necessary. Interest on the loan will continue to accrue during deferment periods.

(j) A recipient's repayment obligation may be forgiven if the Office determines that the recipient is unable to meet repayment obligations because of permanent disability or death. The Office may require such documentation as it deems necessary to verify claims or disability or death, including but not limited to a sworn affidavit from a qualified physician or a death certificate.

(65 Del. Laws, c. 437, § 1; 73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 97, § 2; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

## § 3419. Christa McAuliffe scholarship loans awarded prior to July 1, 2022.

(a) *Purpose.* — It is the intent and purpose of this program to encourage academically talented Delawareans to pursue teaching careers in Delaware public schools.

(b) [Repealed.]

(c) *Repayment and forgiveness.* — (1) For purposes of this program, qualifying employment is employment as a teacher in a Delaware public school, whether as an employee of the State, the Department of Education, a school district or an individual school, or as an employee of a private organization providing educational services to Delaware school children under a contract with the State, the Department of Education, a school district or an individual school.

(2) Awards will be forgiven at a rate of 1 year of qualifying employment for 1 year of loan.

(65 Del. Laws, c. 437, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 75, § 1; 83 Del. Laws, c. 413, § 1.)

## § 3420. Critical need scholarships.

Transferred by 77 Del. Laws, c. 431, § 10, effective July 23, 2010, to § 3461 of this title. Section 3461 of this title was subsequently transferred to § 3436 of this title by 83 Del. Laws, c. 413, § 3, effective July 1, 2022. Section 3436 of this title was subsequently transferred to § 3435 of this title to conform to redesignations made in view of 84 Del. Laws, c. 350, § 2, effective Aug. 7, 2024.

## § 3421. Delaware nursing incentive program loans awarded prior to July 1, 2022.

(a) *Purpose.* — It is the intent and purpose of the General Assembly through this subchapter to enable and encourage academically talented Delawareans to pursue nursing careers at state-operated hospitals or nonprofit hospitals located in this State.

(b) [Repealed.]

(c) *Repayment and forgiveness.* — (1) For the purposes of this program, qualifying employment shall be employment as a licensed practical nurse or a registered nurse at a state-owned hospital or clinic or a nonprofit hospital located in this State.

(2) Loans will be forgiven at the rate of 1 year of employment for 1 year of loan.

(66 Del. Laws, c. 214, § 1; 67 Del. Laws, c. 64, §§ 1-4; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 188, § 1; 82 Del. Laws, c. 175, § 1; 83 Del. Laws, c. 413, § 1.)

## § 3422. Speech/language pathologist incentive loan awarded prior to July 1, 2022.

(a), (b) [Repealed.]

(c) *Repayment and forgiveness.* —

(1) For purposes of this program, qualifying employment is employment as a licensed speech pathologist either in a Delaware public school or by a provider for programs serving infants and toddlers under Part C, Birth to Three Early Intervention System [20 USC § 1431 et seq.] and their contractors.

(2) Loans will be forgiven at the rate of 1 year of employment for 1 year of loan.

(d) [Repealed.]

(73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 264, §§ 1-4; 82 Del. Laws, c. 64, § 368; 83 Del. Laws, c. 413, § 1.)

## § 3423. Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program loans awarded prior to July 1, 2022.

(a) *Purpose.* —

It is the intent and purpose of this Program to enable and encourage academically talented Delawareans to pursue careers as librarians and archivists in Delaware.

(b) [Repealed.]

(c) *Repayment and forgiveness.* — (1) For purposes of this Program, qualifying employment is employment as a librarian or archivist in a public library, public school library, a member library of the Delaware Library Consortium, state agency or political subdivision in Delaware.

(2) Loans will be forgiven at the rate of 1 year of employment for 1 year of loan for bachelor's degree students, and 2 years of employment for 1 year of loan for master's and doctoral degree students.

(3) The repayment and forgiveness of incentive loans awarded under this Program prior to July 1, 2022, will be administered by the Office.

(70 Del. Laws, c. 521, § 1; 71 Del. Laws, c. 132, §§ 381, 382; 73 Del. Laws, c. 188, § 1; 78 Del. Laws, c. 201, § 1; 81 Del. Laws, c. 82, § 1; 83 Del. Laws, c. 413, § 1.)

### § 3424. Optometry scholarship loan awarded prior to July 1, 2022.

(a) *Purpose.* — It is the intent of this program to encourage academically talented students to pursue careers as optometrists in Delaware. This program replaces the Optometric Institutional Aid Program, but does not change or limit the terms of contracts made to individuals under the provisions of the Optometric Institutional Aid Program.

(b) [Repealed.]

(c) *Repayment and forgiveness.* — (1) For purposes of this program, qualifying employment is the practice of optometry in the State.

(2) Loans will be forgiven at a rate of 1 year of employment for 1 year of loan.

(60 Del. Laws, c. 591, §§ 1, 5; 61 Del. Laws, c. 472, § 3; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

### §§ 3430-3432. [Reserved.]

## Subchapter IV

## Educator and School-Based Mental Health Practitioners Support Programs

(83 Del. Laws, c. 413, § 1; 84 Del. Laws, c. 350, § 2.)

### § 3433. Teacher Academy Scholarship.

(a) For purposes of this section:

(1) "Career and technical education programs" mean programs established by the Department of Education that provide students with rigorous academic content, relevant technical knowledge and skills, and leadership development in a particular field or provide students with the opportunity to participate in work-based learning and to earn a recognized postsecondary credential as well as advanced postsecondary credit or standing in a particular field.

(2) "Educator preparation program" means a program for educator training approved by the Department of Education in accordance with § 1280 of this title.

(3) "Teacher Academy" means a career and technical education program offered in Delaware public schools, including charter and vocational-technical schools, that prepares students for careers in elementary and secondary education.

(b) There is established a Teacher Academy Scholarship for individuals who have successfully completed a Teacher Academy and are enrolled in a Delaware college or university.

(c) The scholarship award shall be $2,500 for 1 year only. The money may be paid in 2 equal parts, 1 part to be paid each semester. If there are more applicants than funding available, the Department of Education will develop criteria for a competitive awards process.

(d) To be eligible for a Teacher Academy Scholarship, an applicant must have completed a Teacher Academy and be enrolled in an educator preparation program in Delaware as a full-time student with the intent to earn a bachelor's degree. The applicant must attend the educator preparation program beginning the fall semester directly after high school graduation.

(e) Applicants applying for an educator support scholarship, under § 3438 of this title, shall also be considered for the Teacher Academy Scholarship. A separate application for a Teacher Academy Scholarship may not be required.

(f) Applicants must apply for all appropriate forms of financial aid for which the student is eligible including the federal Pell Grant, financial aid programs administered by the Delaware Higher Education Office, and financial aid programs administered by the institution of higher education. Applicants must accept all financial assistance offered or awarded to the applicant, except for loans.

(85 Del. Laws, c. 368, § 1.)

### § 3434. Speech-Language Pathologist Scholarship.

(a) (1) It is the intent and purpose of the General Assembly through this section to enable and encourage Delawareans to pursue careers as speech-language pathologists in Delaware public schools and in the Birth to Three Program under Part C of the Individuals with Disabilities Education Act [20 USC § 1431 et seq.].

(2) To be eligible for the Speech-Language Pathologist Scholarship, an applicant must be enrolled as full-time student in a master's degree program in a Delaware postsecondary institution that is accredited, or is a candidate for accreditation, by the Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA) of the American Speech-Language-Hearing Association and that will lead to licensure as a speech-language pathologist in Delaware.

(3) The Office shall establish application requirements.

(4) Scholarships are awarded contingent upon funding from the General Assembly and based on the size of the applicant pool.

(5) Scholarships may be renewed for a total of 2 years of graduate study, if the recipient meets the renewal requirements established by the Office.

(b) [Repealed.]

(83 Del. Laws, c. 413, § 1; 84 Del. Laws, c. 350, § 2; 85 Del. Laws, c. 56, § 1.)

## § 3435. Critical need reimbursement program.

(a) *Purpose. —*

It is the purpose of this program to increase the number of public school teachers with a standard certificate in their area of instruction. This will improve student achievement by enabling and encouraging those teachers to pursue education that will enable them to become fully certified and prepared to deliver high-quality instruction in state-approved critical need areas. This program will provide direct reimbursement to an institute of higher education or Secretary of Education-approved Alternative Routes for Teacher Licensure and Certification Program for coursework taken during the academic year, which includes fall, winter, spring and summer sessions.

(b) *Eligibility. —*

Applicants must meet all of the following criteria:

(1) Be full-time employees of a Delaware public school district or a charter school.

(2) Teach on an emergency certification or a certificate of eligibility.

(3) Teach in a critical need area as defined by the Department of Education.

(c) The Department shall identify a list of critical need areas and publish the list on the Department's website annually.

(d) Eligible institutions of higher education include any out-of-state regionally-accredited college or university, or Alternative Routes for Teacher Licensure and Certification Programs approved by the Delaware Secretary of Education and authorized to operate in Delaware.

(e) *Reimbursements. —* (1) a. Reimbursement will be provided to eligible institutions and programs identified in subsections (c) and (d) of this section for approved coursework that meets Department of Education requirements.

b. For a full-time employee of a public school district or charter school teaching on an emergency certification or certificate of eligibility, up to 1 of the following per academic year:

1. Two noncredit-bearing seminars or workshops required for certification.

2. Up to 6 credits.

3. One noncredit-bearing seminar or workshop required for certification up to 1 3-credit course.

(2) Reimbursement funds shall be distributed to the institution of higher education upon course completion with a 2.0 or higher on a 4.0 scale for credit bearing courses or an equivalent passing grade in a noncredit-bearing course. Eligible institutions must verify enrollment and course grades prior to disbursement of funds.

(3) Funding may not exceed the cost of tuition and fees or the equivalent at the highest cost public institution in Delaware. If funding exceeds the appropriation, eligible institutions of higher education will be awarded funds in a prorated share of the applicant pool.

(4) The Department may set aside funds as available for teachers meeting these criteria as demand requires.

(73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 160, §§ 1-7; 77 Del. Laws, c. 431, § 10; 81 Del. Laws, c. 202, § 16; 83 Del. Laws, c. 46, § 1; 83 Del. Laws, c. 413, § 3; 84 Del. Laws, c. 350, § 2.)

## § 3436. Mental health critical need reimbursement program.

(a) It is the purpose of this program to encourage school-based employees to become licensed mental health providers and remain school employees.

(b) To be eligible for this program, an applicant must meet all of the following criteria:

(1) Be a full-time employee of a Delaware public school district or a charter school.

(2) Enrolled in a credit-bearing program intended to lead to certification or licensure appropriate for a full-time mental health services provider as required by the Board of Mental Health and Chemical Dependency Professionals.

(3) Have signed a written commitment to work in a Delaware school for at least 3 years after receiving the certification or licensure for which they receive reimbursement under this section.

(c) An eligible institution of higher education is an in-state or out-of-state regionally accredited college or university.

(d) (1) Reimbursement will be provided to eligible institutions for up to 6 credits of approved coursework that meets Department of Education requirements.

(2) Reimbursement funds shall be distributed to the institution of higher education upon course completion with a 2.0 or higher on a 4.0 scale for credit bearing courses or an equivalent passing grade in a noncredit-bearing course. Eligible institutions must verify enrollment and course grades prior to disbursement of funds.

(3) Funding may not exceed the cost of tuition and fees or the equivalent at the highest cost public institution in Delaware. If funding exceeds the appropriation, eligible institutions of higher education will be awarded funds in a prorated share of the applicant pool.

(4) The Department may set aside funds as available for school employees meeting these criteria as demand requires.

(84 Del. Laws, c. 350, § 2.)

## § 3437. Public School Employee Support Program for High Needs Areas.

(a) *Establishment; statement of purpose.* — (1) There is established a Public School Employee Support Program for High Needs Areas. The Program allows qualified applicants to apply for a stipend from the State.

(2) The purpose of the Program is to improve educational outcomes for struggling student populations by working to retain all of the following:

a. Educators who are of critical importance to those populations, including educators working in certification areas in which Delaware has a shortage and educators working in Delaware's hardest-to-staff schools.

b. Speech-language pathologists, school counselors, school psychologists, and school social workers who provide professional support services that are of critical importance to students.

(3) The application required and policies adopted under this section must be available on the Office's website.

(b) As used in this section:

(1) "Award" means a stipend payment made under the Program.

(2) "Educator" means as defined in § 1202 of this title. "Educator" includes teachers employed by the Delaware Division for the Visually Impaired who teach students with visual impairment.

(3) "English learners" means students with limited English proficiency and who meet the definition of English learner as that term is defined by the Department rules and regulations.

(4) "High needs area" means any of the following:

a. A certification area the Office has identified as being difficult to staff or of critical need.

b. A school in the top quartile in 3 or more of the following:

1. Percentage of low-income students.

2. Percentage of English learners.

3. Percentage of students with disabilities.

4. Percentage of minority students.

c. A school with 90% of its students classified as low-income, English learners, or minority.

d. Any facility operated by the Department of Services for Children, Youth and their Families in which education programs are provided.

(5) "Low-income students" means students within the statewide metric determined by the Department of Education utilizing direct certification for Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP).

(6) "Minority students" means students who are members of a racial or ethnic group other than the racial or ethnic group that represents the majority of the State's population.

(7) "Office" means the Delaware Higher Education Office.

(8) "Program" means the Public School Employee Support Program for High Needs Areas established in this section.

(9) "Public school employee" means all of the following:

a. An educator.

b. A speech-language pathologist.

c. A school counselor.

d. A school psychologist.

e. A school social worker.

(10) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational expenses related to a public school employee's undergraduate or graduate degree program.

(11) "School" means a Delaware public school, including a vocational-technical school and a charter school established under Chapter 5 of this title.

(12) "Students with disabilities" means students who, because of mental, physical, emotional, developmental, speech, or learning disability problems, as defined by the Department of Education rules and regulations, require special education and related services in order to develop their own capabilities.

(c) *Funding.* —

Appropriations for the Program are made to the Department through the Budget Appropriations Bill in a separate line item appropriation.

(d) *Eligibility for Program.* —

In order for an individual to be eligible for the Program, all of the following must apply:

(1) The individual is a full-time public school employee at a school in a high-needs area.

(2) [Repealed.]

(3) For an individual who is applying to the Program as an educator, meets all of the following requirements:

a. The individual has a valid, current license and certificate through the Delaware Department of Education.

b. The individual has not had an ineffective evaluation on the State's current evaluation system, or the equivalent on a state-approved alternative educator evaluation system.

c. The individual instructs or provides educational support in an identified high needs area for at least 1 school year.

(4) For an individual who is applying to the Program as a speech-language pathologist, the individual must be employed full-time as a speech-language pathologist in a school for a minimum of 1 school year.

(5) For an individual who is applying to the Program as a school counselor, school psychologist, or school social worker, meets all of the following requirements:

a. The individual has obtained a license and certificate through the Delaware Department of Education.

b. The individual must be employed full-time as a school counselor, school psychologist, or school social worker in a school for at least 1 school year.

(e) *Application. —*

(1) The application to participate in the Program must require each applicant to certify that the applicant meets the eligibility requirements of subsection (d) of this section. The application is otherwise in the form prescribed by the Office.

(2) Annually, each applicant must submit a new, completed application and any additional information the Office may request in accordance with Program regulations.

(f) *Decision and disbursement. —*

(1) The ability to make awards each year is contingent upon the availability of funds.

(2) If possible, the Office shall make an award to every applicant who satisfies the requirements of this section.

(3) If there are insufficient funds to make an award to every applicant who satisfies the requirements of this section, the Office shall give priority to applicants who meet 1 or more of the following criteria:

a. Applicants employed in both a certification area and a school that the Office identifies as a "high needs area," as defined in this section.

b. Applicants having the greatest financial need.

(4) The applicants having the greatest financial need is determined in the sole discretion of the Office. To determine financial need the Office shall request at least the applicant's income and total amount of qualified educational loans. The Office shall determine, in its sole discretion, the weight given to the information.

a.-d. [Repealed.]

(5) The Office has sole discretion to prioritize applications and determine awards consistent with the requirements of paragraphs (f)(2) and (f)(3) of this section.

(6) The Office shall make an award through the State's central payroll operation.

(7) An applicant may receive only 1 award per year and may receive no more than 5 awards in the applicant's lifetime.

(g) *Amount of award. —*

An award must be at least $1,000.

(h) The Department of Education, through the Office, is authorized to adopt rules and regulations to implement this section, subject to the State Board of Education's approval. The Office may adopt rules and regulations that refine or narrow eligibility requirements or high needs areas, but the Office may not expand the pool of public school employees who are eligible to receive an award beyond the limits set forth in this section.

(i) *Penalties.—*

If an applicant knowingly submits false information or commits fraud in connection with the application process, the Office may reevaluate the applicant's eligibility for an award, and may withdraw an award. Any award made as the result of deliberate fraud may be recovered by the Department of Justice through an action at law.

(j) *Annual reporting. —*

(1) Each fiscal year, the Office shall report to the chairs of the House and Senate Education Committees of the General Assembly all of the following summary data, which must be de-identified to the greatest extent possible:

a. The aggregate number of public school employees who applied for an award.

b. The aggregate number of public school employees who received an award.

c. The races or ethnicities represented by public school employees who applied for an award.

d. The races or ethnicities represented by public school employees who received an award.

e. The certification areas of public school employees who applied for an award.

f. The certification areas of public school employees who received an award.

g. The average amount of an award to a public school employee.

h. The names of the schools that employed public school employees who applied for an award, and for each school, its percentage of low-income students, English learners, students with disabilities, and minority students.

i. The names of the schools that employed public school employees who received an award, and for each school, its percentage of low-income students, English learners, students with disabilities, and minority students.

j. Other summary data the Office identifies as outcome indicators.

(2) The summary data reported under paragraph (j)(1) of this section must be included with the annual report provided to the General Assembly under § 3402 of this title.

(k) If a provision of this section or the application of this section to a person or circumstance is held invalid, unenforceable, or unconstitutional, the remainder of the provisions, and the application of the provisions to any person or circumstance, are not affected.

(81 Del. Laws, c. 426, § 1; 83 Del. Laws, c. 413, § 8; 85 Del. Laws, c. 56, § 2.)

### § 3438. Educator Support Scholarship.

(a) It is the intent and purpose of the General Assembly through this section to enable and encourage Delawareans to pursue careers in Delaware public schools as teachers or specialists in specific areas identified as areas of need within the State.

(b) The areas of need will be determined each year by the Office.

(c) To be eligible for the educator support scholarship, all of the following apply:

(1) The applicant must be enrolled in an undergraduate or graduate program of study leading to a career as a teacher or specialist in an area of need as determined by the Office.

(2) The applicant must be a resident of this State.

(3) The applicant must be enrolled at a college or university that is located in Delaware and is accredited by an accrediting agency recognized by the U.S. Secretary of Education.

(d) Contingent upon funding from the General Assembly and based on the size of the applicant pool, at least 1 applicant in each area of need will be awarded the scholarship annually. The amount of the award will be determined by the Office.

(e) Awards are renewable for up to 3 additional years if the recipient remains enrolled in a program of study leading to a career as a teacher or specialist in an area of need as determined by the Office and maintains satisfactory academic progress.

(f) If a particular area is determined to no longer be an area of need, recipients enrolled in a program of study leading to a career in that area are eligible to renew their award up to 3 additional years.

(83 Del. Laws, c. 413, § 1.)

### § 3439. Mental Health Services Scholarship.

(a) (1) To be eligible for the Mental Health Services Scholarship, an applicant must be enrolled as a full-time student in a master's degree program in a Delaware postsecondary institution that will lead to certification as a school counselor, school psychologist, or school social worker in a Delaware public school.

(2) The Office shall establish application requirements.

(3) Scholarships are awarded contingent upon funding from the General Assembly and based on the size of the applicant pool.

(4) Scholarships may be renewed for a total of 2 years of graduate study, if the recipient meets the renewal requirements established by the Office.

(b) [Repealed.]

(83 Del. Laws, c. 413, § 1; 85 Del. Laws, c. 56, § 3.)

## Subchapter V

## Merit-Based Scholarship Programs

(83 Del. Laws, c. 413, § 1.)

### § 3440. Purpose.

It is the intent and purpose of the General Assembly through this subchapter to provide scholarships to deserving Delaware students in memory of elected officials and other distinguished citizens who served the State with distinction and for whom recognition through an education endowment is a fitting memorial. To this end, the General Assembly hereby establishes the Memorial Scholarship Fund.

(73 Del. Laws, c. 188, § 1; 83 Del. Laws, c. 413, § 1.)

### § 3441. Awards.

(a) Scholarships shall be awarded to students who will enroll as first-time, full-time students in the academic year following award of the scholarship.

(b) [Repealed.]

(c) Selection of scholarship recipients shall be based on criteria established by the Office that shall include the qualities of academic achievement, community service, participation in extracurricular activities and promise of academic success in college.

(d) Where several students are judged to be equally qualified for the scholarships, financial need may be considered in making scholarship awards.

(e) Awards are renewable within the limits of appropriations for the program, to a maximum of 4 awards, provided the student meets the academic progress standards set by the Office and communicated in writing to the recipient at the time the initial award is granted.

(73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

## § 3442. B. Bradford Barnes Memorial Scholarship.

(a) One scholarship will be awarded each year to a graduating high school senior who will enter the University of Delaware.

(b) The Office will award scholarships only to students who have received an offer of admission from the University of Delaware. The award must be accepted by the deadline established by the Office and may not be deferred.

(c) Scholarships will be awarded in an amount sufficient to meet the costs of tuition, required fees, room, board, and books at the University of Delaware.

(66 Del. Laws, c. 280, § 1; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

## § 3443. Herman M. Holloway, Sr. Memorial Scholarship.

(a) One scholarship will be awarded each year to a student who will enter Delaware State University.

(b) The Office will award scholarships only to students who received an offer of admission from Delaware State University. The award must be accepted by the deadline established by the Office and may not be deferred.

(c) Scholarships will be awarded in an amount sufficient to meet the costs of tuition, required fees, room, board, and books at Delaware State University.

(69 Del. Laws, c. 448, § 1; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

## § 3444. Charles L. “Chuck” Hebner Memorial Scholarship awarded prior to July 1, 2022.

Recipients awarded the Charles L. “Chuck” Hebner Memorial Scholarship prior to July 1, 2022, are eligible to renew their awards as provided in § 3441(e) of this title.

(1)-(4) [Repealed.]

(72 Del. Laws, c. 347, § 1; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 1.)

## § 3445. Ivyane D.F. Davis Memorial Scholarship Fund.

Transferred to § 3463 of this title by 83 Del. Laws, c. 413, § 5, effective July 1, 2022.

## § 3446. Michael C. Ferguson Achievement Awards.

Transferred by 77 Del. Laws, c. 431, § 9, effective July 23, 2010, to § 3460 of this title, which was subsequently repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.

## § 3447. Charles L. “Chuck” Hebner Scholarship awarded after July 1, 2022.

(a) High school seniors who plan to enroll as full-time students at a degree-granting college during the academic year immediately following high school graduation and who meet application requirements established by the Office are eligible to apply.

(b) The amount of the award will be determined by the Office.

(c) Where such education costs are nonexistent or reduced, as in the case of U.S. military academies, the Office may designate a particular student as a Charles L. Hebner Scholar without monetary award or may reduce the value of the scholarship.

(73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 413, § 2.)

## § 3448. Lewis M. “Skipper” Purnell Cultural Resources Memorial Scholarship [For application of section, see 83 Del. Laws, c. 414, § 3].

(a) *Purpose.* —

It is the intent and purpose of this scholarship to enable and encourage academically-talented Delawareans to pursue careers as cultural resources professionals.

(b) *Awards.* — (1) The Office will award scholarships for graduate education in certificate or master’s degree programs of museum studies and degrees required for meeting the U.S. Secretary of Interior Historic Preservation Professional Qualifications Standards in history, architectural history, or archeology. Preference is given to persons currently employed in Delaware by a public or nonprofit museum or cultural resource agency, any subdivision of state, county or municipal government engaged in museum or cultural resources interpretation or management, or any institutional member of the Delaware Museum Association. Preference is also given to persons

employed by a State-recognized tribe under §§ 106 and 107 of Title 29 or persons who otherwise serve in an official capacity to a State-recognized tribe as nominated by the Chief or Tribal Council of such tribe.

(2) The Office may also award scholarships for a course of study leading to a bachelor's degree prior to the master's degree or for a doctoral degree following the master's degree. Awards under this paragraph are limited to persons who have been employed for a minimum of 6 months in Delaware by a public or nonprofit museum or cultural resource agency, or any subdivision of state, county, or municipal government engaged in museum or cultural resources interpretation or management, or any institutional member of the Delaware Museum Association.

(3) Selection criteria may include consideration of community service, academic achievement, and financial need.

(c) *Renewal. —*

Renewal of awards is limited to the number of years that constitute the standard full-time completion rate. To be eligible for renewal of an award, the recipient must meet academic progress standards set by the Office and communicated in writing to the recipient at the time the initial award is granted.

(83 Del. Laws, c. 414, § 1.)

## Subchapter VI

## Educational Benefits for Children of Deceased Veterans and Others

### § 3451. Statement of purpose.

It is the purpose of this subchapter to provide educational benefits for the children of deceased veterans of the military services of the United States, military service personnel held prisoner of war, military service personnel officially declared to be missing in action, employees of the Department of Transportation as defined in § 3452(a)(1)e. of this title, and state police officers killed in the line of duty.

(59 Del. Laws, c. 333, § 1; 73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 396, § 1.)

### § 3452. Requirements to receive benefits.

(a) In order to qualify for the benefits of this subchapter, an applicant shall be:

(1) The child of:

a. A member of the armed forces who was killed while on active duty or who died from disease, wounds, injuries or disabilities arising or resulting from performance of duty;

b. A member of the armed forces who is being held or who was held as a prisoner of war;

c. A member of the armed forces officially declared missing in action; or

d. A state police officer who was killed in the line of duty or who died from disease, wounds or disabilities arising or resulting from pursuit of the officer's official duties;

e. An employee of the Department of Transportation routinely employed in job-related activities upon the state highway system, such as toll operators, construction inspectors, equipment operators, bridge inspectors and maintenance staff, and survey crews, who was killed in the line of duty or who died from disease, wounds, or disabilities arising or resulting from pursuit of the employee's official duties.

(2) A person who at the time of application for benefits is at least 16 years of age, but not more than 24 years of age, and who shall have been a resident of the State for at least 3 years prior to the date of application; and

(3) Attending or admitted for attendance at an educational institution beyond the high school level in a program not to exceed 4 years in duration.

(b) No child of a member of the armed forces shall receive educational benefits in accordance with this subchapter unless such child qualifies under subsection (a) of this section, and:

(1) A parent of such child is a resident of the State and is or was missing in action or held as a prisoner of war; or

(2) A parent of such child was a resident of the State at the time such parent was killed or later died from disease, wounds, injuries or disabilities arising or resulting from performance of duty.

(59 Del. Laws, c. 333, § 1; 66 Del. Laws, c. 137, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 396, § 2.)

### § 3453. Vested rights.

Any person found to be qualified for the benefits of this subchapter as the child of a deceased or missing veteran shall not be divested of the benefits upon the return of the veteran who was a prisoner of war, missing in action or mistakenly listed as deceased.

(59 Del. Laws, c. 333, § 1; 73 Del. Laws, c. 188, § 1.)

### § 3454. Eligible institutions.

Benefits authorized in this subchapter may be utilized for attendance at:

(1) An institution financially supported by the State;

(2) If the desired major or training is not available in such an institution, then at a private institution in Delaware;

(3) If there is no institution in Delaware offering such major or training, at a public or private institution in another state; or

(4) If an eligible student chooses to attend an institution out of the sequence described herein, the value of the benefit will be reduced as described in this subchapter.

(59 Del. Laws, c. 333, § 1; 67 Del. Laws, c. 401, § 1; 73 Del. Laws, c. 188, § 1.)

### § 3455. Extent of benefit.

(a) The per student benefits granted under this subchapter may not exceed the amount of tuition and fees per academic year.

(b) Benefits shall be limited to 4 years of training or education.

(c) If the student attends an institution according to the priority sequence outlined above, the benefit shall be equal to the amount of tuition and fees. If the student chooses to attend a Delaware private institution when that student's major is offered at a Delaware public institution, or if the student chooses to attend an out-of-state institution when that student's major is offered at a Delaware public institution and/or a Delaware private institution, the amount of the benefit shall be equal to the tuition and fees of:

(1) The average tuition and fees of the Delaware public institutions which offer the major; or

(2) The average tuition and fees of the Delaware private institutions which offer the major, if it is not offered at a Delaware public institution.

(59 Del. Laws, c. 333, § 1; 67 Del. Laws, c. 401, § 2; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 188, § 1.)

### §§ 3456, 3457. [Reserved.]

## Subchapter VII

## Other Financial Assistance Programs Not Administered by the Office

(83 Del. Laws, c. 413, § 1.)

### § 3460. Michael C. Ferguson Achievement Awards [Repealed].

(73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 9; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

### § 3461. Critical need reimbursement program.

Transferred to § 3436 of this title by 83 Del. Laws, c. 413, § 3, effective July 1, 2022. Section 3436 of this title was subsequently transferred to § 3435 of this title to conform to redesignations made in view of 84 Del. Laws, c. 350, § 2, effective Aug. 7, 2024.

(73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 160, §§ 1-7; 77 Del. Laws, c. 431, § 10; 81 Del. Laws, c. 202, § 16; 83 Del. Laws, c. 46, § 1; 83 Del. Laws, c. 413, § 3; 84 Del. Laws, c. 350, § 2.)

### § 3462. Ada Leigh Soles Memorial Professional Librarian and Archivist Scholarship.

(a) *Purpose. —*

It is the intent and purpose of this scholarship to enable and encourage academically-talented Delawareans to pursue careers as librarians and archivists in Delaware.

(b) *Administration. —*

(1) This scholarship is administered by the Delaware Division of Libraries.

(2) The Division of Libraries shall adopt rules and regulations as it deems necessary and proper to administer the provisions of this scholarship.

(c) *Awards. —*

(1) Awards shall be provided for graduate education in master's degree programs of library and information studies that are accredited by the American Library Association. Preference shall be given to persons currently employed by a Delaware public library, county department of libraries, public school library or state agency library, a member library of the Delaware Library Consortium, or archive.

(2) Awards may also be provided for a course of study leading to a bachelor's degree prior to the master's degree and/or a doctoral degree following the master's degree. Awards shall be limited to persons who have been employed at a Delaware public library, county department of libraries, public school library, a member library of the Delaware Library Consortium, or state agency library or archive for a minimum of 2 years.

(3) Selection criteria may include consideration of community service, academic achievement, and financial need.

(d) *Renewal. —*

(1) Renewal of awards is limited to the number of years that constitute the standard full-time completion rate. To be eligible for renewal of an award, the recipient must meet the academic progress standards set by the Division of Libraries and communicated in

writing to the recipient at the time the initial award is granted. The Division of Libraries will determine whether a recipient of an incentive loan under the Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program is eligible to renew an award.

(2) Recipients of incentive loans under the Ada Leigh Soles Memorial Professional Librarian and Archivist Incentive Program awarded prior to July 1, 2022, are eligible to renew their award as provided in § 3417 of this title. The Division of Libraries will determine whether such recipient is eligible to renew an award.

(83 Del. Laws, c. 413, § 1.)

## § 3463. Ivyane D.F. Davis Memorial Scholarship Fund.

(a) Purpose. —

It is the intent and purpose of the General Assembly through this section to provide scholarships in memory of Ivyane D.F. Davis, who died February 7, 1989, to deserving Delaware students who have experienced foster care in Delaware, and to this end there hereby is established the Ivyane D.F. Davis Memorial Scholarship Fund.

(b) Administration. —

(1) Notwithstanding any other provision to the contrary, this scholarship fund shall be administered by the Child Protection Accountability Commission (Commission) with staffing from the Office of the Child Advocate.

(2) The Commission shall adopt such rules and regulations as it deems necessary and proper to administer the provisions of this scholarship fund.

(3) The Commission shall include in its annual summary to the Governor and the General Assembly, as required by § 931(b)(6)a. of Title 16, the number of recipients of scholarships, the institutions attended by said recipients, the total of expenditures made under this scholarship fund, and such other information as it deems useful. The summary may not include identifying or confidential information on scholarship recipients.

(c) Eligibility. —

Scholarships awarded under this scholarship fund are available to applicants who at any time experienced foster care in Delaware, and who have been accepted at or who are attending an institution of higher education or trade school. Scholarships may also be awarded for preparatory courses for standard admission tests required for higher education or trade school.

(d) Scholarship awards. —

(1) The Commission shall award Ivyane D.F. Davis Memorial Scholarships subject to General Assembly appropriations and private donations to and interest earned on proceeds of the scholarship fund created under this section.

(2) The Commission may establish maximum and minimum awards. Scholarship awards may not exceed the amount set by the Commission.

(3) Scholarships may be renewed upon application by recipients on an annual basis if the Commission is satisfied that the recipient is making satisfactory academic or vocational progress.

(4) Selection of scholarship recipients shall be based on such criteria, established by the Commission, as academic achievement, community service, participation in extracurricular activities, and promise of success in the institution of higher education or vocational courses selected by applicants.

(5) In cases where more than 1 applicant are judged to be equally qualified for scholarships, financial need shall be considered in establishing priorities for the award of available scholarships.

(6) Scholarships awarded under this section may not be used to reduce the amount of any waiver provided under subchapter XVII of Chapter 34 of this title, Fostering Independence Through Education Tuition Waiver.

(e) Creation of Ivyane D.F. Davis Memorial Scholarship Fund. —

(1) The Ivyane D.F. Davis Memorial Scholarship Fund ( “Fund” ) is hereby created.

(2) Funding shall be appropriated by the General Assembly as a separate programmatic line to be expended in accordance with the needs of the recipients.

(3) The Commission may accept donations from private individuals and organizations for deposit in the Fund.

(4) The Fund may be used as the state-required match for federal Chafee Educational and Training Vouchers; provided, that the Commission or the Office of the Child Advocate is authorized, by regulation, contract, or memorandum of understanding with the Department of Services for Children, Youth and Their Families, to administer the funding obtained; and further provided, that the portion of the Fund used to obtain the funding is utilized in accordance with the purpose and intent of this section.

(5) Except as provided in paragraph (e)(4) of this section, all appropriations from the General Assembly to the Fund shall be used solely for the award of scholarships as provided under this section. Scholarships are provided for the purpose of meeting direct and indirect educational expenses.

(67 Del. Laws, c. 12, § 1; 71 Del. Laws, c. 167, § 1; 72 Del. Laws, c. 338, § 5; 73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 323, §§ 1, 2; 81 Del. Laws, c. 280, § 52; 83 Del. Laws, c. 37, § 17; 83 Del. Laws, c. 413, § 5; 84 Del. Laws, c. 509, § 1.)

## § 3464. Allocation of Fund.

Repealed by 77 Del. Laws, c. 431, § 8, effective July 23, 2010.

## § 3465. Eligible organizations.

Repealed by 77 Del. Laws, c. 431, § 8, effective July 23, 2010.

## § 3466. Tuition and fees for spouses and children of active duty military.

Notwithstanding any other provision of this code, the spouse and any child of a member of the active military service of the United States, who has been assigned to duty elsewhere immediately following assignment to duty in Delaware, is deemed to be an in-state resident for the purposes of determining tuition, fees, and other charges at Delaware public universities, colleges, or community colleges, and is entitled to pay the tuition, fees and other charges imposed upon Delaware residents as long as the spouse or child remains enrolled at such institution.

(83 Del. Laws, c. 119, § 1; 83 Del. Laws, c. 413, § 1.)

## § 3467. Volunteer firefighter educational benefits [Effective until Mar. 2, 2027].

(a) For purposes of this section, "member" means as defined in § 6646 of Title 16.

(b) An active member is eligible for postsecondary education tuition reimbursement pursuant to this section under the following conditions:

(1) The member must apply for tuition reimbursement in accordance with rules and regulations promulgated by the State Fire Prevention Commission.

(2) Education benefits authorized by this section may be used only at a college or university within the State.

(3) A member may be reimbursed under this program for only 2 classes or courses of instruction for undergraduate study or 1 class or course for graduate study each grading period. The classes will be reimbursed at 100% of the tuition paid following the completion of the course with a grade of "C" or better.

(4) A member must first apply for and utilize all other reasonably available tuition assistance programs, including scholarships, grants and civilian employer education benefit programs.

(c) This tuition reimbursement program is subject to the limits of the total funding appropriated by the General Assembly for this purpose.

(d) To receive tuition reimbursement for a postsecondary class or course of instruction authorized by this section, a member must do both of the following:

(1) Earn a grade no lower than a 2.0 on a 4.0 scale, or its equivalent, for each class or course of instruction for which the tuition reimbursement is granted. In any class or course of instruction for which a specific grade is not issued, the member must show documentation to verify satisfactory completion.

(2) Submit to the State Fire Prevention Commission within 30 days after completing a class or course of instruction proof of all of the following:

a. Course title and grade received.

b. Amount of tuition paid for the course.

c. Name of the postsecondary institution where the course was taken.

d. A letter from the chief of the member's volunteer fire department certifying the member is on active status.

(e) A member who ceases to be active or leaves membership will no longer be eligible for tuition reimbursement, but will not be required to repay any tuition reimbursement for any course completed in compliance with this section.

(f) The State Fire Prevention Commission shall include in the Commission's annual report all of the following:

(1) The number of members who participated at each postsecondary educational institution during the year.

(2) The total amount of tuition expenditures made pursuant to this section during the year.

(g) The State Fire Prevention Commission shall adopt rules and regulations necessary and proper for the efficient administration of this section. The rules and regulations must contain appeal procedures.

(83 Del. Laws, c. 181, § 1; 85 Del. Laws, c. 473, § 3.)

## § 3467. Volunteer firefighter educational benefits [Effective Mar. 2, 2027].

(a) For purposes of this section, "member" means as defined in § 6601A of Title 16.

(b) An active member is eligible for postsecondary education tuition reimbursement pursuant to this section under the following conditions:

(1) The member must apply for tuition reimbursement in accordance with rules and regulations promulgated by the State Fire Prevention Commission.

(2) Education benefits authorized by this section may be used only at a college or university within the State.

(3) A member may be reimbursed under this program for only 2 classes or courses of instruction for undergraduate study or 1 class or course for graduate study each grading period. The classes will be reimbursed at 100% of the tuition paid following the completion of the course with a grade of "C" or better.

(4) A member must first apply for and utilize all other reasonably available tuition assistance programs, including scholarships, grants and civilian employer education benefit programs.

(c) This tuition reimbursement program is subject to the limits of the total funding appropriated by the General Assembly for this purpose.

(d) To receive tuition reimbursement for a postsecondary class or course of instruction authorized by this section, a member must do both of the following:

(1) Earn a grade no lower than a 2.0 on a 4.0 scale, or its equivalent, for each class or course of instruction for which the tuition reimbursement is granted. In any class or course of instruction for which a specific grade is not issued, the member must show documentation to verify satisfactory completion.

(2) Submit to the State Fire Prevention Commission within 30 days after completing a class or course of instruction proof of all of the following:

a. Course title and grade received.

b. Amount of tuition paid for the course.

c. Name of the postsecondary institution where the course was taken.

d. A letter from the chief of the member's volunteer fire department certifying the member is on active status.

(e) A member who ceases to be active or leaves membership will no longer be eligible for tuition reimbursement, but will not be required to repay any tuition reimbursement for any course completed in compliance with this section.

(f) The State Fire Prevention Commission shall include in the Commission's annual report all of the following:

(1) The number of members who participated at each postsecondary educational institution during the year.

(2) The total amount of tuition expenditures made pursuant to this section during the year.

(g) The State Fire Prevention Commission shall adopt rules and regulations necessary and proper for the efficient administration of this section. The rules and regulations must contain appeal procedures.

(83 Del. Laws, c. 181, § 1; 85 Del. Laws, c. 473, § 3.)

## Subchapter VIII

## Legislative Essay Scholarship [Repealed.]

(83 Del. Laws, c. 413, § 1.)

### § 3470. Purpose [Repealed].

(72 Del. Laws, c. 461, § 2; 73 Del. Laws, c. 188, § 1; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

### § 3471. Eligibility [Repealed].

(73 Del. Laws, c. 188, § 1; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

### § 3472. Essays [Repealed].

(73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

### § 3473. Awards [Repealed].

(73 Del. Laws, c. 188, § 1; 74 Del. Laws, c. 307, § 374; 75 Del. Laws, c. 350, § 421; 77 Del. Laws, c. 431, § 12; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

### § 3474. [Reserved.]

## Subchapter IX

## Education Endowment Fund [Repealed.]

(83 Del. Laws, c. 413, § 1.)

### § 3475. Purpose [Repealed].

(73 Del. Laws, c. 188, § 1; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

### § 3476. Fund [Repealed].

(73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 431, § 12; repealed by 83 Del. Laws, c. 413, § 1, effective July 1, 2022.)

## Subchapter X

## Higher Education for Senior Citizens

### § 3478. Fees.

The Boards of Trustees of the University of Delaware, Delaware State University, and Delaware Technical and Community College are hereby authorized and directed to establish, by not later than the fall quarter of 1986, a program whereby citizens of this State who are 60 years of age or older, and who are formal degree candidates, may attend classes for credit or audit without payment of application, course registration or other related fees. Persons enrolled in such program shall be required to pay the cost of all books, supplies, laboratory fees and shop fees.

(65 Del. Laws, c. 41, § 1; 69 Del. Laws, c. 67, § 2; 73 Del. Laws, c. 188, § 1.)

### § 3479. Limitations.

The privilege authorized by this subchapter may be granted only on a space available basis if such classes are not filled as of the close of registration. The institutions listed in this subchapter may limit or deny the privilege for courses which are in programs for which a selective admissions criteria has been established.

(65 Del. Laws, c. 41, § 1; 73 Del. Laws, c. 188, § 1.)

## Subchapter XI

## Delaware National Guard Education Benefits

### § 3480. Education benefits [For application of this section, see 85 Del. Laws, c. 103, § 2].

(a) Any active member of a federally recognized unit of the Delaware National Guard ("member") who meets the requirements for satisfactory membership, as defined by the Adjutant General of the Delaware National Guard, is eligible for financial assistance from the Delaware National Guard for certain postsecondary education tuition and fees under the following conditions:

(1) The member must first apply for and utilize all other reasonably available tuition assistance programs, including scholarships, grants, and civilian employer education benefit programs.

(2) The member must apply to the Adjutant General for education benefits provided under this section before starting a class or course of instruction, according to a schedule announced by the Adjutant General.

(3) Education benefits authorized by this section may be used only for attendance at a postsecondary institution either financially supported by this State or, if private, located in this State. Subject to any tuition assistance a member receives after applying under paragraph (a)(1) of this section, education benefits authorized by this section are as follows:

a. If a member chooses to attend a state-supported postsecondary institution, the total amount of tuition and fees must be paid up to the in-state resident rate. A state-supported postsecondary institution shall charge a member the in-state rate for tuition and fees and shall treat the member as an in-state applicant or student regardless of the member's state of residence.

b. If a member chooses to attend a Delaware private postsecondary institution, the amount of tuition and fees paid must be equal to the average tuition and fees of the state-supported postsecondary institutions that offer the class or course of instruction, based on the in-state resident rate.

(4) Each class or course of instruction taken by a member must be one that is required by the postsecondary institution for the award of a specific certificate or of a specific associate degree, bachelor's degree, or master's degree.

(5) The per-member education benefits granted under this section are limited to only 1 certificate or degree program at each level of study, namely, a certificate program, an associate degree, bachelor's degree, or master's degree.

(6) A member may be enrolled in a certificate or degree program full-time or part-time.

(7) A member may not receive education benefits under this section more than 15 years after the date on which the member begins the first course for which education benefits are granted, but if a member is called to active duty or to an activation that requires the member to discontinue that member's education benefits, the 15-year limit may be extended by the amount of time the member serves on that active duty or activation.

(8) The education benefits program established by this section is subject to the limits of the total funding appropriated by the General Assembly and approved by the Governor for the program.

(b) To receive education benefits authorized by this section, a member must do all of the following:

(1) Agree to serve in a satisfactory manner for a period of not less than 6 years in the Delaware National Guard. The 6-year requirement may include service time before, during, and after the member receives education benefits under this section.

(2) Maintain a cumulative grade point average of 2.0 or higher on a 4.0 scale, or its equivalent. If a member fails to maintain a cumulative grade point average of 2.0 or higher, the member may not receive further education benefits under this section until the member raises the member's cumulative grade point average to meet the minimum required under this paragraph (b)(2).

(3) Before the start date of a class or a course of instruction, the member shall give to the Adjutant General, or the Adjutant General's designee, all of the following:

a. A completed application for the education benefits provided under this section.

b. If applicable, the member's most recent transcript from a postsecondary institution.

c., d. [Repealed.]

(c) The Adjutant General shall appoint a board to adopt rules and regulations and to provide forms as is necessary and proper for the efficient administration of this section.

(d) (1) Upon approval by the Adjutant General, and subject to the availability of appropriated funds, the Delaware National Guard shall provide education benefits authorized by this section from funds appropriated to the Delaware National Guard in the annual Budget Appropriations Act, or in amendments to the annual Budget Appropriations Act, for that purpose. If the total education benefits applied for under this section exceed the appropriated funds, education benefits for master's degree must be reduced prior to any reductions to members applying for education benefits to obtain a certificate, an associate degree, or a bachelor's degree.

(2) Within 60 days after receiving a member's bill for tuition and fees, the Delaware National Guard shall disburse the financial assistance authorized by this section directly to a postsecondary institution on behalf of the member.

(e) A member who receives education benefits under this section but who does not fulfill the service commitment required by paragraph (b)(1) of this section, who is terminated from the Delaware National Guard for cause, or who otherwise fails to comply with any requirement of this section is immediately ineligible to receive education benefits under this section and shall repay the Delaware National Guard for all education benefits the member previously received, including interest, on a pro rata basis from the time of termination or noncompliance. The Adjutant General shall determine the amount the member must repay under this subsection.

(f) If a member is terminated from the Delaware National Guard other than for cause, the member is not required to repay education benefits the member received under this section.

(g) A member may not receive education benefits unless disbursed under paragraph (d)(2) of this section prior to termination, for any reason, of membership in the Delaware National Guard.

(h) The Adjutant General shall report annually to the General Assembly all of the following:

(1) The number of members who participated at each Delaware postsecondary institution during the fiscal year.

(2) The total amount of tuition and fees paid under this section during the fiscal year.

(3) The total amount required to be repaid to the Delaware National Guard by defaulting members during the fiscal year.

(4) The total amount of moneys actually repaid by defaulting members during the fiscal year.

(62 Del. Laws, c. 258, § 3; 64 Del. Laws, c. 45, § 1; 65 Del. Laws, c. 440, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 454, § 1; 73 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 208, §§ 1-3, 5; 82 Del. Laws, c. 191, § 1; 85 Del. Laws, c. 103, § 1; 85 Del. Laws, c. 548, § 8.)

### §§ 3481, 3482. [Reserved.]

## Subchapter XII

## DE529 Education Savings Plan Administered by the Plans Management Board

(83 Del. Laws, c. 413, § 1.)

### § 3483. Purpose.

It is the intent and purpose of the General Assembly through this subchapter to establish the DE529 Education Savings Plan pursuant to 26 U.S.C. § 529 or successor section and to charge the Plans Management Board to implement and maintain the Plan through the adoption of rules and regulations for the administration of the Plan.

(71 Del. Laws, c. 71, § 1; 72 Del. Laws, c. 300, §§ 1-3; 73 Del. Laws, c. 188, § 2; 80 Del. Laws, c. 295, § 1; 83 Del. Laws, c. 413, § 1.)

### § 3484. Administration; authority.

This subchapter shall be administered by the Plans Management Board pursuant to § 2722 of Title 29.

(71 Del. Laws, c. 71, § 1; 72 Del. Laws, c. 114, § 1; 72 Del. Laws, c. 300, §§ 2, 3; 73 Del. Laws, c. 188, § 2; 74 Del. Laws, c. 68, § 19; 75 Del. Laws, c. 350, § 164; 77 Del. Laws, c. 431, §§ 11, 12; 80 Del. Laws, c. 295, § 1.)

### § 3485. Definitions.

As used in this subchapter:

(1) "Account" means an individual account, a trust account or a savings account established in accordance with this subchapter.

(2) "Account owner" means the individual, individuals, or the trustee of a trust identified at the time the account is opened as having the right to withdraw funds from the account.

(3) “Board” means the Plans Management Board pursuant to § 2722 of Title 29.

(4) “Designated beneficiary” means, except as provided in § 3490 of this title, the individual designated at the time the account is opened as having the right to receive a qualified withdrawal for the payment of qualified education expenses or, if such designated beneficiary is replaced in accordance with § 3490 of this title, such replacement.

(5) “Financial institution” means a bank, a commercial bank, a national bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a mutual fund, an investment firm or other similar entity authorized to do business in this State.

(6) “Higher education institution” means an eligible education institution as defined in 26 U.S.C. § 135(c)(3).

(7) “Member of the family” shall have the same meaning as contained in 26 U.S.C. § 529(e) or successor section.

(8) “Nonqualified withdrawal” means a withdrawal from an account that is not:

a. A qualified withdrawal;

b. A withdrawal made as the result of the death or disability of the designated beneficiary;

c. A withdrawal made as the result of a scholarship (or allowance or payment described in 26 U.S.C. § 135(d)(1)(B) or (C)) received by the designated beneficiary, but only to the extent of the amount of such scholarship, allowance or payment; or

d. A rollover or change in the designated beneficiary described in § 3490 of this title.

(9) “Plan” means the DE529 Education Savings Plan established by this subchapter.

(10) “Qualified education expenses” means tuition and other permitted expenses as set forth in 26 U.S.C. § 529(e) or as hereafter permitted by such successor or amended section for the enrollment or attendance of a designated beneficiary at a education institution.

(11) “Qualified withdrawal” means a withdrawal from an account to pay the qualified education expenses of the designated beneficiary, but only if the withdrawal is made in accordance with the requirements of the Plan.

(12) “Trust” means a trust which is revocable or irrevocable and which has at least 1 individual as its current beneficiary.

(71 Del. Laws, c. 71, § 1; 72 Del. Laws, c. 300, §§ 1, 2; 73 Del. Laws, c. 188, § 2; 76 Del. Laws, c. 149, §§ 1-3; 80 Del. Laws, c. 295, § 1; 83 Del. Laws, c. 413, § 1.)

## § 3486. Powers of the Board [Repealed].

(71 Del. Laws, c. 71, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 300, § 2; 73 Del. Laws, c. 188, § 2; repealed by 80 Del. Laws, c. 295, § 1, effective July 1, 2016.)

## § 3487. The Program.

(a) An account owner may establish an account by making an initial contribution to the Plan in the name of the designated beneficiary. Once a contribution is made it becomes part of the Plan and subject to this subchapter.

(b) Any person may make a contribution to an account once an account is opened. If the account owner is a trust, the trustee must consent to the contribution.

(c) Contributions to an account shall be made only in cash.

(d) Total contributions to all accounts shall not exceed those reasonably necessary, considering the return on contributions and the age and circumstances of the designated beneficiary, to provide for the qualified education expenses of the beneficiary. The Board shall establish maximum contribution limits applicable to Plan accounts and shall require such information from the account owner and the designated beneficiary to establish the limit as it relates to such account.

(e) Separate records and accounting shall be required by the Plan for each account and reports shall be made no less frequently than annually to the account owner and the designated beneficiary.

(f) In the case of an account owner which is a trust, the Board shall require such information from the account owner as is necessary to establish compliance with the Plan.

(71 Del. Laws, c. 71, § 1; 71 Del. Laws, c. 402, § 1; 72 Del. Laws, c. 300, § 2; 73 Del. Laws, c. 188, § 2; 76 Del. Laws, c. 149, §§ 4, 5; 80 Del. Laws, c. 295, § 1; 83 Del. Laws, c. 413, § 1.)

## § 3488. Investment direction [Repealed].

(71 Del. Laws, c. 71, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 300, § 2; 73 Del. Laws, c. 188, § 2; repealed by 80 Del. Laws, c. 295, § 1, effective July 1, 2016.)

## § 3489. Prohibitions.

(a) No account nor any interest in an account may be assignable or pledged or otherwise used to secure or obtain a loan or other advancement.

(b) No refund of a qualified educational expense payment may be paid by an education institution directly to the designated beneficiary or to the account owner. Any refund of qualified tuition expenses owed by an education institution on account of an overpayment of educational expenses must be refunded to the Plan for credit to the designated beneficiary’s account.

(c) A qualified withdrawal that is used to pay for qualified education expenses must be paid jointly to the designated beneficiary and the education institution or directly to the education institution. A payment of qualified education expenses may not be made directly to the beneficiary.

(d) Total contributions to all accounts established on behalf of a particular beneficiary in excess of those reasonably necessary to meet the designated beneficiary's qualified education expenses are prohibited.

(e) Except as permitted in 26 U.S.C. § 529 and regulations thereunder, no person shall have the right to direct the investment of any contributions to or earnings from the Plan.

(71 Del. Laws, c. 71, § 1; 72 Del. Laws, c. 300, § 2; 73 Del. Laws, c. 188, § 2; 80 Del. Laws, c. 295, § 1; 83 Del. Laws, c. 413, § 1.)

### § 3490. Designated beneficiary.

(a) An account owner shall have the right at any time to change the designated beneficiary of an account to another individual who is a member of the family of the former designated beneficiary, and, in the case of an account owner which is a trust, to another person who is also a beneficiary of the trust.

(b) An account owner shall have the right at any time to direct that all or a portion of an account be transferred to the account of another beneficiary if the designated beneficiaries are members of the same family, and, in the case of an account owner which is a trust, to the account of another beneficiary if the designated beneficiary is also a beneficiary of the trust.

(c) The right to change the designated beneficiary or to transfer between accounts contained in subsections (a) and (b) of this section may be denied if, under regulations adopted by the Board, the exercise of the right would result in either excess contributions to an account or the exercise of impermissible investment direction by the account owner.

(71 Del. Laws, c. 71, § 1; 73 Del. Laws, c. 188, § 2; 76 Del. Laws, c. 149, §§ 6, 7.)

### § 3491. Account withdrawals; penalties.

(a) Withdrawal from an account may be made on 30 days' written notice to the Board or on such shorter notice as the Board may by regulation provide. A withdrawal shall be designated as a qualified withdrawal or a nonqualified withdrawal and the application shall provide such information and be made on such forms as the Board shall find are necessary to enable the Board to determine the nature of the withdrawal.

(b) An account withdrawal paid to or for the benefit of any person during any calendar year shall be reported to the person and the Internal Revenue Service. The report shall be made at the time and contain such information as required by law.

(c) The Board shall establish a more than de minimis penalty, at the minimum amount necessary to satisfy the requirements of § 529 of Title 26 of the United States Code [26 U.S.C. § 529] or successor section for a nonqualified withdrawal on the portion of the withdrawal that constitutes income under § 529 of Title 26 of the United States Code [26 U.S.C. § 529] or successor section.

(d) Penalties collected under this section may be used to defray the costs of the Plan.

(71 Del. Laws, c. 71, § 1; 72 Del. Laws, c. 300, § 2; 73 Del. Laws, c. 188, § 2.)

## Subchapter XIII

## Participation in National and Regional Higher Education Organizations

### § 3495. Southern Regional Education Board.

The Governor is authorized to commit the State of Delaware to membership in the Southern Regional Education Board (SREB) and to execute the SREB compact, which the Delaware General Assembly hereby approves.

(71 Del. Laws, c. 354, § 382; 73 Del. Laws, c. 188, § 3.)

### §§ 3496-3498. Purpose; administration; Charles L. "Chuck" Hebner Memorial Scholarship.

Repealed by 73 Del. Laws, c. 188, § 4, effective July 17, 2001. For present law, see § 3444 of this title.

## Subchapter XIV

## The Delaware Student Excellence Equals Degree Act Administered by Delaware Technical and Community College and University of Delaware

(83 Del. Laws, c. 413, § 1.)

### § 3401A. Purpose.

There is hereby created the Delaware Student Excellence Equals Degree, hereafter referred to as "SEED", program. Under this subchapter, qualified, college-bound state resident students are relieved of the burden of paying undergraduate tuition at Delaware Technical and Community College, or the University of Delaware, Associate in Arts Program provided that these students meet the criteria set forth in this subchapter and are enrolled in a credit or noncredit program leading to the award of a recognized academic

credential or pursuing studies leading to an associate degree at Delaware Technical and Community College. Students who qualify under this subchapter shall not have to repay the State because it is the intent and purpose of the General Assembly, through this subchapter, to help ensure that Delaware students stay in high school, excel academically, and have better access to higher education regardless of a family's financial circumstances and therefore payments under this program shall be grants, not loans.

(75 Del. Laws, c. 222, § 1; 83 Del. Laws, c. 239, § 1.)

## § 3402A. Definitions.

The following words, terms and phrases, when used in this subchapter, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(1) "Academic year" shall mean the 3 consecutive academic semesters beginning with the fall semester.

(2) "Adult student" shall mean an individual 25 years of age or older at the time of enrollment.

(3) "Family" for a dependent applicant shall mean the applicant, the applicant's parents or legal guardian, relative caregiver, and other children under the age of 21 of the applicant's parents, legal guardian or relative caregiver. The term "family" for an independent applicant shall mean the applicant, an applicant's spouse and any dependent children.

(4) "Full-time" shall mean a minimum of 24 credit hours in each academic year.

(5) "Institution" shall mean Delaware Technical and Community College or the University of Delaware, Associate in Arts Program.

(6) "Recognized academic credential" shall mean a diploma or certificate of completion for a credit or noncredit training program consisting of 100 hours of instruction or more, or that requires a student to pass a licensure or certification examination approved by a federal, state or local government, regulatory body, or industry/trade group.

(7) "School activity" shall mean open house, school curriculum night, parent and teacher conference night, holiday program, or other school-related events conducted by a public middle school or high school where parents, community members, and students are encouraged to attend and participate.

(8) "Violent felony" shall mean any felony listed in § 4201(c) of Title 11, except for drug-related offenses set forth in Title 16.

(75 Del. Laws, c. 222, § 1; 79 Del. Laws, c. 254, § 1; 83 Del. Laws, c. 239, § 1.)

## § 3403A. Administration.

(a) This subchapter shall be administered by the institution where the student is enrolled or has sought admission.

(b) Each institution shall adopt such rules and regulations as it deems necessary and proper to the administration of this subchapter. Such rules and regulations may include an appeals process to grant exceptions to the eligibility requirements set forth in § 3406A(a)(1) and (2) of this title for applicants who are unable to make steady academic progress toward the completion of an associate's degree or other recognized academic credential due to military service, participation in a full time volunteer service program, personal or family hardship, or a documented medical condition. Applicants who are granted an exception pursuant to this subsection will remain subject to the limitation on eligibility set forth in § 3406A(c) of this title.

(c) Each institution shall annually report to the General Assembly of the State the names of its own students enrolled in the SEED program and the total amount of expenditures made under this subchapter. The report must identify which of those students enrolled in the program pursue a bachelor's degree after completion of an associate degree.

(75 Del. Laws, c. 222, § 1; 76 Del. Laws, c. 280, § 421; 80 Del. Laws, c. 79, § 355; 82 Del. Laws, c. 139, § 1; 83 Del. Laws, c. 239, § 1.)

## § 3404A. Eligibility.

(a) To be eligible to participate in the SEED program and to qualify for a grant to pay tuition by the State pursuant to this subchapter for the first semester or other academic unit of post-secondary enrollment at Delaware Technical and Community College or the University of Delaware, Associate in Arts program, a student shall meet all of the following:

(1) Except as provided in paragraph (a)(6) of this section, a student who satisfies the state residency requirements set forth in the institution's residency policy shall be eligible for such grant if that student is enrolled on a full time, degree seeking basis, is a student with a disability seeking a degree through the institution's academic accommodation policy, or is enrolled in a credit or noncredit program leading to the award of a recognized academic credential at Delaware Technical and Community College.

(2) The student shall not have been convicted of any violent felony and the student's parent, legal guardian, or relative caregiver shall certify such fact.

(3) A student shall have applied for all appropriate forms of financial aid for which the student is eligible including, but not limited to, the Federal Pell Grant, financial aid programs administered by the Delaware Higher Education Office, and financial aid programs administered by Delaware Technical and Community College, and/or the University of Delaware, and shall have accepted all such financial assistance offered or awarded to the student, except for loans.

(4) A student shall have graduated from a Delaware public or nonpublic high school or have earned the Delaware State Board of Education Endorsement Secondary Credential. In addition, a student who enrolls in an associate's degree program shall have graduated

from a Delaware public or nonpublic high school with a minimum cumulative average of either 80% or higher on a 100 point scale or a grade point average (G.P.A.) of 2.5 or higher on a 4.0 scale as indicated on the student's official high school transcript. A student who enrolls in an associate's degree program as the holder of a Delaware State Board of Education Endorsement Secondary Credential shall have earned a cumulative score on the GED examination that is equivalent to a 2.5 G.P.A. on a 4.0 scale based on the standard formula for converting GED to GPA. For purposes of this subchapter, a student who does not meet the qualifying criteria may request the institution recalculate the point percentage or G.P.A. based on the student's official high school transcript and the following conversion table:

**G.P.A. Conversion Table**

| Letter Grade | Numerical Grade | G.P.A. |
|---|---|---|
| A | 92-100 | 4.00 |
| B | 83-91 | 3.00 |
| C | 75-82 | 2.00 |
| D | 65-74 | 1.00 |
| F | < 65 | 0.00 |

For purposes of this conversion chart, the numerical value assigned to a letter grade shall be the lowest value in the numerical scale.

(5) A student shall have satisfied admission standards as determined by Delaware Technical and Community College or the University of Delaware, Associate in Arts program for entering students or as determined by the University of Delaware for the Associates in Arts Program; provided, however, that no student participating in the SEED program shall be admitted into Delaware Technical and Community College by special admission standards.

(6) An adult student shall have been a Delaware resident as defined by the institution's residency policy for not less than 5 consecutive years prior to the date of enrollment in addition to meeting the other requirements set forth in paragraph (a)(1) of this section.

(7) Each institution shall create and implement its own equivalency standards for paragraph (a)(4) of this section in establishing eligibility of Delaware home schooled students for grants under the SEED program.

(8) Subject to the limitations set forth in § 3406A(c) of this title, a student who enrolls in a credit or noncredit program leading to the award of a recognized academic credential with a cumulative high school G.P.A. less than 2.5 shall nevertheless be eligible for a SEED grant to pursue an associate's degree if the program in which the student is enrolled is part of a pathway to an associate's degree established by Delaware Technical and Community College and the student successfully completes each step thereof.

(b) Notwithstanding other provisions in this subchapter, for those individuals who have lived in foster care under the jurisdiction of the Department of Services for Children and Their Families at any point in time between the ages of 16 and 18, whether placed within Delaware or outside Delaware, the provisions of paragraphs (a)(4) and (a)(6) of this section, § 3406A(a)(1), and (c) of this title do not apply. Any individual qualifying under this subsection shall make steady academic progress toward an associate's degree and shall not be eligible to receive grants if that individual takes longer than 5 years to attain an associate's degree.

(75 Del. Laws, c. 222, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 261, § 1; 77 Del. Laws, c. 431, § 12; 83 Del. Laws, c. 239, § 1.)

## § 3405A. Grant awards/operations.

Each institution shall establish and implement its own procedures to award grants to eligible students subject to appropriations for such purpose, including, but not limited to, a procedure to determine priority among applicants in the event that the amount of grants requested by eligible applicants exceeds the appropriation, which may include consideration of financial need and academic achievement. Grants shall also be available for the Associates in Arts Program courses taught at Delaware Technical and Community College, and administered jointly with the University of Delaware. Grant awards shall not exceed the available appropriation for each fiscal year. Grant awards shall be disbursed as follows:

Beginning with the 2006-2007 academic year, tuition assistance shall be provided to qualifying applicants in an amount equal to the following:

(1) A grant recipient receiving no other financial assistance specifically designated for tuition and/or other regularly assessed fees with the exception of loans shall receive a grant equal to the full amount of tuition charged by the institution.

(2) A grant recipient receiving other financial assistance specifically designated for tuition and other regularly assessed fees shall receive a grant equal to the difference between the amount of tuition charged by the institution and the amount of the other financial assistance.

(3) If, as a result of applying for federal and state student financial aid, or through other means, it becomes apparent that deliberate fraud was involved in the application process, the institution may reevaluate the recipient's eligibility for grant assistance, and may withdraw a grant award. Any grant award made as the result of deliberate fraud may be recovered by the State through an action at law.

(75 Del. Laws, c. 222, § 1; 83 Del. Laws, c. 239, § 1.)

## § 3406A. Maintaining eligibility.

(a) To maintain continued State payment of tuition once enrolled at Delaware Technical and Community College or the University of Delaware, Associate in Arts program, the student shall meet all of the following:

(1) Make steady academic progress toward an associate degree or completion of a recognized academic credential.

(2) Maintain continuous enrollment for not less than 2 semesters in each successive academic year for students in an associate's degree program, unless granted an exception for cause by the institution. Notwithstanding the foregoing, students who are enrolled in an associate's degree program may take a leave of absence for 1 academic year without affecting their eligibility for continued funding. Students who take a leave of absence under this subsection will remain subject to the limitations set forth in subsection (c) of this section.

(3) For students enrolled in an associate's degree program, have a cumulative grade point average of at least 2.5 calculated on a 4.0 scale at the end of the first academic year and thereafter maintain such a cumulative grade point average. The institution may grant exceptions upon appeal.

(4) The student shall certify that he or she has not been convicted of any violent felony. The parent or guardian of a student 17 years of age or under shall also certify that the student has not been convicted of any violent felony.

(b) Grants made by the SEED program shall not be allowed for courses or other post-secondary units repeated or taken in excess of the requirements for completion of an associate degree or other recognized academic credential with the exception of those courses required by the institution for program admission and courses taken pursuant to the Associates in Arts program.

(c) Students are eligible to participate in this program for a period not to exceed 10 continuous semesters, not including the summer semester.

(d) Subject to the limitations set forth in subsection (c) of this section, a student who completes an associate degree pursuant to this section, maintains the applicable criteria set forth above, and thereafter pursues a bachelor's degree at either the University of Delaware and/or Delaware Technical and Community College shall be eligible for SEED grant moneys toward their junior year and/or pursuing an equivalent number of credits equal to what is otherwise their junior year of higher education.

(e) Subject to the limitations set forth in subsection (c) of this section, a student who successfully completes a credit or noncredit program leading to the award of a recognized academic credential at Delaware Technical and Community College, maintains the applicable criteria set forth above, and thereafter pursues additional recognized academic credentials and/or an associate's degree at either the University of Delaware, Associate in Arts Program and/or Delaware Technical and Community College shall be eligible for SEED grant moneys toward the completion of their training or degree.

(75 Del. Laws, c. 222, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 80, § 423(c); 82 Del. Laws, c. 139, § 2; 83 Del. Laws, c. 239, § 1.)

## § 3407A. Disbursement.

(a) Funds awarded from this program shall be disbursed on a semester by semester basis upon receipt of enrollment verification.

(b) No disbursement on behalf of an individual student, pursuant to this subchapter, who is enrolled in an associate's degree seeking program shall be greater than the tuition charged by the institution.

(c) No disbursement on behalf of an individual student, pursuant to this subchapter, who is enrolled in a credit or noncredit program leading to a recognized academic credential shall exceed the amount of full-time tuition charged by the institution during the corresponding academic year.

(75 Del. Laws, c. 222, § 1; 83 Del. Laws, c. 239, § 1.)

## § 3408A. Additional responsibilities.

(a) Each institution shall develop, promote, and coordinate a public awareness program to inform students and parents of the SEED program.

(b) The Department of Education shall ensure that every school district, and each charter and nonpublic high school, designates at least 1 SEED program contact person, who shall be either a counselor or teacher, at each high school site in this State. The Department of Education shall also ensure that all printed or electronic communications relating to a school activity include information about the SEED Scholarship Program. Printed and electronic communications shall include, but is not limited to, middle school, high school, or district-wide school activity announcements found in or on printed programs, newsletters, e-newsletters, community newspapers, and websites. For school activities where general announcements are made by any school official, information relating to the SEED Scholarship Program shall also be included in those communications.

(75 Del. Laws, c. 222, § 1; 79 Del. Laws, c. 254, § 2; 83 Del. Laws, c. 239, § 1.)

# Subchapter XV

# The Delaware State Inspire Scholarship Act Administered by Delaware State University

(83 Del. Laws, c. 413, § 1.)

## § 3409A. Purpose.

There is hereby created the Delaware State Inspire Scholarship Program. Under this subchapter, qualified, college-bound state resident students are relieved of a substantial part of the burden of paying undergraduate tuition at Delaware State University provided that these students meet the criteria set forth in this subchapter and are pursuing studies leading to a bachelor's degree at Delaware State University. Students who qualify under this subchapter shall not have to repay the State because it is the intent and purpose of the General Assembly, through this subchapter, to help ensure that Delaware students stay in high school, excel academically, and have better access to higher education regardless of a family's financial circumstances and therefore payments under this program shall be grants, not loans.

(77 Del. Laws, c. 476, § 1.)

## § 3410A. Definitions.

For purposes of this subchapter:

(1) "Academic year" means the 2 consecutive academic semesters beginning with the fall semester.

(2) a. "Family" for a dependent applicant means the applicant, the applicant's parents or legal guardian, relative caregiver, and other children under the age of 21 of the applicant's parents, legal guardian or relative caregiver.

b. "Family" for an independent applicant means the applicant, an applicant's spouse and any dependent children.

(3) "Eligibility period" means the maximum length of time that a student is eligible for the Inspire Scholarship Program under § 3412A(b)(2) or § 3414A(c) of this title.

(4) "Full-time" means a minimum of 24 credit hours in each academic year.

(5) "Delaware State Inspire Scholarship Program," "Inspire Scholarship Program" or "Inspire grant" means the tuition payments or grants under this subchapter.

(6) "Institution" means Delaware State University.

(7) "School activity" means an open house, school curriculum night, parent and teacher conference night, holiday program, or other school-related events conducted by a public middle school or high school where parents, community members, and students are encouraged to attend and participate.

(77 Del. Laws, c. 476, § 1; 79 Del. Laws, c. 254, § 3; 85 Del. Laws, c. 221, § 1.)

## § 3411A. Administration.

(a) This subchapter shall be administered by the institution.

(b) The institution shall adopt such rules and regulations as it deems necessary and proper to the administration of this subchapter. Such rules and regulations may include an appeals process to grant exceptions to the eligibility requirements set forth in § 3412A(a)(6) of this title for applicants who are unable to attend classes in the fall semester immediately after graduation from high school due to military service, participation in a full-time volunteer service program, or a documented medical condition. Admission deferrals of up to 1 calendar year in duration may be offered to those students who defer admission due to military service, participation in a full-time volunteer service program, or a documented medical condition. Upon passage of 1 year, students may appeal for an admission deferral for 1 additional consecutive year for the reasons stated above.

(c) The institution shall annually report to the General Assembly of the State the names of its students enrolled in the Inspire Scholarship Program and the total amount of expenditures made under this subchapter.

(77 Del. Laws, c. 476, § 1; 80 Del. Laws, c. 79, § 356.)

## § 3412A. Eligibility.

(a) To be eligible to participate in the Inspire Scholarship program and to qualify for a grant towards tuition assistance by the State pursuant to this subchapter students shall meet all of the following:

(1) A student who satisfies the state residency requirements set forth in the institution's residency policy shall be eligible for such grant if that student is enrolled on a full-time, degree-seeking basis or is a student with a disability seeking a degree through the institution's academic accommodation policy.

(2) The student shall not have been convicted of any felony and the student's parent, legal guardian, or relative caregiver shall certify such fact.

(3) A student shall have applied for all appropriate forms of financial aid for which the student is eligible including, but not limited to, the Federal Pell Grant, financial aid programs administered by the Delaware Higher Education Commission, and financial aid programs administered by Delaware State University, and shall have accepted all such financial assistance offered or awarded to the student, except for loans.

(4) A student shall have graduated from a Delaware public or nonpublic high school with a minimum cumulative average of either 80% or higher on a 100-point scale or a grade point average (G.P.A.) of 2.75 or higher on a 4.0 scale as indicated on the student's official high school transcript. For purposes of this subchapter, a student who does not meet the qualifying criteria may request the institution recalculate the point percentage or G.P.A. based on the student's official high school transcript and the following conversion table:

**G.P.A. Conversion**

| Letter Grade | Numerical Grade | G.P.A. |
|---|---|---|
| A | 92-100 | 4.00 |
| B | 83-91 | 3.00 |
| C | 75-82 | 2.00 |
| D | 65-74 | 1.00 |
| F | < 65 | 0.00 |

For purposes of this conversion chart, the numerical value assigned to a letter grade shall be the lowest value in the numerical scale.

(5) A student shall have satisfied admission standards as determined by Delaware State University.

(6) A student shall be admitted and attend classes at the institution no later than the fall semester immediately after the student's graduation from high school.

(7) The institution shall create and implement its own equivalency standards for paragraphs (a)(4) and (6) of this section in establishing eligibility of Delaware home schooled students for grants under the Inspire Scholarship Program.

(b) Notwithstanding other provisions in this subchapter, for those individuals who have lived in foster care under the jurisdiction of the Department of Services for Children and Their Families at any point in time between the ages of 16 and 18, whether placed within Delaware or outside Delaware, the provisions of paragraphs (a)(4) and (6) of this section, and § 3414A(a)(1) and (c) of this title do not apply. Any individual qualifying under this subsection shall make steady academic progress toward a bachelor's degree and shall not be eligible to receive grants if:

(1) The individual does not begin his or her higher education before age 25; or

(2) The individual takes longer than 6 years to attain a bachelor's degree.

(77 Del. Laws, c. 476, § 1; 70 Del. Laws, c. 186, § 1.)

## § 3413A. Grant awards/operations.

The institution shall establish and implement its own procedures to award grants to eligible students subject to appropriations for such purpose, including, but not limited to, a procedure to determine priority among applicants in the event that the amount of grants requested by eligible applicants exceeds the appropriation, which may include consideration of financial need and academic achievement. Grant awards shall not exceed the available appropriation for each fiscal year. Grant awards shall be disbursed as follows:

Beginning with the 2021-2022 academic year, tuition assistance shall be provided to qualifying applicants in an amount equal to the following:

(1) A recipient shall receive a grant for tuition assistance that shall be equal to full in-state tuition at the institution.

(2) Inspire grants are renewable, provided that the recipient meets eligibility requirements in § 3414A of this title..

(3) If, as a result of applying for federal and state student financial aid, or through other means, it becomes apparent that deliberate fraud was involved in the application process, the institution may reevaluate the recipient's eligibility for grant assistance, and may withdraw a grant award. Any grant award made as the result of deliberate fraud may be recovered by the State through an action at law.

(77 Del. Laws, c. 476, § 1; 83 Del. Laws, c. 97, § 1.)

## § 3414A. Maintaining eligibility.

(a) To maintain continued state payment of tuition once enrolled at the institution shall meet all of the following:

(1) Make steady academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in each academic year.

(2) Maintain continuous enrollment for not less than 2 semesters in each successive academic year, unless granted an exception for cause by the institution.

(3) Have a cumulative grade point average of at least 2.75 calculated on a 4.0 scale at the end of the first academic year and thereafter maintain such a cumulative grade point average. The institution may grant exceptions upon appeal.

(4) The student and family shall certify that the student has not been convicted of any felony.

(5) Complete 10 hours of community service, as defined by the institution, per semester.

(b) Grants made by the Inspire Scholarship Program shall not be allowed for courses or other post-secondary units repeated or taken in excess of the requirements for completion of an bachelor's degree with the exception of those courses required by the institution for program admission.

(c) Students are eligible to participate in this program for a period not to exceed 8 continuous semesters, not including the summer semester.

(77 Del. Laws, c. 476, § 1; 81 Del. Laws, c. 243, § 1.)

### § 3415A. Disbursement.

(a) Funds awarded from this program shall be disbursed on a semester by semester basis upon receipt of enrollment verification.

(b) No disbursement on behalf of an individual student, pursuant to this subchapter, shall be greater than the tuition charged by the institution.

(77 Del. Laws, c. 476, § 1.)

### § 3416A. Additional responsibilities.

(a) The institution shall develop, promote, and coordinate a public awareness program to inform students and parents of the Inspire Scholarship Program.

(b) The Department of Education shall ensure that every school district, and each charter and nonpublic high school, designates at least 1 Inspire Scholarship Program contact person, who shall be either a counselor or teacher, at each high school site in this State. The Department of Education shall also ensure that all printed or electronic communications relating to a school activity include information about the Inspire Scholarship Program. Printed and electronic communications shall include, but is not limited to, middle school, high school, or district-wide school activity announcements found in or on printed programs, newsletters, e-newsletters, community newspapers, and websites. For school activities where general announcements are made by any school official, information relating to the Inspire Scholarship Program shall also be included in those communications.

(77 Del. Laws, c. 476, § 1; 79 Del. Laws, c. 254, § 4.)

### § 3417A. Grant balance.

(a) (1) A student who completes a bachelor's degree before the end of the applicable eligibility period has a remaining Inspire grant balance.

(2) The remaining Inspire grant balance equals the amount of the Inspire grant for each semester of the student's eligibility period after the student receives their bachelor's degree.

(b) A student may use the remaining Inspire grant balance to pay tuition for graduate degree program tuition at Delaware State University.

(c) A student is eligible for the Inspire Scholarship Program under subsection (b) this section for 10 years after completing a bachelor's degree if the student meets all of the requirements under § 3412A and § 3414A of this title, except as follows:

(1) The student does not need to be enrolled on a full-time basis.

(2) The student does not need to maintain continuous enrollment.

(85 Del. Laws, c. 221, § 2.)

## Subchapter XVI

## The Delaware Advance Scholarship Act Administered by University of Delaware

(81 Del. Laws, c. 325, § 1; 83 Del. Laws, c. 413, § 1.)

### § 3421A. Purpose.

Under this subchapter, qualified, state-resident students with intellectual disabilities are eligible for grants to pay tuition at institutions of higher education in this State to pursue studies leading to a recognized credential. It is the intent and purpose of the General Assembly, through this subchapter, to help ensure that students with intellectual disabilities in this State have the same opportunities as their peers without disabilities to excel academically and pursue higher education regardless of financial circumstances. Therefore, payments under this program are grants, not loans.

(81 Del. Laws, c. 325, § 1.)

### § 3422A. Definitions.

As used in this subchapter:

(1) "Academic year" means the 3 consecutive academic semesters beginning with the fall semester.

(2) "CTP Program" means a federally-approved comprehensive transition and postsecondary program, under 34 C.F.R. § 668.232, for students with intellectual disabilities that leads to a degree, certificate, nondegree, or noncertificate credential that, in accordance with 34 C.F.R § 668.231, meets all of the following:

a. Is offered by a participating institution.

b. Is delivered to students physically attending the institution.

c. Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment.

d. Includes an advising and curriculum structure.

e. Requires students with intellectual disabilities to have at least ½ of their participation in the program, as determined by the institution, focus on academic components through 1 or more of the following activities:

1. Taking credit-bearing courses with students without disabilities.

2. Auditing or otherwise participating in courses with students without disabilities for which the student does not receive regular academic credit.

3. Taking noncredit-bearing, nondegree courses with students without disabilities.

4. Participating in internships or work-based training in settings with individuals without disabilities.

f. Provides students with intellectual disabilities opportunities to participate in coursework and other activities with students without disabilities.

(3) "Full-time" means a minimum of 24 credit hours or 300 clock hours in each academic year.

(4) "Institution" means a state-funded institution of higher education in this State that offers a CTP Program.

(5) "Student with an intellectual disability" means a student with a cognitive impairment characterized by significant limitations in cognitive functioning and adaptive behavior as expressed in conceptual, social, and practical adaptive skills who meets 1 or both of the following:

a. Is currently, or was formerly, eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1400 et seq.], including a student who was determined eligible for special education or related services under the IDEA but was home-schooled or attended private school.

b. Is eligible for services from the Division of Developmental Disabilities Services.

(6) "Tuition" means costs associated with coursework and CTP Program-related fees.

(81 Del. Laws, c. 325, § 1.)

## § 3423A. Delaware Advance Scholarship Program; establishment; administration; report.

(a) This subchapter establishes the Delaware Advance Scholarship Program.

(b) An institution at which a student is enrolled or has sought admission shall administer this subchapter for the institution.

(c) An institution under subsection (b) of this section shall adopt rules and regulations as it deems necessary and proper for the administration of this subchapter.

(1) The institution may include in its rules and regulations an appeals process to grant exceptions to the eligibility requirements set forth in § 3424A of this title for applicants who are unable to attend classes in the fall semester immediately after graduation from high school due to a documented medical or mental condition.

(2) a. If an institution adopts an appeals process under paragraph (c)(1) of this section, the institution may offer an admission deferral of up to 1 calendar year in duration to a student who seeks to defers admission due to a documented medical or mental condition.

b. An institution may grant a student who was offered an admission deferral under paragraph (c)(2)a. of this section an additional admission deferral of up to 1 calendar year in duration if the student seeks the additional deferral due to a documented medical or mental condition.

(d) An institution shall annually report to the Controller General the number of students enrolled in the Delaware Advance Scholarship Program and the total amount of expenditures made under this subchapter.

(81 Del. Laws, c. 325, § 1.)

## § 3424A. Initial eligibility.

(a) A student must meet all of the following to be eligible to participate in the Delaware Advance Scholarship Program and to qualify for a grant to pay tuition by the State under this subchapter for the first semester or other academic unit of postsecondary enrollment at an institution:

(1) Be under 25 years of age.

(2) Be a student with an intellectual disability.

(3) Meet the state residency requirements in the institution's residency policy.

(4) Be enrolled at the institution on a full-time, credential-seeking basis or be seeking a credential through the institution's academic accommodation policy.

(5) Not have a felony conviction. The student must certify this fact. If the student is unable to so certify, whether due to minority or disability, the student's parent, legal guardian, or relative caregiver shall make this certification on the student's behalf.

(6) Have applied for all appropriate forms of financial aid for which the student is eligible including the Federal Pell Grant, financial aid programs administered by the Delaware Higher Education Office, and financial aid programs administered by the institution, and have accepted all such financial assistance offered or awarded to the student, except for loans.

(7) Have graduated from a public or nonpublic high school in this State with a certificate of completion or diploma as indicated on the student's official high school transcript.

(8) Meet the institution's admission standards.

(9) Be admitted and attend classes at the institution no later than 2 years after the student's completion of high school.

(b) An institution shall create and implement its own equivalency standards for paragraphs (a)(7) and (a)(9) of this section in establishing eligibility of home-schooled students of this State for grants under this subchapter.

(c) Notwithstanding other provisions of this subchapter, the provisions of paragraphs (a)(7) and (a)(9) of this section do not apply to any of the following:

(1) A student who is a resident of this State and who acquired an intellectual disability within the developmental period between the ages of 18 and 21.

(2) A student who has lived in foster care under the jurisdiction of the Department of Services for Children, Youth, and Their Families at any point between the ages of 16 and 18, whether placed within this State or outside the State.

(81 Del. Laws, c. 325, § 1.)

## § 3425A. Grant awards.

(a) An institution shall establish and implement its own procedures to award grants to students who meet the eligibility requirements of this subchapter, subject to appropriations for such purpose.

(b) (1) An institution's procedures under subsection (a) of this section must include a procedure to determine priority among students if the amount of grants requested by students who meet the eligibility requirements of this subchapter exceeds the appropriation.

(2) An institution's procedure under paragraph (b)(1) of this section may include consideration of financial need and academic achievement.

(c) An institution's grant awards may not exceed the available appropriation for each fiscal year.

(d) Beginning with the 2018 through 2019 academic year, an institution shall disburse its grant awards as follows:

(1) A student who meets the eligibility requirements of this subchapter and who is not receiving any other financial assistance specifically designated for tuition and other regularly assessed fees, not including loans, may receive a grant equal to the full amount of tuition charged by the institution.

(2) A student who meets the eligibility requirements of this subchapter and who is receiving other financial assistance specifically designated for tuition and other regularly assessed fees may receive a grant in the amount of the difference between the amount of tuition charged by the institution and the amount of the other financial assistance available to the student.

(3) a. If a student meets the eligibility requirements of this subchapter, an institution may renew a grant made under this subchapter.

b. Notwithstanding paragraph (d)(3)a. of this section, the total amount of grants awarded under this subchapter to a student over the course of a student's education may not exceed the total amount of grants awarded to a student under subchapter XIV of this chapter over the course of that student's education.

(e) If, as a result of applying for federal and state student financial aid, or through other means, it becomes apparent that deliberate fraud was involved in the application process, the institution may reevaluate the student's eligibility for grant assistance, and may withdraw a grant award. The State may recover a grant award made as the result of deliberate fraud through an action at law.

(f) A student may not use grants awarded under this subchapter for courses or other postsecondary units repeated or taken in excess of the requirements for completion of the program credential.

(81 Del. Laws, c. 325, § 1.)

## § 3426A. Maintaining eligibility.

(a) A student must meet all of the following to maintain eligibility for grants under this subchapter once enrolled at an institution:

(1) Make steady academic progress toward a credential, earning not less than the minimum number of clock or credit hours required for full-time standing in each academic year.

(2) Maintain continuous enrollment for not less than 2 semesters in each successive academic year, unless granted an exception for cause by the institution.

(3) Maintain satisfactory academic progress in accordance with the institution's financial aid policy, unless granted an exception for cause by the institution.

(4) Not have a felony conviction. The student must certify this fact. If the student is unable to so certify, whether due to minority or disability, the student's parent, legal guardian, or relative caregiver shall make this certification on the student's behalf.

(b) (1) A student who meets the eligibility requirements of this subchapter may participate in the Delaware Advance Scholarship Program for a period not to exceed 6 continuous semesters, not including any summer semester.

(2) Notwithstanding paragraph (b)(1) of this section, a student may not take more than 5 years to attain a credential.

(c) Notwithstanding other provisions of this subchapter, subsection (b) of this section does not apply to any of the following:

(1) A student who is a resident of this State and who acquired an intellectual disability within the developmental period between the ages of 18 and 21.

(2) A student who has lived in foster care under the jurisdiction of the Department of Services for Children, Youth, and Their Families at any point between the ages of 16 and 18, whether placed within this State or outside the State.

(81 Del. Laws, c. 325, § 1.)

### § 3427A. Disbursement.

(a) Funds awarded under this subchapter are to be disbursed on a semester by semester basis upon receipt of enrollment verification.

(b) A disbursement of funds on behalf of a student under this subchapter may not exceed the tuition charged by the institution at which the student is enrolled.

(81 Del. Laws, c. 325, § 1.)

### § 3428A. Additional responsibilities.

(a) An institution participating in the Delaware Advance Scholarship Program shall develop, promote, and coordinate a public awareness program to inform students and parents of the Delaware Advance Scholarship Program.

(b) The Department of Education shall ensure that every school district, and each charter and nonpublic high school, designates at least 1 Delaware Advance Scholarship Program contact person, who must be a counselor, teacher, or transition coordinator at each high school in this State.

(81 Del. Laws, c. 325, § 1.)

## Subchapter XVII

## The Fostering Independence Through Education Tuition Waiver

(83 Del. Laws, c. 255, § 1.)

### § 3431A. Purpose.

Under this subchapter, qualified students who spent part of their childhood in foster care will receive a tuition waiver to attend state institutions of higher education. It is the intent and purpose of the General Assembly, through this subchapter, to help ensure that young adults who experienced instability in their childhood and were in the State's foster care system are provided the opportunity to improve their lives and pursue higher education regardless of financial circumstances.

(83 Del. Laws, c. 255, § 1.)

### § 3432A. Definitions.

As used in this subchapter:

(1) "Department" means the Department of Services for Children, Youth & Their Families.

(2) "Eligible costs" means tuition and all mandatory fees relating to attendance at the institution. Where the institution offers room and board to its students, eligible costs include on-campus housing and a standard meal plan, which shall be made available to waiver recipients year-round, so long as the waiver recipient is registered for a sufficient number of credits in the spring and fall semesters to be eligible for on-campus housing.

(3) "Fostering independence waiver" or "waiver" means a waiver of tuition under the Program.

(4) "Institution of higher education" or "institution" means University of Delaware, Delaware State University, and Delaware Technical and Community College.

(5) "Office" means the Office of the Child Advocate.

(6) "Program" means the Delaware Fostering Independence Through Education Tuition Waiver Program established by this subchapter.

(83 Del. Laws, c. 255, § 1; 84 Del. Laws, c. 509, § 2.)

### § 3433A. Delaware Fostering Independence Through Education Tuition Waiver Program.

(a) This subchapter establishes the Delaware Fostering Independence Through Education Tuition Waiver Program.

(b) An institution of higher education shall award a fostering independence waiver for undergraduate courses at the institution for each student who is eligible under this section.

(c) To receive a fostering independence waiver under this section, a student must be a current resident of this State, under the age of 26, and meet 1 of the following:

(1) Be eligible for the Delaware Chafee Education and Training Voucher program.

(2) Have 12 or more months in the custody of the Department when the student was between the ages of 14 and 18.

(d) The amount of the waiver is for total eligible costs of attending the institution, less any grants or scholarships the student receives.

(1) The institution of higher education may not apply any loans toward the eligible costs of attendance. Loans may only be applied to costs that exceed the eligible costs of attendance.

(2) Ivyane Davis Scholarships and Chafee Education and Training Vouchers administered by the Office may not be included as grants or scholarships, and must instead be applied to any direct or indirect costs in excess of the waiver.

(e) The waiver covers eligible costs for winter and summer courses if offered by the institution. This includes Delaware State University's Summer Academy regardless of a student's admission status.

(f) The waiver covers eligible costs for students whether enrolled full time or part time.

(1) If continuously enrolled full time, the student is eligible for the waiver for up to 5 years, until the student earns a bachelor's degree, or until the student reaches the age of 26, whichever occurs first.

(2) If at any time the student is enrolled part time, the student is eligible for the waiver until the student reaches the age of 26 or the student earns a bachelor's degree, whichever occurs first.

(83 Del. Laws, c. 255, § 1; 84 Del. Laws, c. 509, § 3.)

## § 3434A. Administration of the Program.

(a) The Office shall administer the Program. The Office shall coordinate with the Department and each institution of higher education to provide resources and assistance to eligible students and to achieve the purposes of the Program.

(b) In implementing the Office's role in administering the Program, the Office shall do all of the following:

(1) Serve as the primary contact for students participating in the Program.

(2) Coordinate eligibility verification for the Program.

(3) Assist eligible students with identifying additional direct and indirect costs of higher education to determine whether any additional sources of funding are required.

(4) Coordinate with the Department and each institution of higher education to ensure the institution has policies and procedures in place for application of the waiver, scholarships and grants, and any additional costs and fees, as well as housing and food access during school breaks for students eligible for on-campus housing.

(5) Coordinate with the Department and the Department's contracted independent living providers to assist students in addressing issues related to participation in the Program.

(6) Maintain a record of students participating in the Program and coordinate with each institution of higher education to report by April 1 of each year to the Controller General and the Office of Management and Budget the number of students who are receiving a waiver under this subchapter.

(7) Include in the Office's annual summary to the Governor and the General Assembly, as required by § 9005A(11) of Title 29, the number of recipients of the tuition waiver, the institutions attended by the recipients, and such other information as the Office deems useful. The summary may not include identifying or confidential information on recipients.

(8) Adopt rules and regulations as the Office deems necessary and proper to administer the Program.

(c) In implementing the role of the institutions of higher education in administering the Program, each institution of higher education shall designate an appropriate staff person to serve as the point of contact for the Office and for students participating in the Program who are attending the institution. The point of contact, and staff designated to assist the point of contact, shall do all of the following:

(1) Ensure contact information for the point of contact is posted on the publicly accessible internet website of the institution of higher education.

(2) Assist students with obtaining verification of eligibility for the Program from the Office.

(3) Assist eligible students to access available federal and state financial aid resources and identify further scholarship and grant opportunities. Notwithstanding this paragraph (c)(3), the institution of higher education shall coordinate with the Office before any eligible student applies for or receives loans.

(4) Provide students participating in the Program with information and referrals for on-campus and off-campus support services and resources.

(5) Maintain a record of students participating in the Program and provide those records to the Office so the Office may comply with paragraph (b)(6) of this section.

(83 Del. Laws, c. 255, § 1; 84 Del. Laws, c. 509, § 4.)

# Part I
# Free Public Schools
## Chapter 35
## Part-Time Schools and Classes

### § 3501. Part-time schools or classes for children having employment certificates.

The board of education in every school district in this State in which there are employed or there reside 15 or more children between the ages of 12 and 16 years to whom have been granted employment certificates in accordance with the child labor and compulsory school attendance laws shall establish and maintain part-time schools and classes in general civic or vocational subjects for such employed children or for minors under 16 who have ceased to attend all-day schools. Such schools and classes shall be under the control and management of the board of education and shall be an integral part of the public school system of the city or district which maintains them. The part-time schools or classes shall be maintained each year during the full period of time when the public schools of the district are in session.

(32 Del. Laws, c. 162, § 1; Code 1935, § 2691; 14 Del. C. 1953, § 3501.)

### § 3502. Financing costs.

(a) Whenever any part-time schools or classes have been established in accordance with this chapter and the rules and regulations established by the Department and have been approved by the Department, the school district shall be entitled to reimbursement from federal and state funds available for the promotion of vocational education for the expenditures made for the salaries of teachers of such part-time schools or classes and such reimbursement shall be apportioned by the Department.

(b) The local board of any school district may raise and expend moneys for the support of such part-time schools or classes in a manner similar to that by which moneys are raised and expended for other school purposes. School boards may make a levy sufficient to cover expenses of such schools over and above the amount now provided for school purposes.

(32 Del. Laws, c. 162, § 11; Code 1935, § 2700; 14 Del. C. 1953, § 3502; 71 Del. Laws, c. 180, § 163.)

### § 3503. Excusing nonestablishment of part-time schools or classes.

Whenever any school board deems it inexpedient to organize part-time schools or classes for employed minors, it shall state the reasons for such inexpediency in a petition to the State Director for Vocational Education, and when the Secretary or Deputy Secretary of Education, upon the recommendation of the State Director, judges such reasons to be valid, the school board shall be excused from the establishment of such part-time schools or classes.

(32 Del. Laws, c. 162, § 12; Code 1935, § 2701; 14 Del. C. 1953, § 3503; 71 Del. Laws, c. 180, § 164.)

### § 3504. Failure to establish part-time schools or classes.

Any school district which refuses or neglects to provide adequately for part-time schools or classes as required by this chapter shall forfeit from state funds due such school district for high school purposes an amount equal to that which is estimated by the Department of Education as necessary to operate and maintain part-time classes needed by that school district.

(32 Del. Laws, c. 162, § 9; Code 1935, § 2698; 14 Del. C. 1953, § 3504; 71 Del. Laws, c. 180, § 165.)

### § 3505. Employment certificates, permits, badges and records.

The Secretary of Education and superintendents of schools in school districts, or persons designated by such superintendents, shall issue employment certificates, permits and badges and the principal or the head teacher of the several free public schools shall make out and sign such records as are required by the laws regulating child labor.

(32 Del. Laws, c. 160, § 46; Code 1935, § 2690; 14 Del. C. 1953, § 3505; 57 Del. Laws, c. 113; 71 Del. Laws, c. 180, § 166.)

### § 3506. Private schools; child labor law records.

Private teachers and the principal or head teacher of private schools or educational institutions shall make out and sign such records as are required by the laws regulating child labor.

(32 Del. Laws, c. 160, § 55; Code 1935, § 2749; 14 Del. C. 1953, § 3506.)

### § 3507. School attendance requirements for employed children.

All minors under the age of 16 years must attend an all-day school, as that term is used in this title, or be legally employed. Every parent, guardian or other person having custody and control of a child between the ages of 12 and 16, who has been granted a certificate to leave school to engage in a legal employment shall cause such a child to attend a part-time school or class for a period the equivalent of at least 4 hours each week for at least 36 weeks in each year while so employed. When such minor is temporarily unemployed, the hours of attendance upon such part-time school or class shall be at least 20 hours per week.

(32 Del. Laws, c. 162, § 2; Code 1935, § 2692; 14 Del. C. 1953, § 3507.)

### § 3508. District and hours of school attendance.

Attendance at part-time schools or classes shall be in the school district where the minor resides or is employed and shall be during the hours of 8:00 a.m. and 5:00 p.m., except on Saturday, when the hours shall be from 8:00 a.m. until noon.

(32 Del. Laws, c. 162, § 3; Code 1935, § 2693; 14 Del. C. 1953, § 3508.)

### § 3509. Time spent in school as hours of legal employment.

The time spent in a part-time school or class by a minor under the age of 16 years shall be counted as a part of the time or number of hours the minor is permitted by law to work.

(32 Del. Laws, c. 162, § 5; Code 1935, § 2694; 14 Del. C. 1953, § 3509.)

### § 3510. Employment on farm, in home or domestic service.

A minor employed on the farm, in the home or in domestic service shall be considered as a minor legally employed in some occupation or service.

(32 Del. Laws, c. 162, § 5; Code 1935, § 2694; 14 Del. C. 1953, § 3510.)

### § 3511. Revocation of employment certificate.

Any minor subject to this chapter who fails to attend the part-time school or class may have that minor's employment and school leaving certificate revoked.

(32 Del. Laws, c. 162, § 6; Code 1935, § 2695; 14 Del. C. 1953, § 3511; 70 Del. Laws, c. 186, § 1.)

### § 3512. Penalty for failure to attend.

All of the penalties provided in Chapter 27 of this title are made applicable in requiring the attendance of minors under the age of 16 years subject to this chapter upon a part-time school or class.

(32 Del. Laws, c. 162, § 7; Code 1935, § 2696; 14 Del. C. 1953, § 3512.)

### § 3513. Child Labor Law penalties applicable to employer.

All of the penalties provided in the Delaware Child Labor Law, Chapter 5 of Title 19, are made applicable for any violation of this chapter by any person employing a minor subject to this chapter. The employer shall permit the attendance upon part-time schools or classes of all minors in that employer's employ who are subject to this chapter.

(32 Del. Laws, c. 162, § 8; Code 1935, § 2697; 14 Del. C. 1953, § 3513; 70 Del. Laws, c. 186, § 1.)

### § 3514. Enforcement of part-time school attendance.

The school officials charged with the responsibility of enforcing the compulsory attendance laws of this State shall also be responsible for the enforcement of the attendance upon part-time schools or classes in accordance with the terms of this chapter.

(32 Del. Laws, c. 162, § 10; Code 1935, § 2699; 14 Del. C. 1953, § 3514.)

### § 3515. Americanization of foreign born non-English speaking residents.

In any school district within this State, including the City of Wilmington, where there are 10 or more persons over 16 years of age who do not speak the English language and who desire to attend a class or classes in which they may receive instruction in speaking English, the body having control of the public schools of such district or of such City may establish a class or classes, to be held in the evening or at such other time as may be convenient for such persons, for the instruction of such persons in the English language and in the institutions and forms of government of the United States and this State. The teachers for such classes shall be employed by the body having control of the public schools and need not be holders of certificates under this title.

(32 Del. Laws, c. 165, § 1; 14 Del. C. 1953, § 3515.)

# Part I
# Free Public Schools

## Chapter 36
## Educational Benefits for Children of Deceased Veterans and Others

### §§ 3601-3606. Statement of purpose; requirements to receive benefits; vested rights; eligible institutions; extent of benefit; administration of chapter [Repealed].

Repealed by 73 Del. Laws, c. 188, § 5, effective July 17, 2001.

# Part I
# Free Public Schools

## Chapter 37
## Replacement of Property Destroyed by Casualty

### § 3701. Report on destruction of school property.

Wherever a public school building or the equipment thereof is damaged or destroyed by fire or other casualty, the local school district in which the school building is located shall, as soon as may be practicable, send to the Secretary of Education, with a copy to the State Risk Manager, a written communication giving detailed information respecting the fire or other casualty stating, among other things, the name of the school building and local school district where the fire or other casualty occurred and a description of the building and equipment with the cost or approximate value thereof.

(36 Del. Laws, c. 210, § 1; Code 1935, § 2729; 14 Del. C. 1953, § 3701; 71 Del. Laws, c. 180, § 167.)

### § 3702. Governor's allocation of General Fund.

Upon receipt of a written communication from the Secretary of Education and the State Risk Manager, the Governor may authorize, if there is a sufficient surplus available in the General Fund to meet the obligation, the allocation of an amount which, in the sole judgment and discretion of the Governor, is appropriate for such rebuilding and replacement.

(36 Del. Laws, c. 210, § 2; Code 1935, § 2730; 14 Del. C. 1953, § 3702; 63 Del. Laws, c. 142, § 36; 71 Del. Laws, c. 180, § 167A.)

### § 3703. Replacement of property; disbursements.

The Director of the Office of Management and Budget and State Risk Manager shall authorize the transfer and expenditure of funds allocated pursuant to § 3702 of this title.

(71 Del. Laws, c. 180, § 167B; 75 Del. Laws, c. 88, § 21(7).)

### § 3704. Cost records.

The State Risk Manager shall keep accurate detailed accounts of the cost of each rebuilding of school buildings and replacement of school equipment under this chapter and of all moneys expended by the State therefor.

(36 Del. Laws, c. 210, §§ 4, 5; Code 1935, §§ 2733, 2735; 14 Del. C. 1953, § 3706; 71 Del. Laws, c. 180, § 167D.)

### § 3705. Prompt replacement of property.

The Department of Education and local school districts shall see that the rebuilding of school buildings and the replacement of school equipment, destroyed in whole or in part by fire or other casualty within their respective jurisdictions under this chapter, are carried out with all reasonable dispatch.

(36 Del. Laws, c. 210, § 6; Code 1935, § 2736; 14 Del. C. 1953, § 3707; 71 Del. Laws, c. 180, § 167E.)

### §§ 3706, 3707.

# Part I
# Free Public Schools

## Chapter 38
## Controlled Substances [Repealed]

### § 3801. Declaration of purpose [Repealed].

(67 Del. Laws, c. 244, § 1; repealed by 84 Del. Laws, c. 201, § 2, effective Sept. 11, 2023.)

### § 3802. Definitions [Repealed].

(67 Del. Laws, c. 244, § 1; 73 Del. Laws, c. 41, § 1; 74 Del. Laws, c. 110, § 138; repealed by 84 Del. Laws, c. 201, § 2, effective Sept. 11, 2023.)

### § 3803. Division of Substance Abuse and Mental Health [Repealed].

(67 Del. Laws, c. 244, § 1; 73 Del. Laws, c. 41, § 1; repealed by 84 Del. Laws, c. 201, § 2, effective Sept. 11, 2023.)

### § 3804. State Drug-free School Advisory Committee [Repealed].

(67 Del. Laws, c. 244, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 168; 73 Del. Laws, c. 41, § 1; repealed by 84 Del. Laws, c. 201, § 2, effective Sept. 11, 2023.)

### § 3805. Local drug-free school advisory committees [Repealed].

(67 Del. Laws, c. 244, § 1; repealed by 84 Del. Laws, c. 201, § 2, effective Sept. 11, 2023.)

### § 3806. Utilization of funds [Repealed].

(67 Del. Laws, c. 244, § 1; repealed by 84 Del. Laws, c. 201, § 2, effective Sept. 11, 2023.)

### § 3807. State Board of Education; Department of Safety and Homeland Security [Repealed].

(67 Del. Laws, c. 244, § 1; 71 Del. Laws, c. 180, § 169; 74 Del. Laws, c. 110, § 138; repealed by 84 Del. Laws, c. 201, § 2, effective Sept. 11, 2023.)

# Part I
# Free Public Schools

## Chapter 39
## Teachers' Retirement and Disability Pensions

### § 3901. Fund for retired and disabled teachers.

There shall continue to be a fund for the purpose of paying pensions or allowances to retired and disabled teachers who have taught in public schools within this State.

(45 Del. Laws, c. 240, § 1; 47 Del. Laws, c. 240, § 1; 14 Del. C. 1953, § 3901.)

### § 3902. Retirement benefits.

Teachers who were inactive in their profession on April 23, 1945, who, prior to that date, taught in the public schools of this State for 25 years or more and are no longer capable of teaching, and teachers who were inactive in their profession on April 23, 1945, who, prior to that date, taught in the public schools of this State for 15 years or more and who attain the age of 65, shall be entitled to receive a pension out of the fund continued by § 3901 of this title for the duration of their respective lives. The amount of such pension shall be determined by the number of years of teaching service, as follows:

---

15 years of service, $185 per month;
16 to 20 years of service, $190 per month;
21 to 25 years of service, $200 per month;
26 or more years of service, $210 per month.

(45 Del. Laws, c. 106, § 2; 47 Del. Laws, c. 240, § 2; 48 Del. Laws, c. 191, § 1; 14 Del. C. 1953, § 3902; 53 Del. Laws, c. 336, § 2; 54 Del. Laws, c. 326, § 1; 58 Del. Laws, c. 180, § 4A.)

### § 3903. Disability benefits.

Teachers who, prior to April 23, 1945, because of failing or lost eyesight, loss of limb or other physical disability, were required to abandon the teaching profession, and, by reason of such disability, are incapable of securing employment producing a living wage, and who taught as many as 3 school years in this State, shall be entitled to receive, out of the fund continued by § 3901 of this title, the sum of $185 per month for the duration of their respective disabilities.

(45 Del. Laws, c. 106, § 2; 47 Del. Laws, c. 240, § 2; 48 Del. Laws, c. 191, § 1; 14 Del. C. 1953, § 3903; 50 Del. Laws, c. 516, § 2; 53 Del. Laws, c. 336; 54 Del. Laws, c. 326, § 2; 58 Del. Laws, c. 180, § 4B.)

### § 3904. Application for benefits.

Persons qualified to receive any nondisability retirement benefits under this chapter shall make application therefor to the Department of Finance.

Persons qualified to receive any disability pension benefits under this chapter shall make application therefor to the Board of Pension Trustees.

(45 Del. Laws, c. 106, § 2; 48 Del. Laws, c. 191, § 1; 14 Del. C. 1953, § 3904; 57 Del. Laws, c. 741, § 40A.)

### § 3905. Investigation of application and eligibility.

The Department of Finance and the Board of Pension Trustees shall make investigations in order to determine the eligibility of the applicants or persons entitled to receive benefits under this chapter, as provided by law.

(45 Del. Laws, c. 106, § 3; 14 Del. C. 1953, § 3905; 57 Del. Laws, c. 741, § 40B.)

### § 3906. Payment of benefits.

The Secretary of Finance shall pay monthly to persons designated by the Department of Finance and Board of Pension Trustees as being entitled to the benefits of this chapter.

(45 Del. Laws, c. 106, § 4; 14 Del. C. 1953, § 3906; 57 Del. Laws, c. 741, § 40C.)

### § 3907. Unexpended appropriations.

All moneys appropriated for the purposes of this chapter and not expended during any fiscal year shall revert to the General Fund of the State Treasury.

(45 Del. Laws, c. 106, § 5; 14 Del. C. 1953, § 3907.)

## § 3908. Adjustment of benefits.

(a) On and after July 1, 1972, no pension which has been in effect for 3 years shall be subject to adjustment. This provision shall not apply to adjustments of pensions required to implement subsection (b) of this section.

(b) Effective September 1, 1972, the amount of any pension in effect on July 1, 1969, shall be the greater of: (1) The monthly pension rate paid in July, 1969, or (2) the recalculated amount determined as a result of audits made between May, 1971, and June 30, 1972, inclusive of any increases provided between July 1, 1969, and June 30, 1972, provided that the minimum pension payable for any month after July, 1969 shall be the monthly pension rate paid in July, 1969.

(c) Any pension overpayments discovered as a result of audits made between May, 1971, and June 30, 1972, shall not be subject to recovery.

(14 Del. C. 1953, § 3908; 58 Del. Laws, c. 527, § 3.)

## § 3909. Increases in pensions.

(a) Effective January 1, 1976, any pension being paid under this chapter to an individual 60 years of age or older shall be increased by either: (1) $30 per month if such individual is also receiving or is eligible for benefits under the Federal Social Security Act; or (2) $50 per month if such individual is not also receiving or eligible for benefits under the Federal Social Security Act [42 U.S.C. § 401 et seq.]; provided that such increase shall be applied to the correct amount determined as a result of audits made between May 1971 and June 1972, and shall only be paid to an individual if such correct amount, inclusive of such increase, exceeds the amount of any pension being paid in accordance with § 3908(b) of this title.

(b) Any pension under this chapter that is payable on February 15, 1980, shall be increased effective January 1, 1979, by $20 per month.

(c) Any pension under this chapter that is payable on April 24, 1984, shall be increased effective July 1, 1984, by $30 per month.

(d) Any pension under this chapter that is payable on the date this subsection is enacted into law shall be increased effective July 1, 1986, by $30 a month.

(e) Any pension under this chapter that is payable on July 13, 1988, shall be increased effective July 1, 1988, by $105 a month.

(f) Any pension under this chapter that is payable on the date this subsection is enacted into law shall be increased effective July 1, 1990, by $60 a month.

(60 Del. Laws, c. 483, § 30; 62 Del. Laws, c. 200, §§ 1, 2; 64 Del. Laws, c. 249, § 2; 65 Del. Laws, c. 489, § 2; 66 Del. Laws, c. 363, § 2; 67 Del. Laws, c. 422, § 2.)

## § 3910. Death benefits.

Upon the death of an individual receiving a pension under this chapter, the sum of $5,000 shall be paid to the designated beneficiary or, in the absence of a designated beneficiary, the amount of this benefit shall be paid to the deceased pensioner’s estate.

(64 Del. Laws, c. 446, § 1; 68 Del. Laws, c. 150, § 2; 69 Del. Laws, c. 451, § 2; 70 Del. Laws, c. 186, § 1.)

# Part I
# Free Public Schools
## Chapter 40
## Public School Employment Relations Act

### § 4001. Statement of policy.

It is the declared policy of the State and the purpose of this chapter to promote harmonious and cooperative relationships between reorganized public school districts and their employees and to protect the public by assuring the orderly and uninterrupted operations and functions of the public school system. These policies are best effectuated by:

(1) Granting to school employees the right of organization and representation;

(2) Obligating boards of education and school employee organizations which have been certified as representing their school employees to enter into collective bargaining negotiations with the willingness to resolve disputes relating to terms and conditions of employment and to reduce to writing any agreements reached through such negotiations; and

(3) Establishing a public employment relations board to assist in resolving disputes between school employees and boards of education and to administer this chapter.

(14 Del. C. 1953, § 4002; 57 Del. Laws, c. 298; 63 Del. Laws, c. 333, § 1.)

### § 4002. Definitions.

(a) "Appropriate bargaining unit" or "bargaining unit" means a group of school employees designated by the Public Employment Relations Board as appropriate for representation by an employee organization for purposes of collective bargaining.

(b) "Arbitration" means the procedure whereby the parties involved in a labor dispute over the interpretation or application of an existing collective bargaining agreement submit their differences to a third party for a final and binding decision.

(c) "Binding interest arbitration" means the procedure by which the Public Employment Relations Board shall make written findings of fact and a decision for final and binding resolution of an impasse arising out of collective bargaining.

(d) "Board" means the Public Employment Relations Board established by § 4006 of this title.

(e) "Certification" means official recognition by the Board, following a secret-ballot election, that an employee organization is the exclusive representative for all employees in an appropriate bargaining unit.

(f) "Collective bargaining" means the performance of the mutual obligation of a school employer through its designated representatives and the exclusive bargaining representative to confer and negotiate in good faith with respect to terms and conditions of employment, and to execute a written contract incorporating any agreements reached. However, this obligation does not compel either party to agree to a proposal or require the making of a concession.

(g) "Confidential employee" means any employee whose essential job function and advanced knowledge about the issues involved in collective bargaining would make it unduly burdensome for the employer to negotiate effectively if the employee were a member of an appropriate bargaining unit.

(h) "Decertification" means the withdrawal by the Board of an employee organization's official designation as exclusive representative following a decertification election which shows that the exclusive representative no longer has the support of a majority of the members in an appropriate bargaining unit.

(i) "Employee organization" means any organization which admits to membership employees of a public school employer and which has as a purpose the representation of such employees in collective bargaining, and includes any person acting as an officer, representative or agent of said organization.

(j) "Exclusive bargaining representative" or "exclusive representative" means the employee organization which as a result of certification by the Board has the right and responsibility to be the collective bargaining agent of all employees in that bargaining unit.

(k) "Fair share fee" means a fee that a nonmember shall be required to pay to the exclusive representative to offset the nonmember's per capita share of the exclusive representative's expenditures. Such fee shall be equal in amount to regular membership dues that a member of the exclusive representative is required to pay, including payments to the exclusive representative's affiliated organizations, or such lesser amount as is prescribed by the exclusive representative in compliance with the procedures contained herein.

(*l*) "Impasse" means the failure of a public school employer and the exclusive bargaining representative to reach agreement in the course of collective bargaining.

(m) "Mediation" means an effort by an impartial third party confidentially to assist in reconciling an impasse between the public school employer and the exclusive bargaining representative regarding terms and conditions of employment.

(n) "Nonmember" means an employee of a public school employer who is not a member of the exclusive representative, but who is represented in a collective bargaining unit by the exclusive representative for purposes of collective bargaining.

(o) "Public school administrator" means and includes all public school employees performing primarily administrative functions and employed under an administrative contract by a public school district.

(p) "Public school employee" or "employee" means any employee of a public school employer except public school administrators and confidential employees of a public school employer; provided the exclusive representative of designated appropriate bargaining units

certified under Title 19 informs the Secretary of Labor, the Executive Director of the Board and the public school employer in writing, by certified mail, that it elects coverage under the provisions of this chapter; or provided that an employee organization has submitted a petition on behalf of public school employees pursuant to § 4010 or § 4011 of this chapter which includes a request to be covered under the provisions of this chapter prior to the submission of a similar petition pursuant to § 1304 or § 1305 of Title 19.

(q) "Public school employer" or "employer" means any board of education, school district, reorganized school district, special school district, and any person acting as an agent thereof.

(r) "Strike" means a public school employee's failure, in concerted action with others, to report for duty, or that employee's wilful absence from that employee's position, or that employee's stoppage or deliberate slowing down of work, or that employee's withholding in whole or in part from the full, faithful and proper performance of that employee's duties of employment, or that employee's involvement in a concerted interruption of operations of a public school employer for the purpose of inducing, influencing or coercing a change in the conditions, compensation rights, privileges or obligations of public school employment; however, nothing shall limit or impair the right of any public school employee to lawfully express or communicate a complaint or opinion on any matter related to terms and conditions of employment.

(s) "Supervisory employee" means any employee of a public school employer who has the authority, in the interest of the public school employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment.

(t) "Terms and conditions of employment" means matters concerning or related to wages, salaries, donated leave program or programs in compliance with Chapter 13 of this title, hours, grievance procedures and working conditions; provided, however, that such term shall not include those matters determined by this chapter or any other law of the State to be within the exclusive prerogative of the public school employer.

(14 Del. C. 1953, § 4001; 57 Del. Laws, c. 298; 63 Del. Laws, c. 333, § 1; 67 Del. Laws, c. 404, §§ 1-3; 68 Del. Laws, c. 449, § 1; 69 Del. Laws, c. 199, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 136, § 4; 76 Del. Laws, c. 196, § 1.)

## § 4003. School employee rights.

School employees shall have the right to:

(1) Organize, form, join or assist any employee organization, provided that membership in, or an obligation resulting from collective bargaining negotiations to pay any dues, fees, assessments or other charges to an employee organization shall not be required as a condition of employment for certified professional school employees.

(2) Negotiate collectively or grieve through representatives of their own choosing.

(3) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this chapter or any other law of the State.

(4) Be represented by their exclusive representative, if any, without discrimination.

(14 Del. C. 1953, § 4003; 57 Del. Laws, c. 298; 63 Del. Laws, c. 333, § 1; 67 Del. Laws, c. 404, § 4.)

## § 4004. Employee organization as exclusive representative.

(a) The employee organization designated or selected for the purpose of collective bargaining by the majority of the employees in an appropriate collective bargaining unit shall be the exclusive representative of all the employees in the unit for such purpose and shall have the duty to represent all unit employees without discrimination. Where an exclusive representative has been certified, a public school employer shall not bargain in regard to matters covered by this chapter with any employee, group of employees or other employee organization.

(b) Nothing contained in this section shall prevent employees individually, or as a group, from presenting complaints to a public school employer and from having such complaints adjusted without the intervention of the exclusive representative for the bargaining unit of which they are a part, as long as the representative is given an opportunity to be present at such adjustment and to make its view known, and as long as the adjustment is not inconsistent with the terms of an agreement between the public school employer and the exclusive representative which is then in effect. The right of the exclusive representative shall not apply where the complaint involves matters of personal, embarrassing and confidential nature, and the complainant specifically requests, in writing, that the exclusive representative not be present.

(c) Any employee organization which has been certified as an exclusive representative shall have the right to have its dues deducted and collected by the employer from the salaries of those employees, within the bargaining unit, who authorize, in writing, the deduction of said dues. Such authorization is revocable at the employee's written request, provided that said revocation shall not be effective until the next ensuing August 31 after the employer's receipt of the written notice. Said deductions shall commence upon the exclusive representative's written request to the employer. Such right to deduction shall be in force for so long as the employee organization remains the exclusive bargaining representative for the employees in the unit. The public school employer is expressly prohibited from any involvement in the collection of fines, penalties or special assessments levied on members by the exclusive representative.

(14 Del. C. 1953, § 4006; 57 Del. Laws, c. 298; 63 Del. Laws, c. 333, § 1; 69 Del. Laws, c. 200, § 1.)

## § 4005. School employer rights.

A public school employer is not required to engage in collective bargaining on matters of inherent managerial policy, which include, but are not limited to, such areas of discretion or policy as the functions and programs of the public school employer, its standards of services, overall budget, utilization of technology, the organizational structure, curriculum, discipline and the selection and direction of personnel.

(63 Del. Laws, c. 333, § 1.)

## § 4006. Public Employment Relations Board.

(a) There is hereby established a board to be known as the "Public Employment Relations Board," the purpose of which shall be to administer this chapter under rules and regulations which it shall adopt and publish. The Board shall be organizationally located within the Department of State; however, in the performance of its powers and duties under this chapter, the Board shall not be subject to control, supervision or direction by the Department of State or by an officer thereof.

(b) The Board shall consist of 3 members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public. One member shall be designated by the Governor as Chair, and the Chair shall serve a fixed term. Not more than 2 members of the Board shall be members of the same political party. Each member shall be appointed for a term of 6 years, except that the initial appointments shall be: 1 member shall be appointed for a term that shall expire 2 years following the effective date of this chapter, 1 member for a term that shall expire 4 years following the effective date of this chapter, and the Chair for a term that shall expire 6 years following the effective date of this chapter. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom the appointed member is to succeed. Any member of the Board may be removed by the Governor for misfeasance, malfeasance or nonfeasance in office, after a hearing before an impartial designee of the Governor. A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board. Two members of the Board shall, at all times, constitute a quorum, but official orders shall require concurrence of a majority of the Board. Board members shall be eligible for reappointment.

(c) Members of the Board shall be knowledgeable in the area of labor relations and shall possess the reputation for integrity and impartiality necessary to protect the public interest.

(d) Members shall hold no other public office or employment by the State or other public agency or public employer, or be an officer or employee of any public employee labor organization or any of its affiliates, or represent any public employer or public employee organization or its affiliates; however, this restriction shall not be interpreted to exclude persons who are knowledgeable in employment relations, public administration or labor law so long as they are not actively engaged, other than as a member, in any management or employee organization.

(e) The Chair of the Board shall receive a per diem stipend of $110, and each of the other members shall receive a per diem stipend of $100. Each member of the Board shall be reimbursed for actual and necessary travel and subsistence expenses when performing Board business away from that member's place of residence.

(f) The Board shall appoint an Executive Director who shall be the chief administrative officer. The Executive Director shall be a person familiar with employer-employee relations. In addition to the performance of administrative duties, the Board may delegate to the Executive Director authority with respect to, but not limited to, bargaining unit determination and representation proceedings, unfair labor practice proceedings, mediation of labor disputes, and binding interest arbitration proceedings. Such delegation shall not limit a party's right to appeal to the Board. The Executive Director, with such assistance as may be provided by the Attorney General and such additional legal assistance which, from time to time, may be necessary, shall have authority on behalf of the Board, when necessary, to carry out or enforce any action or decision of the Board, to petition any court of competent jurisdiction for any order requiring compliance with the action or decision.

(g) The Board may employ such other persons as it may, from time to time, find necessary for the proper performance of its functions within the amounts made available through appropriations therefor, and may prescribe their duties and fix their compensation.

(h) To accomplish the objectives and to carry out the duties prescribed in this chapter, the Board shall have the following powers:

(1) To issue, amend and rescind such rules and regulations as it deems necessary to carry out this chapter and to prevent any person from engaging in conduct in violation of this chapter. Such rules and regulations shall be adopted in accordance with Chapter 101 of Title 29.

(2) To hold hearings, subpoena witnesses, administer oaths and take the testimony or deposition of any person under oath, and in connection therewith, to issue subpoenas requiring the production and examination of any books or papers, including those of the State and/or a board of education relating to any matter pending before it, and to take such other action, including the granting of interim or other relief as may be necessary to discharge its powers and duties. In no case, however, should it be empowered, either directly or through a fact-finder, to mandate to the public school employer action which involves an economic cost to the public school employer.

(3) To conduct in any part of this State any proceeding, hearing, investigation, inquiry or election necessary to the performance of its functions. In carrying out the purposes of this chapter, the Board may designate 1 of its members or an agent or agents as hearing examiner or examiners.

(4) To provide by rule a procedure for the filing and prompt disposition of petitions for a declaratory statement as to the applicability of any provision of this chapter or any rule or order of the Board. Such procedures shall provide for, but not be limited to, an expeditious

determination of questions relating to potential unfair labor practices and to questions relating to whether a matter in dispute is within the scope of collective bargaining.

(5) To request from any public agency such assistance, services and data as will enable the Board to properly carry out its functions and powers.

(6) At the end of each year, to make a report in writing to the Governor and the General Assembly and detail the work it has done in hearing and deciding cases.

(7) To adopt an official seal and prescribe the purposes for which it shall be used.

(63 Del. Laws, c. 333, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 88, § 13; 76 Del. Laws, c. 196, § 2.)

## § 4007. Unfair labor practices — Enumerated.

(a) It is an unfair labor practice for a public school employer or its designated representative to do any of the following:

(1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this chapter.

(2) Dominate, interfere with or assist in the formation, existence or administration of any labor organization.

(3) Encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure or other terms and conditions of employment.

(4) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint, or has given information or testimony under this chapter.

(5) Refuse to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit.

(6) Refuse or fail to comply with any provision of this chapter or with rules and regulations established by the Board pursuant to its responsibility to regulate the conduct of collective bargaining under this chapter.

(7) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(8) Refuse to disclose any public record as defined by Chapter 100 of Title 29.

(b) It is unfair labor practice for a public school employee or for an employee organization or its designated representative to do any of the following:

(1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this chapter.

(2) Refuse to bargain collectively in good faith with the public employer or its designated representative if the employee organization is an exclusive representative.

(3) Refuse or fail to comply with any provision of this chapter or with rules and regulations established by the Board pursuant to its responsibility to regulate the conduct of collective bargaining under this chapter.

(4) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(5) Distribute organizational literature or otherwise solicit public school employees during working hours in areas where the actual work of public school employees is being performed in such a way as to hinder or interfere with the operation of the public school employer. This paragraph shall not be construed to prohibit the distribution of literature during the employee's lunch hour or duty-free lunch period or in such areas not specifically devoted to the performance of the employee's official duties.

(6) Hinder or prevent (by threats, intimidation, force or coercion of any kind) the pursuit of any lawful work or employment by any person, or unreasonably interfere with the entrance to or egress from any place of employment.

(7) Instigate or advocate support, in any positive manner, for an employee organization's activities from students on school property.

(63 Del. Laws, c. 333, § 1.)

## § 4008. Unfair labor practices — Disposition of complaints.

(a) The Board is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. Whenever it is charged that anyone has engaged or is engaging in any unfair practice as described in § 4007(a) and (b) of this title, the Board or any designated agent thereof shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice charge and including a notice of hearing containing the date and place of hearing before the Board or any designated agent thereof. Evidence shall be taken and filed with the Board; provided, that no complaint shall issue based on any unfair labor practice occurring more than 180 days prior to the filing of the charge with the Board.

(b) If, upon all the evidence taken, the Board shall determine that any party charged has engaged or is engaging in any such unfair practice, the Board shall state its findings of fact and conclusions of law and issue and cause to be served on such party an order requiring such party to cease and desist from such unfair practice, and to take such reasonable affirmative action as will effectuate the policies of this chapter, such as payment of damages and/or the reinstatement of employee. If, upon the evidence taken, the Board shall determine that any party charged has not engaged or is not engaging in any such unfair practice, the Board shall state, in writing, its findings of fact and conclusions of law and issues and dismiss the complaint.

(c) In addition to the powers granted by this section, the Board shall have the power, at any time during proceedings authorized by this section, to issue orders providing such temporary or preliminary relief as the Board deems just and proper.

(63 Del. Laws, c. 333, § 1; 72 Del. Laws, c. 146, § 1.)

## § 4009. Unfair labor practices — Appeals; petitions for enforcement.

(a) Any person adversely affected by a decision of the Board under § 4008 or § 4015 of this title may appeal that decision to the Chancery Court of this State. Such an appeal must be filed within 15 days of the date upon which the decision was rendered and shall not automatically act as a stay.

(b) The Board may petition the Chancery Court of this State for enforcement of any order issued under § 4008 or § 4015 of this title.

(63 Del. Laws, c. 333, § 1; 76 Del. Laws, c. 196, §§ 6, 7.)

## § 4010. Bargaining unit determination.

(a) An employee organization desiring to be certified as the exclusive representative shall file a petition with the Board, accompanied by the uncoerced signatures of at least 30% of the public school employees in the unit claimed to be appropriate, indicating a desire to be represented for the purpose of bargaining collectively with the public employer.

(b) If the Board or its duly authorized designee determines that a petition is properly filed and is accompanied by the requisite number of valid signatures, the Board or its designee shall proceed toward defining the appropriate bargaining unit by setting a date for hearing on the matter. If a petition is not properly filed or if it is not accompanied by the requisite number of valid signatures, the Board or its designee shall dismiss the petition.

(c) After holding such hearings as it deems necessary the Board shall determine the appropriate bargaining unit. The Board may, by rule, delegate its unit definition authority to 1 or more of its members or to its Executive Director, provided that a unit definition order may be subject to review by the Board at the request of any party or upon the Board's own motion in accordance with rules and procedures established by the Board.

(d) In making its determination as to the appropriate bargaining unit, the Board or its designee shall consider such factors as the similarity of duties, skills and working conditions of the employees involved; the history and extent of the employee organization; the recommendations of the parties involved; the effect of overfragmentation of bargaining units on the efficient administration of government; and such other factors as the Board may deem appropriate. The Board or its designee shall separate supervisory and nonsupervisory employees into separate appropriate bargaining units for all units created subsequent to July 18, 1990. The Board shall include positions commonly referred to as positions for extra-pay-for-extra-responsibility in the professional bargaining unit for the sole purpose of bargaining the salary for these positions and any other provision mutually agreed to by the parties.

(e) Procedures for redefining or modifying a unit shall be set forth in the rules and procedures established by the Board.

(f) Any bargaining unit designated as appropriate prior to the effective date of this chapter, for which an exclusive representative has been certified, shall so continue without the requirement of a review and possible redesignation until such time as a question concerning appropriateness is properly raised under this chapter. The appropriateness of the unit may be challenged by the public school employer, 30% of the members of the unit, an employee organization, or the Board not more than 180 days nor less than 120 days prior to the expiration of any collective bargaining agreement in effect on the date of the passage of this chapter. The continued appropriateness of any bargaining unit designated as appropriate prior to the effective date of this chapter, for which an exclusive representative is not certified, may be challenged by the public school employer, 30% of the members of the unit, an employee organization, or the Board at any time up until 30 days prior to the holding of an election to determine representation.

(63 Del. Laws, c. 333, § 1; 67 Del. Laws, c. 404, § 5; 70 Del. Laws, c. 425, § 352; 85 Del. Laws, c. 193, § 1.)

## § 4011. Determination and certification of exclusive representative.

(a) Any employee organization seeking certification as exclusive representative in a designated appropriate bargaining unit shall file a petition with the Board. The petition must contain the uncoerced signatures of at least 30% of the employees within the designated appropriate bargaining unit. If the designated appropriate bargaining unit is sufficiently similar to the bargaining unit claimed to be appropriate in the petition filed pursuant to § 4010(a) of this title, such that the signatures submitted at that time represent at least 30% of the employees within the designated appropriate bargaining unit, those signatures shall be deemed sufficient for the purpose of this subsection. If the designated bargaining unit is not sufficiently similar to the bargaining unit claimed to be appropriate, the employee organization may continue to rely on the previously submitted uncoerced signatures of the employees who are in the designated bargaining unit and must supplement these signatures with uncoerced signatures of other employees within the designated appropriate bargaining unit, such that the signatures submitted represent at least 30% of the employees within the designated appropriate bargaining unit. No signature shall be considered valid if it was signed more than 12 months prior to the date on which the petition is filed.

(b) Where an employee organization has been certified as the exclusive representative, a group of employees within the bargaining unit may file a petition with the Board for decertification of the exclusive bargaining representative. The petition must contain the uncoerced signatures of at least 30% of the employees within the bargaining unit and allege that the employee organization presently certified is no longer the choice of the majority of the employees in the bargaining unit. If a lawful collective bargaining agreement of no more than 3 years' duration is in effect, no petition shall be entertained unless filed not more than 180 days nor less than 120 days prior to the expiration of such agreement. A decertification petition also may be filed if more than 1 year has elapsed from the date of certification of an exclusive bargaining representative and no collective bargaining agreement has been executed.

(c) If the Board determines that a petition is properly supported, timely filed and covers the designated appropriate bargaining unit, the Board shall cause an election of all eligible employees to be held within a reasonable time after the unit determination has been made, in

accordance with procedures adopted by the Board, to determine if and by whom the employees wish to be represented. The election ballot shall contain, as choices to be made by the voter, the name of the petitioning or certified employee organization, the name or names of any other employee organization showing written proof of at least 10% representation of the public school employees within the designated appropriate bargaining unit, in accordance with rules and procedures adopted by the Board, and a choice that the public school employee does not desire to be represented by any of the named employee organization or organizations.

(d) The employee organization, if any, which receives the majority of the votes cast in an election shall be certified by the Board as the exclusive representative. In any election where there are more than 2 choices on the ballot and none of the choices receives a majority of the votes cast, a run-off election shall be conducted. The ballot in the run-off election shall contain the 2 choices on the original ballot that received the largest number of votes.

(e) No election shall be held pursuant to this section within 12 months from the date of a preceding valid election.

(14 Del. C. 1953, § 4004; 57 Del. Laws, c. 298; 63 Del. Laws, c. 333, § 1; 85 Del. Laws, c. 193, § 1.)

## § 4011A. Majority verification procedure.

(a) Notwithstanding any other provision of this section, an employee organization may file a petition with the Board requesting certification as the exclusive representative of an appropriate bargaining unit based on a verification that over 50% of the employees in the proposed appropriate bargaining unit wish to be represented by the petitioner. The Board shall require dated representation authorization signatures of affected employees as verification of the employee organization's claim of status.

(b) Upon receipt of an employee organization's petition, accompanied by employee authorization signatures under this section, the Board shall investigate the petition. If the Board determines that over 50% of the employees in an appropriate bargaining unit have provided authorization signatures designating the employee organization specified in the petition as their exclusive representative, the Board may not order an election but shall certify the employee organization.

(85 Del. Laws, c. 193, § 1.)

## § 4012. Employee organizations required to register and submit annual reports.

Every employee organization which has or seeks recognition as a representative of public school employees under this chapter shall file with the Board a registration report, signed by its president or other appropriate officer. Such report shall be updated on an annual basis by any organization which continues to have or seeks recognition, shall be in a form prescribed by the Board and shall be accompanied by 2 copies of the employee organization's constitution and bylaws. All changes or amendments to such constitutions and bylaws shall be promptly reported to the Board.

(63 Del. Laws, c. 333, § 1.)

## § 4013. Collective bargaining agreements.

(a) Collective bargaining shall commence at least 90 days prior to the expiration date of any current collective bargaining agreement or, in the case of a newly certified exclusive representative, within a reasonable time after certification.

(b) Negotiating sessions, including strategy meetings of public school employers, mediation and the deliberative process of binding interest arbitrators and arbitrators, shall be exempt from Chapter 100 of Title 29. Hearings conducted by binding interest arbitrators shall be open to the public.

(c) For those terms and conditions that are negotiated pursuant to state law, the public school employer and the exclusive bargaining representative shall negotiate written grievance procedures ending in binding arbitration by means of which bargaining unit employees, through their collective bargaining representatives, may appeal the interpretation or application of any term or terms of an existing collective bargaining agreement. The written grievance procedures shall be included in any agreement entered into between the public school employer and the exclusive bargaining representative, and shall include:

(1) A provision to limit binding arbitration to claims that the terms of the collective bargaining agreement have been violated, misinterpreted or misapplied;

(2) A provision to prohibit claims relating to the following matters from being processed through binding arbitration:

a. Dismissal or nonrenewal of employees covered by Chapter 14 of this title;

b. Dismissal or nonrenewal of employees not covered by Chapter 14 of this title, unless the controlling collective bargaining agreement provides that such matters are subject to binding arbitration;

c. Delaware law;

d. Rules and regulations of the Delaware Department of Education or State Board of Education;

e. The content of or conclusions reached in employee observations and evaluations unless the controlling collective bargaining agreement for employees not covered by Chapter 14 of this title provides that such matters are subject to binding arbitration;

f. Federal law;

g. Rules and regulations of the United States Department of Education;

h. Policies of the local school board; and

i. Matters beyond the scope of the public school employer's authority;

(3) A provision to select arbitrators by lottery from a panel of qualified arbitrators designated by the Public Employment Relations Board. In designating the panel, the Public Employment Relations Board shall prefer former judges who served on a Delaware constitutional court or on the United States District Court for the District of Delaware, and shall supplement the panel by adding qualified labor arbitrators;

(4) A provision to empower the Public Employment Relations Board to administer arbitrations pursuant to regulations adopted by the Public Employment Relations Board;

(5) A provision to require that disputes relating to whether a matter is arbitrable be ruled upon by the arbitrator prior to hearing the merits of the dispute, and, if the arbitrator determines that the dispute is arbitrable, a provision to require that the same arbitrator schedule a second hearing to hear the merits of the dispute;

(6) A provision to assess against the losing party the arbitrator's fees and expenses incurred in determining whether a dispute is arbitrable; and

(7) A provision to require that the arbitrator's fees and expenses incurred in deciding the merits of a dispute be evenly divided between the parties.

(d) Any contract or agreement reached between a public school district and any exclusive representative organization shall be for a minimum period of 2 years from the effective date of such contract or agreement, unless otherwise mutually agreed upon by the public school employer and the exclusive representative.

(e) No collective bargaining agreement shall be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public school employer's funds, spending or budget, or would otherwise be contrary to law.

(f) Public school employers shall file with the Board a copy of any agreements that have been negotiated with public school employee representatives following the consummation of negotiations. The Board shall maintain a current file of all such agreements.

(63 Del. Laws, c. 333, § 1; 74 Del. Laws, c. 55, § 1; 76 Del. Laws, c. 196, § 3.)

## § 4014. Mediation.

(a) If, after a reasonable period of negotiations over the terms of an agreement or after a reasonable time following certification of an exclusive representative, no agreement has been signed, the parties may voluntarily submit to mediation. If, however, no agreement is reached between the parties by 60 days prior to the expiration date of an existing collective bargaining agreement, or, in the case of a newly certified exclusive representative, within 60 days after negotiations have commenced, both parties shall immediately notify the Board of the status of negotiations.

(b) If the parties have not voluntarily agreed to enlist the services of a mediator and less than 30 days remain before the expiration date of the existing collective bargaining agreement, or, in the case of a newly certified exclusive representative, more than 90 days have elapsed since negotiations began, the Board must appoint a mediator if so requested by the public school employer or the exclusive bargaining representative. The mediator shall be chosen from a list of qualified persons maintained by the Board and shall be representative of the public.

(c) If the labor dispute has not been settled after a reasonable period of mediation, during which both parties have made a good faith effort to settle their differences, the parties jointly or individually may petition the Board in writing to initiate binding interest arbitration. In lieu of a petition, the mediator may inform the Board that further negotiations between the parties, at that time, are unlikely to be productive and recommend that binding interest arbitration be initiated. The public school employer and the exclusive bargaining representative may initiate binding interest arbitration at any time, by mutual agreement.

(d) Any costs involved in retaining a mediator to assist the parties in reaching a negotiated agreement shall be paid by the Board.

(14 Del. C. 1953, § 4010; 57 Del. Laws, c. 298; 63 Del. Laws, c. 333, § 1; 76 Del. Laws, c. 196, § 4.)

## § 4015. Binding interest arbitration.

(a) Within 7 working days of receipt of a petition or recommendation to initiate binding interest arbitration, the Board shall make a determination, with or without a formal hearing, as to whether a good faith effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to whether the initiation of binding interest arbitration would be appropriate and in the public interest.

(b) Pursuant to § 4006(f) of this title, the Board shall appoint the Executive Director or the Executive Director's designee to act as binding interest arbitrator. Such delegation shall not limit a party's right to appeal to the Board.

(c) The binding interest arbitrator shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute and to render a decision on unresolved contract issues. The hearings shall be held at times, dates and places to be established by the binding interest arbitrator in accordance with rules promulgated by the Board. The binding interest arbitrator shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on the binding interest arbitrators' own behalf.

(d) The binding interest arbitrator shall make written findings of facts a decision for the resolution of the dispute; provided however, that the decision shall be limited to a determination of which of the parties' last, best, final offers shall be accepted in its entirety. In

arriving at a determination, the binding interest arbitrator shall specify the basis for the binding interest arbitrator's findings, taking into consideration, in addition to any other relevant factors, the following:

(1) The interests and welfare of the public.

(2) Comparison of the wages, salaries, benefits, hours and conditions of employment of the employees involved in the binding interest arbitration proceedings with the wages, salaries, benefits, hours and conditions of employment of other employees performing the same or similar services or requiring similar skills under similar working conditions in the same community and in comparable communities and with other employees generally in the same community and in comparable communities.

(3) The overall compensation presently received by the employees inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the public school employer.

(6) The financial ability of the public school employer based on existing revenues, to meet the costs of any proposed settlements; provided that, any enhancement to such financial ability derived from savings experienced by such public school employer as a result of a strike shall not be considered by the binding interest arbitrator.

(7) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, binding interest arbitration or otherwise between parties, in public service or in private employment. In making determinations, the binding interest arbitrator shall give due weight to each relevant factor. All of the above factors shall be presumed relevant. If any factor is found not to be relevant, the binding interest arbitrator shall detail in the binding interest arbitrator's findings the specific reason why that factor is not judged relevant in arriving at the binding interest arbitrator's determination. With the exception of paragraph (d)(6) of this section, no single factor in subsection, shall be dispositive.

(e) Within 30 days after the conclusion of the hearings but not later than 120 days from the day of appointment, the binding interest arbitrator shall serve the binding interest arbitrator's written determination for resolution of the dispute on the public school employer, the certified exclusive representative and the Board. The decision of the binding interest arbitrator shall become an order of the Board within 5 business days after it has been served on the parties.

(f) The cost of binding interest arbitration shall be borne equally by the parties involved in the dispute.

(g) Nothing in this chapter shall be construed to prohibit or otherwise impede a public school employer and certified exclusive representative from continuing to bargain in good faith over terms and conditions of employment or from using the services of a mediator at any time during the conduct of collective bargaining. If, at any point in the impasse proceedings invoked under this chapter, the parties are able to conclude their labor dispute with a voluntarily reached agreement, the Board shall be so notified, and all impasse resolution proceedings shall be forthwith terminated.

(63 Del. Laws, c. 333, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 196, § 5.)

## § 4016. Strikes prohibited.

(a) No public school employee shall strike while in the performance of that public school employee's official duties.

(b) No public school employee shall be entitled to any daily pay, wages, reimbursement of expenses, benefits or any consideration in lieu thereof, for the days on which the employee engaged in a strike.

(c) Where a public school employee has lost entitlement to any daily pay or other consideration pursuant to subsection (b) of this section, any agreement between such public school employee or employee organization bargaining on such employee's behalf and a public school employer which provided for the direct or indirect restoration of such entitlement shall be void as against public policy.

(14 Del. C. 1953, § 4011; 57 Del. Laws, c. 298; 63 Del. Laws, c. 333, § 1; 70 Del. Laws, c. 186, § 1.)

## § 4017. Injunctions.

(a) Chancery Court is vested with the authority to hear and determine all actions alleging violation of § 4016 of this title. Suits to enjoin violations of § 4016 of this title will have priority over all matters on the Court's docket except other emergency matters.

(b) Where it appears that any public school employee, group of employees, employee organizations or any officer or agent thereof, threaten or are about to do, or are doing, any act in violation of § 4016 of this title, the public school employer may forthwith apply to the Court of Chancery for an injunction against such violation.

(c) If an order of the Court enjoining or restraining a violation of § 4016 of this title does not receive immediate compliance, the public school employer shall apply to the Court for appropriate contempt sanctions against any party in violation of such order. Upon a proper showing that any person or organization has failed to comply with such an order, the Court shall, in addition to any other remedy it deems appropriate, fine such violating party an amount on a daily, weekly or monthly basis without limitation as determined by the Court.

(d) In determining an appropriate amount for fines imposed pursuant to subsection (c) of this section, the Court shall consider and receive evidence of:

(1) The extent and value of services lost due to the violation of § 4016 of this title.

(2) Any unfair labor practices committed by either party during the collective bargaining process.

(3) The extent of the wilful defiance or resistance to the Court's order.

(4) The impact of the strike on the health, safety and welfare of the public.

(63 Del. Laws, c. 333, § 1.)

## § 4018. Status of existing exclusive representative.

An employee organization that has been certified as the exclusive representative of a bargaining unit deemed to be appropriate prior to the effective date of this chapter shall so continue without the requirement of an election and certification until such time as a question concerning representation is appropriately raised under this chapter in accordance with § 4011(b) of this title, or until the Board would find the unit not to be appropriate in accordance with § 4010(f) of this title.

(63 Del. Laws, c. 333, § 1.)

## § 4019. Fair share fees.

(a) If the provisions of a collective bargaining agreement so provide, each nonmember of a bargaining unit shall be required to pay the exclusive representative a fair share fee.

(b) To implement fair share fee agreements in accordance with subsection (a) of this section, the exclusive representative shall provide the public school employer with the name of each nonmember who is obligated to pay a fair share fee, the amount of the fee that the nonmember is obligated to pay and a reasonable and lawful schedule for deducting said amount from the salary or wages of such nonmember. The public school employer shall deduct the fee in accordance with said schedule and promptly transmit the amount deducted to the exclusive representative.

(c) As a precondition to the collection of fair share fees, the exclusive representative shall establish and maintain a procedure that:

(1) Provides nonmembers with an adequate explanation of the basis for the fee;

(2) Provides nonmembers with a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker; and

(3) Provides an escrow for the amounts reasonably in dispute while such challenges are pending.

A public school employer shall not refuse to carry out its obligations under subsection (b) of this section on the grounds that the exclusive representative has not satisfied its responsibilities under this subsection.

(d) Since fair share fees are collected each school year, in order to avoid undue delays in the receipt of, and determination of the validity of, fair share fees, any suit challenging a fair share fee must be filed within 6 months after receipt of the notice described in subsection (c) of this section, or within 6 months after the nonmember exhausts the procedure described in subsection (c) of this section, whichever is later.

(69 Del. Laws, c. 199, § 3; 70 Del. Laws, c. 186, § 1.)

## § 4020. Bargaining unit information and access.

(a) Within 14 calendar days from the date of hire of a bargaining unit employee, a public employer must provide the following contact information of the bargaining unit employee to an exclusive representative in a secure format agreed to by the exclusive representative: name; position; worksite location; employee identification number; home address; home and personal cell phone numbers on file with the public employer; date of hire; and work email address and personal email address on file with the public employer.

(b) In January and October of each year, beginning in January 2026, a public employer must provide to an exclusive representative in a secure format agreed to by the exclusive representative the following information for all bargaining unit employees: name; position; worksite location; employee identification number; home address; home and personal cell phone numbers on file with the public employer; date of hire; and work email address and personal email address on file with the public employer.

(c) A public employer must allow an exclusive representative to communicate with bargaining unit members using the members' employer-issued email addresses regarding collective bargaining, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues, and internal matters involving the governance or business of the exclusive representative, consistent with the employer's generally applicable technology use policies.

(d) A public employer must allow an exclusive representative to meet with bargaining unit members in facilities owned or leased by the public employer regarding collective bargaining, the administration of collective bargaining agreements, grievances and other workplace-related complaints and issues, and internal matters involving the governance or business of the exclusive representative, provided the use does not interfere with governmental operations. Meetings conducted in government buildings pursuant to this subsection must not be for the purpose of supporting or opposing any candidate for partisan political office or for the purpose of distributing literature or information regarding partisan elections. An exclusive representative conducting a meeting in a government building or other government facility pursuant to this subsection may be charged for maintenance, security, and other costs related to the use of the government building or facility that would not otherwise be incurred by the government entity.

(85 Del. Laws, c. 163, § 1.)

# Part I
# Free Public Schools
## Chapter 41
## Regulatory Provisions
### Subchapter I
### General Regulatory Provisions

### § 4101. Reading of First Amendment of the United States Constitution.

At the commencement of the first period of study on the first day of school of each school year in all public schools of the State, the First Amendment of the Constitution of the United States of America shall be read or recited by the teacher in charge of such period to the students therein assembled.

(33 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 179, § 1; Code 1935, § 2758; 14 Del. C. 1953, § 4101; 58 Del. Laws, c. 162, § 1; 60 Del. Laws, c. 50, § 1; 61 Del. Laws, c. 547, § 1; 65 Del. Laws, c. 130, § 1; 70 Del. Laws, c. 251, §§ 1, 2; 81 Del. Laws, c. 122, § 2.)

### § 4101A. Use of schools for First Amendment purposes.

(a) As used in this section:

(1) "Student-delivered" refers to any message spoken by a student of the public school at which the message is delivered.

(2) "Student-initiated" refers to any action that is taken only after students have asked that such an action be taken;

(b) During the initial period of study on each school day all students in the public schools in Delaware may be granted a brief period of silence, not to exceed 2 minutes in duration, to be used according to the dictates of the individual conscience of each student. During that period of silence no other activities shall take place.

(c) Notwithstanding any other provision or provisions of the Code, on public school property or other public property, student-delivered, voluntary messages may be permitted by schools during graduation or commencement ceremonies where appropriate in the context of the event. The content of any message authorized by this section shall be determined by the student delivering the message. No school district, school administrator, teacher or other school employee shall exclude, include or otherwise discriminate for or against any student on the basis of the political, philosophical, religious or other content of the message that the student intends to deliver or does deliver.

(d) A school shall be deemed to offer a fair opportunity to students who wish to deliver voluntary messages during graduation or commencement ceremonies under the provisions of this section if such school uniformly provides that the delivery of such messages occur in a manner which does not substantially interfere with the orderly conduct of the ceremony.

(e) Nothing in this section shall be construed to limit the authority of the school district, school administrators, teachers or other school employees to maintain order and discipline on school premises, to protect the well-being of students and school administrators, teachers and other school employees, and to assure that the content of student-delivered voluntary messages is consistent with federal and state law.

(f) Each school district shall establish rules and regulations for the implementation of this section within the district. The Department of Justice shall provide each school district an annual set of model rules and regulations on or before January 1 of each year commencing in 1996 which, if adopted by a school district, will ensure that this section is implemented consistently with federal and state law. Any school district which complies with the model rules and regulations provided pursuant to this subsection shall be entitled to representation by the Department of Justice, upon request, in the event that the school district is sued as a result of activity related to this section. The State shall, if the school district complies with the rules and regulations provided pursuant to this subsection, reimburse the school district for any monetary award related to compliance with this section.

(70 Del. Laws, c. 251, § 3; 81 Del. Laws, c. 122, § 2.)

### § 4102. Penalties for violation of § 4101 of this title.

Any teacher or principal who refuses to comply with § 4101 of this title shall be subject to a penalty of $5 for the first violation and $25 for any violation thereafter.

(14 Del. C. 1953, § 4102; 58 Del. Laws, c. 162, § 2; 81 Del. Laws, c. 122, § 2.)

### § 4103. Teaching Constitution of the United States, Constitution and government of Delaware and the free enterprise system.

(a) In all public and private schools located within this State, there shall be given regular courses of instruction in the Constitution of the United States, Constitution and government of Delaware and the free enterprise system.

(b) The instruction in the Constitution of the United States, Constitution and government of Delaware and the free enterprise system shall begin not later than the opening of the eighth grade and shall continue in the high school courses and in courses in state colleges, universities and the educational departments of state and municipal institutions. The extent and content of such courses below the college

level shall be determined by the Department of Education with the approval of the State Board of Education. In institutions of higher learning the trustees or other governing body of such institutions shall determine the extent and content of such courses.

(c) In addition to the general requirements required by subsections (a) and (b) of this section, 1 calendar day per school year may be specifically and solely devoted to the study of the United States Constitution and the Declaration of Independence in every grade consistent with state content standards starting in first grade and continuing through twelfth grade. The program of instruction for each grade shall be determined by each individual school district.

(33 Del. Laws, c. 183, §§ 1, 2; Code 1935, § 2759; 14 Del. C. 1953, § 4104; 49 Del. Laws, c. 379; 50 Del. Laws, c. 247, § 1; 60 Del. Laws, c. 246, § 1; 71 Del. Laws, c. 180, § 170; 71 Del. Laws, c. 411, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4104. Display of American flag.

(a) Every board of education in this State shall procure the American flag and cause the same to be displayed out-of-doors (weather permitting) on the school grounds of every school house in this State during school hours.

(b) The Department of Education shall procure American flags for every free public school in this State and cause the same to be displayed in every school house in this State during school hours.

(c) The Department shall make drafts, by warrants upon the State Treasurer from funds not otherwise appropriated, of such sums as are necessary to carry into full effect subsection (b) of this section.

(33 Del. Laws, c. 184; 34 Del. Laws, c. 180, §§ 1, 4; Code 1935, §§ 2760, 2761; 14 Del. C. 1953, § 4105; 57 Del. Laws, c. 113; 71 Del. Laws, c. 180, § 171; 81 Del. Laws, c. 122, § 2.)

## § 4105. Salute to flag and pledge of allegiance.

In the opening exercises of every free public school each morning, the teachers and pupils assembled shall salute and pledge allegiance to the American flag as follows:

"I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all."

(34 Del. Laws, c. 180, § 2; Code 1935, § 2761; 14 Del. C. 1953, § 4106; 51 Del. Laws, c. 51; 81 Del. Laws, c. 122, § 2.)

## § 4106. Failure to require salute and pledge; penalty.

When the Department of Education has procured and distributed American flags in each free public school, any principal or teacher of such free public school who fails to require the salute and pledge as set out in § 4105 of this title shall be fined not more than $50 or imprisoned not more than 10 days.

(34 Del. Laws, c. 180, § 3; Code 1935, § 2761; 14 Del. C. 1953, § 4107; 71 Del. Laws, c. 180, § 171; 81 Del. Laws, c. 122, § 2.)

## § 4107. General election day; closing of schools.

(a) Every day on which a general election is held in this State shall be a legal holiday for all school purposes and all schools, colleges and other institutions of learning shall be closed during the whole of such day.

(b) Whoever, having the control of any school, college or other institution of learning, causes or permits the same to be open and instruction given on such day shall be fined not less than $10 nor more than $100.

(33 Del. Laws, c. 198, §§ 1, 2; Code 1935, § 2762; 14 Del. C. 1953, § 4108; 81 Del. Laws, c. 122, § 2.)

## § 4107A. Primary election day; in-service day.

(a) School districts shall allow public school buildings to be used as polling places for primary elections if requested by the department of elections for a county.

(b) Every day on which a primary election is held shall be an in-service day for any school district where any district schools are used as polling places for a primary election.

(79 Del. Laws, c. 282, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4108. American Education Week.

The Governor may issue a proclamation calling upon all teachers of schools to arrange special programs at some time during American Education Week and calling upon the people of the entire State to observe it in some fitting manner.

(42 Del. Laws, c. 127; 14 Del. C. 1953, § 4111; 81 Del. Laws, c. 122, § 2.)

## § 4109. School property; health and safety requirements.

(a) Every public school shall be equipped with an adequate number of fire extinguishers and shall hold a fire drill at least once every month while the school is in session.

(b) Each board of education shall see that the requirements of subsection (a) of this section are complied with in the schools under their respective jurisdictions.

(c) Where an area of real property which is owned or administered by a school district is bounded by a wall, fence or other structure which has gates or other lockable entrances, the local board of education shall notify the nearest providers of ambulance, fire and police

services of the location of such gates and entrances. The local board of education shall provide to the ambulance service, fire company or police department a key of each such enclosed area with the board's jurisdiction. For purposes of this subsection, the words "real property" shall include all unimproved land only and shall not include buildings.

(41 Del. Laws, c. 173, § 1; 14 Del. C. 1953, § 4112; 57 Del. Laws, c. 113; 63 Del. Laws, c. 166, §§ 3, 4; 81 Del. Laws, c. 122, § 2.)

## § 4110. Disturbing schools or destroying school property; penalty.

Whoever disturbs a public school in session or wilfully destroys any public school property shall be fined $20, to be collected as other fines, and paid to the board of education of the school district for the benefit of the respective district, or imprisoned not more than 30 days, or both.

(32 Del. Laws, c. 160, § 57; Code 1935, § 2752; 14 Del. C. 1953, § 4113; 57 Del. Laws, c. 113; 81 Del. Laws, c. 122, § 2.)

## § 4111. Disclosure of pupils' school records.

(a) Educational records of students in all public and private schools in this State are deemed to be confidential. Educational records may be released, and personally-identifiable information contained therein disclosed, only in accordance with the Family Educational Rights and Privacy Act ("FERPA") under 20 U.S.C. § 1232g and its implementing regulations set forth in 34 C.F.R. Part 99 and, with respect to records for students with disabilities, in accordance with Chapter 31 of this title and its implementing regulations. FERPA and Chapter 31 of this title and their implementing regulations authorize the release of educational records upon written consent and establish the other terms and conditions on which educational records may and must be released.

(b) The provisions of subsection (a) of this section notwithstanding:

(1) Educational institutions and programs operating in this State, including local education agencies and postsecondary institutions and programs regulated by a state agency, shall disclose to the Department such education records, and personally-identifiable information contained therein, necessary for the audit or evaluation of state and federal education programs in accordance with the provisions of FERPA and its implementing regulations.

(2) Pursuant to the legitimate interest in data exchange and compliance with federal and state reporting requirements, educational institutions and programs operating in this State, including local education agencies and postsecondary institutions and programs regulated by a state agency who outsource data exchange and compliance with federal and state reporting requirements to the Department, may consider the Department to be a "school official" as defined under FERPA's implementing regulations in 34 C.F.R. § 99.31. Local education agencies and other educational institutions and programs may disclose to the Department, without parental consent, the educational records, and personally-identifiable information contained therein, necessary for the purpose of data exchange and federal and state reporting as required by law, if all of the following conditions are met:

a. The educational institution or program would otherwise use its own employees to collect the data for the purpose of the reporting.

b. The educational institution or program directly controls the Department's use and maintenance of its educational records.

c. The Department is subject to the requirements of FERPA and its implementing regulations governing the use and redisclosure of personally-identifiable information from educational records.

d. The education agency or institution uses reasonable methods to ensure that the Department only obtains access to those educational records that are necessary for the legitimate educational interest of data exchange and federal or state reporting as required by law.

(3) All disclosures authorized by this section must be for the purpose of ensuring the effectiveness of publicly-funded programs by connecting pre-kindergarten through grade 12 and post-secondary data, and sharing information to improve educational outcomes for students.

(4) The Department may redisclose those educational records, and the personally-identifiable information contained therein, deemed necessary by the Department to accomplish its objective of improving educational outcomes. Any Department use, compilation, maintenance, protection, distribution, redisclosure, or destruction of educational records, and the personally-identifiable information contained therein, must comply with FERPA and its implementing regulations as well as any other pertinent federal or state privacy statutes.

(c) All public and private schools in this State shall allow parents and eligible students to inspect and review the education records of their children or themselves who are, or have been, in attendance at the school. The right to inspect and review educational records must be in accordance with rules and regulations of the Department of Education.

(d) No cause of action or claim for relief, civil or criminal, may lie or damages be recoverable against any school officer or employee by reason of such officer's or employee's participation in the formulation of such records or any statements made or of judgments expressed therein concerning a student's academic performance, personal conduct, health, habits, school related activities or potential; nor by reason of the disclosure of the records or personally-identifiable information from the records, nor lack of access thereto, in accordance with subsections (a) through (c) of this section.

(14 Del. C. 1953, § 4114; 57 Del. Laws, c. 548, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 172; 74 Del. Laws, c. 40, §§ 1-3; 78 Del. Laws, c. 113, §§ 7-9; 81 Del. Laws, c. 122, § 2; 84 Del. Laws, c. 460, § 1.)

## § 4112. Reporting school crimes.

(a) *Definitions.* — The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(1) "Crime" includes a felony, misdemeanor or violation defined in the Delaware Code, as well as behavior by a person under 18 years of age which would be considered a felony, misdemeanor or violation if it had been committed by an adult.

(2) "Non-instructional designee" means a school employee whose primary job duty does not include teaching students.

(3) "Notification" means direct contact by telephone, facsimile, electronic mail, Department of Education electronic filings, in person, or by certified mail, unless otherwise designated.

(4) "Parent" includes natural parent, adoptive parent, or any person, agency, or institution that has temporary or permanent custody or guardianship over a student.

(5) "Parent conference" includes a meeting by telephone or in person, unless otherwise designated.

(6) "Principal" means the building principal, or the equivalent of the building principal, of any public school or charter school, or the building principal's designee.

(7) "School employee" includes all persons hired by a school district, attendance zone or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property.

(8) "School function" includes any field trip or any officially sponsored public or charter school event.

(9) "School property" means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented or subcontracted by any public school or charter school.

(10) "School volunteer" means a person 18 years of age or older who, without compensation, renders service to a public or charter school. "School volunteer" includes parents who assist in school activities or chaperone school functions.

(11) "Superintendent" means the superintendent of any public school district or charter school, or the equivalent of a superintendent, or the superintendent's designee.

(12) "Suspension" means either an external or an internal removal of a student from the general school population.

(13) "Violent felony" means a crime designated in § 4201(c) of Title 11.

(14) "Written report" includes printed paper filings and electronic filings that can be printed.

(b) *Criminal violation; mandatory reports.* — (1) Whenever a school employee has reliable information that would lead a reasonable person to believe that:

a. A student, school volunteer, or a school employee, has been the victim of:

1. A violent felony,

2. An assault III, or

3. An unlawful sexual contact III,

which occurred on school property or at a school function; or

b. A student has been the victim of:

1. A violent felony

2. An assault III, or

3. Any sexual offense, as defined in § 761(i) of Title 11,

and the offense was committed by another school employee regardless of whether the offense occurred on school property or at a school function; then the school employee who has reliable information that would lead a reasonable person to believe that a crime has been committed shall immediately report the incident to the principal.

(2) The principal must immediately make reasonable efforts to notify the parents of any juvenile victim and must send written notification of the incident to the parents within 3 business days. This paragraph does not apply if the parent is alleged to be the offender.

(3) The principal shall immediately report the incident to the appropriate police agency. The report shall be made by telephone or in person immediately and shall be followed by a written report of the school's investigation within 3 business days.

(4) If the police agency determines that probable cause exists to believe that a crime has been committed, or if the principal later learns that a suspect has been arrested for the offense, then the principal must file a written report of the incident to the Department of Education within 5 days.

(5) Nothing in this section shall preclude a school employee who has reliable information that would lead a reasonable person to believe a crime has been committed from reporting the incident to the principal within a reasonable amount of time. In such instances where a report is made, the school officials shall follow the procedure set forth in paragraphs (b)(2) through (6) of this section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in § 903 et seq. of Title 16.

(6) *Offenders under the age of 12.* — When a misdemeanor offense listed in this subsection has allegedly been committed by a child under the age of 12, the principal is not required to notify the appropriate police agency but must file a written report of the incident with the Department of Education within 5 working days. When the alleged offense is a violent felony, the appropriate police agency must be notified by the principal of the incident even when the suspect is under the age of 12.

(7) *Sexual harassment.* — Whenever a school employee has reliable information that would lead a reasonable person to believe that a student has been the victim of sexual harassment, as defined in Title 11, which occurred on school property or at a school function, the harassment must be reported to the principal, who, immediately after conducting a preliminary investigation to determine if good reason exists to believe that harassment has occurred, must notify the victim's parent of that determination, if the parent is not alleged to be the offender. The principal is not required to notify the appropriate police agency, but must file a written report with the Department of Education.

(8) Under no circumstances shall any person who has supervisory authority over the principal or any school board member exercise any control of, hinder or delay the lodging of any oral or written report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police. A principal (or acting principal if the principal is absent) may not delegate to or rely upon any other person except an assistant principal to make the immediate report to the police. A person with supervisory authority over the principal or any school board member who has knowledge of an incident which is required to be reported under this section, and who has information that would lead a reasonable person to believe that it has not been reported to the police, has an affirmative duty to report the incident to the police immediately. This includes, but is not limited to, incidents in which a school employee is a possible suspect and when an administrative review is ongoing.

(c) *Student possession of weapons and unlawful drugs.* — Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(1) Any controlled substance prohibited by Title 16; or

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11,

the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

(d) School officials who report a crime committed by a child with a disability, as defined by § 3101(2) of this title, shall comply with 20 U.S.C. § 1415(k)(6)(B) by ensuring that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the crime is reported. An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act [20 U.S.C. § 1232g].

(e) *Penalties.* — Any school employee who fails to report an incident as required by subsection (b) of this section or subsection (c) of this section shall be guilty of a violation and shall be fined not more than $250 for a first offense and not more than $500 for a subsequent offense. Any person with supervisory authority over the principal or any school board member who exercises any control of, hinders or delays the lodging of any report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police shall be guilty of a class B misdemeanor.

(f) *Immunity from civil liability; review of criminal complaint.* — (1) Any school employee who in good faith provides information to a police agency, a principal, a superintendent, or to the Department of Education under subsection (b) of this section or subsection (c) of this section shall not be held civilly liable for providing such information.

(2) Prior to lodging any criminal charge against a school employee for providing information pursuant to subsection (b) of this section or subsection (c) of this section to a police agency, a principal, a superintendent, or to the Department of Education, the Attorney General's office shall be consulted to determine the appropriateness of the charge.

(3) Any report of an actual or suspected crime made by a school employee or principal pursuant to subsection (b) of this section shall be exempt from public disclosure pursuant to the Freedom of Information Act as set forth in Chapter 100 of Title 29.

(g) *Confidential list of young student offenders.* — Following the start of each school year, the Department of Education shall, upon request, provide to the principal of any school a list of the students enrolled in that school for the coming year who committed offenses during the previous year which were reported to the Department of Education pursuant to this section. The list shall remain confidential and shall be used by the principal only for the purpose of identifying students who may be in need of beneficial programs such as mentoring.

(h) A copy of any report required by this section to go to a principal shall be immediately submitted to the superintendent by the principal.

(i) If any report required by this section alleges any wrongdoing involving the principal, the report shall be given to the superintendent and the duties required of the principal by this section shall be the duties of the superintendent.

(62 Del. Laws, c. 63, § 1; 62 Del. Laws, c. 409, §§ 1-3; 63 Del. Laws, c. 121, §§ 1, 2; 66 Del. Laws, c. 188, § 1; 69 Del. Laws, c. 120, §§ 1-3; 70 Del. Laws, c. 58, § 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 199, § 1; 70 Del. Laws, c. 312, § 1; 70 Del. Laws, c. 519, §§ 1, 2; 71 Del. Laws, c. 180, § 173; 71 Del. Laws, c. 218, § 2; 73 Del. Laws, c. 109, §§ 1-6; 77 Del. Laws, c. 468, §§ 1-7; 78 Del. Laws, c. 404, §§ 1-6; 81 Del. Laws, c. 122, § 2; 82 Del. Laws, c. 150, § 1.)

## § 4112A. Office of School Criminal Offense and Bullying Ombudsperson.

(a) There is hereby established within the State Department of Justice, the Office of School Criminal Offense and Bullying Ombudsperson.

(b) The purpose of the Ombudsperson is to ensure the proper administration of the school criminal offense reporting law contained in § 4112 of this title and the school bullying prevention law contained in § 4164 of this title.

(c) The Ombudsperson shall have the power to:

(1) Investigate and seek to resolve complaints made by and concerns of members of the public, school officials, and pupils regarding criminal offenses and incidents of bullying committed on school property;

(2) Investigate complaints regarding the alleged failure of school officials to report criminal offenses as required under § 4112 of this title and incidents of bullying as required under § 4164 of this title;

(3) Establish policies and procedures for eliciting, receiving, investigating, verifying, and resolving complaints; and

(4) Perform such other acts as are necessary to carry out the purpose set forth in subsection (b) of this section.

(70 Del. Laws, c. 249, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 375, § 1; 81 Del. Laws, c. 122, §§ 2, 12; 81 Del. Laws, c. 425, § 9.)

## § 4112B. Ombudsperson access.

(a) The Ombudsperson shall have access to any school record or pupil file which is relevant to the performance of the Ombudsperson's duties, including any record otherwise considered confidential under Delaware law.

(b) The Ombudsperson may initiate an investigation of any criminal offense committed on school property or any incident of bullying independent of the receipt of a specific complaint.

(c) The Ombudsperson shall protect the confidentiality of pupils' records and files as required under Delaware law.

(d) Notwithstanding any other provision of law, the Ombudsperson shall not disclose the identity of any complainant unless a court orders such disclosure or the complainant consents in writing to the disclosure of the complainant's identity.

(70 Del. Laws, c. 249, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 375, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4112C. Good faith immunity.

Persons and agencies participating in an investigation of the Ombudsperson shall be immune from civil liability which may result from their good faith participation in such investigation.

(70 Del. Laws, c. 249, § 1; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4112D. School bullying prevention.

[Transferred to § 4164 of this title by 81 Del. Laws, c. 122, § 4, effective August 10, 2016.]

(81 Del. Laws, c. 122, § 4.)

## § 4112E. School Teen Dating Violence and Sexual Assault Act.

[Transferred to § 4166 of this title by 81 Del. Laws, c. 122, § 4, effective August 10, 2016.]

(81 Del. Laws, c. 122, § 4.)

## § 4112F. Limitations on use of seclusion and restraint.

(a) *Definitions.* — For purposes of this section:

(1) "Chemical restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement that is either not medically prescribed for the standard treatment of a student's medical or psychiatric condition or not administered as prescribed.

(2) "Mechanical restraint" means the application of any device or object that restricts a student's freedom of movement or normal access to a portion of the body that the student cannot easily remove. "Mechanical restraint" does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including any of the following:

a. Restraints for medical immobilization.

b. Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical supports.

c. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

d. Instruction and use of restraints as part of a criminal justice or other course.

e. Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury.

(3) "Physical restraint" means a restriction imposed by a person that immobilizes or reduces the ability of a student to freely move arms, legs, body, or head. "Physical restraint" does not include physical contact that satisfies any of the following:

a. Helps a student respond or complete a task.

b. Is needed to administer an authorized health-related service or procedure.

c. Is needed to physically escort a student when the student does not resist or the student's resistance is minimal.

(4) "Public school personnel" means an employee or contractor of a school district or charter school. "Public school personnel" does not include any of the following:

a. A "law-enforcement officer" as defined in § 9200(b) of Title 11, including an SRO.

b. An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.

(5) "School resource officer" or "SRO" means a "law-enforcement officer," as defined in § 9200(b) of Title 11, who is stationed in a school district or charter school.

(6) "Seclusion" means the involuntary confinement of a student alone in a room, enclosure, or space that is either locked or, while unlocked, physically disallows egress. The use of a "timeout" procedure during which a staff member remains accessible to the student shall not be considered "seclusion."

(7) "Timeout" means a behavior management technique in which, to provide a student with the opportunity to reflect or regain self-control, a student is separated from others for a limited period in a setting that is not locked and the exit is not physically blocked by furniture, closed door held shut from outside, or other inanimate object.

(b) *Prohibition and restriction on use.* — (1) Public school personnel are prohibited from imposing on any student any of the following:

a. Chemical restraint.

b. Subject to waiver authorized pursuant to paragraph (c)(4) of this section, mechanical restraint and seclusion.

(2) Public school personnel may impose physical restraint only in conformity with all of the following standards:

a. The student's behavior presents a significant and imminent risk of bodily harm to self or others.

b. The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication.

c. The physical restraint does not do either of the following:

1. Interfere with the student's ability to breathe.

2. Place weight or pressure on the student's head, throat, or neck.

d. The physical restraint does not recklessly exacerbate a medical or physical condition of the student.

e. Less restrictive interventions have been ineffective in stopping the significant and imminent risk of bodily harm to the student or others, except in case of a rare and clearly unavoidable emergency circumstance posing imminent risk of bodily harm, including intervening in a student-initiated physical assault or altercation.

f. For a student with a disability as defined in Chapter 31 of this title or 34 C.F.R. Part 104, the physical restraint does not contravene provisions in an individualized education program (IEP), behavior intervention plan, accommodation plan, or any other planning document for the individual student.

g. Personnel use only the amount of force necessary to protect the student or others from the threatened harm.

h. The physical restraint ends when a medical condition occurs putting the student at risk of harm or the student's behavior no longer presents a significant and imminent risk of bodily harm to the student or others.

i. The physical restraint is within the scope of force authorized by § 468 of Title 11.

j. The physical restraint conforms to applicable regulations promulgated by the Department of Education.

(c) *Department of Education role; regulations.* — (1) The Department of Education shall promulgate regulations implementing this section. These regulations must include all of the following:

a. Requirement of uniform public school data collection, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if any, about all of the following:

1. Each use of physical restraint.

2. Each use of mechanical restraint.

3. Each use of seclusion.

b. Requirement of timely parental notice in event of use of physical restraint, mechanical restraint, or seclusion.

c. Special procedures and safeguards applicable to use of physical restraint, mechanical restraint, and seclusion for students with disabilities as defined in Chapter 31 of this title or 34 C.F.R. Part 104.

d. Recommended or required training of public school personnel in implementing this section.

(2) a. To facilitate data collection and analysis, the Department of Education may adopt a uniform reporting document and may require reporting of data in a standardized electronic or nonelectronic format.

b. The Department of Education shall request from the Police Officer Standards and Training Commission (POST), any data related to law-enforcement officer use of physical restraint, mechanical restraint, or seclusion on a student in a public school collected by POST.

c. 1. POST shall provide the requested data under paragraph (c)(2)b. of this section to the Department of Education.

2. For the mechanical restraint data, POST shall provide the Department of Education the total number of mechanical restraints that occurred disaggregated by whether the law-enforcement officer was required to use mechanical restraint in that situation, and if so, why that restraint was required.

(3) a. The Department of Education shall issue an annual report by November 30 of each year on use of physical restraint, mechanical restraint, and seclusion, which includes rates of usage by school and by subcategories identified in paragraph (c)(1)a. of this section, identifies trends, and analyzes significant results. The Department of Education shall incorporate the data received from POST under paragraph (c)(2) of this section into the annual report.

b. The Department of Education shall submit the report to all of the following:

1. The Secretary of the Senate, for distribution to all Senators.

2. The Chief Clerk of the House of Representatives, for distribution to all Representatives.

3. The Librarian and the Director of the Division of Legislative Services.

4. The President of the Delaware School Boards Association.

5. The president of each board of education of a school district under subchapter III of Chapter 10 of this title and the president of each board of directors of a charter school under § 504 of this title.

(4) Unless proscribed by federal law, the Secretary of the Department of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.

(d) *School resource officer training. —*

Training and reporting related to SROs is governed by this subsection. This subsection is limited to SROs who will assist with or independently intervene with students with disabilities, which includes all students eligible to be identified as students with disabilities under Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1401 et seq.], § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794] and The Americans with Disabilities Act (ADA) [42 U.S.C. § 12101 et seq.].

(1) School resource officers governed by this subsection shall annually receive the following awareness training from their school district or charter school:

a. Training which is consistent with that which is required of other public school personnel for disability awareness and behaviors that may manifest as a result of disabilities.

b. Best practices for de-escalation techniques in a school setting.

c. Information on intervention decisions and techniques used by school personnel in a school setting.

d. Other training as is necessary to protect the health and well-being of students with disabilities as promulgated in implementing regulation, which must include basic awareness training specific to individualized education programs (IEP), functional behavior assessments, and behavior support plans.

e. This training must include references as to how it relates to SRO duties and responsibilities outlined in their employment contract and school district or charter school memorandum of agreement (MOA). This training must be consistent with the annual training already provided to school district or charter school educators.

(2) School resource officers governed by this subsection shall annually participate in the SRO training provided by the State Police or equivalent training provided by the police department employing the SRO in the school district or charter school.

(3) Prior to the start of each school year, or as soon as practical, an SRO shall meet with a representative of each building in which they are assigned to be familiarized with behaviors related to disabilities that may occur in the school and typical responses that may be taken by school personnel in that school.

(4) Reporting and notification practices for incidents involving SROs covered by this subsection must be consistent with reporting and notification requirements for school personnel, and must include a police report identification number if a police report exists.

(5) Each school district or charter school which contracts with SROs shall have a MOA consistent with the MOA template as required by Department of Education regulation with the agency which employs or manages those sworn officers.

(6) School districts or charter schools may not use SROs who are covered by this subsection, but do not comply with the training requirements set out herein. This paragraph does not prohibit a school district or charter school from using a law-enforcement officer who is not trained as an SRO to fill in for an SRO who is temporarily absent.

(7) *Department of Education role and regulations. —*

a. The Department of Education shall develop, promulgate, and update regulations for this subsection in collaboration with the Governor's Advisory Council for Exceptional Citizens (GACEC).

b. Timelines for implementation and training shall be primarily based on protecting the health and welfare of children with disabilities.

c. To the greatest extent practical and appropriate, such regulations shall be consistent with and integrated with the regulations for the remainder of this section.

(8) Funding for training and implementation shall be derived from existing resources.

(9) Nothing in this subsection shall be interpreted as creating any additional restriction on the sworn authority of law-enforcement officers or their ability to carry out their required sworn duty.

(e) *Effect on other laws.* — The limitations and prohibitions described in this section are in addition to, and not in derogation of, any other constitutional, statutory, or regulatory rights otherwise conferred by federal or state law or regulation.

(79 Del. Laws, c. 54, § 2; 81 Del. Laws, c. 122, § 2; 81 Del. Laws, c. 189, § 1; 85 Del. Laws, c. 111, § 1.)

## § 4113. Authority of school crossing guards to ensure safety of pupils.

Where school crossing guards are employed by a school district, the guards shall have the right to stop, control and guide vehicular traffic near any pedestrian crosswalk in order to permit children to cross streets or highways safely. In instances where the driver of a motor vehicle fails to comply with the lawful directions or signals of a school crossing guard, or otherwise violates a lawful ordinance or statute, the school crossing guard may report such driver to the appropriate police authorities. If the identity of the driver is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name the vehicle is registered, to whom a rental vehicle is leased or whose name appears on a company's records as driving a company car is responsible for the violation.

(63 Del. Laws, c. 402, § 2; 81 Del. Laws, c. 122, § 2.)

## § 4114. Right of State to transcribe and reproduce instructional material in braille and other media for handicapped minors.

Each contract executed for the procurement of instructional materials shall include the right of the State to transcribe and reproduce the material in braille, large print, recordings or other media for the use of handicapped minors, including the visually handicapped, unable to use the book in conventional print and form. Such right shall include those corrections, revisions and other modifications as may be necessary.

(64 Del. Laws, c. 298, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4115. Choice of transportation.

The school board of each school district shall offer, to each parent or guardian of a student within that district who is licensed to drive a motor vehicle, a choice between driving a private vehicle to the school and transportation to the school by the school bus; provided, however, that those who choose to drive a private vehicle shall not be transported by a school bus, and those who choose to be transported by a school bus shall not be permitted to park on school grounds. The principal of each school may issue passes for school bus transportation to certain pupils who have chosen to drive a private vehicle, for use on a temporary and emergency basis; and may also set aside a specific number of parking spaces for use on a temporary and emergency basis by pupils who originally chose transportation by school bus.

(67 Del. Laws, c. 49, § 1; 77 Del. Laws, c. 327, § 362; 81 Del. Laws, c. 122, § 2.)

## § 4116. Drug/alcohol educational programs.

(a) The Department of Education with approval of the State Board of Education shall establish and implement statewide alcohol/substance abuse educational programs to be provided in each grade, kindergarten through grade 12, in each public school in this State. The programs required by this section shall consist of no fewer than 10 hours per school year in grades kindergarten through 4 and 15 hours per school year in grades 5 through 12. Each program shall be taught by appropriately trained certified teachers and the instruction shall be comprehensive, age-appropriate and sequential in nature.

(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305 of this title.

(67 Del. Laws, c. 205, § 2; 71 Del. Laws, c. 180, § 174; 72 Del. Laws, c. 294, § 45; 81 Del. Laws, c. 122, § 2.)

## § 4116A. Mental health educational programs.

(a) For purposes of this section:

(1) "Charter school" means as defined under § 4161 of this title.

(2) "Contracted school year" means the period defined under § 1305(e) of this title.

(3) "Grade" means kindergarten through grade 12.

(4) "School district" means as defined under § 4161 of this title.

(b) The Department of Education, with the approval of the State Board of Education, shall establish and implement statewide mental health educational programs for each grade in each school district and charter school in this State.

(c) The statewide mental health education programs established and implemented under this section must meet all of the following:

(1) Recognize the multiple dimensions of health by including instruction in mental health and the relationship between physical and mental health to enhance student understanding, attitudes, and behaviors that promote health, well-being, and human dignity.

(2) Taught by appropriately certified teachers or appropriately certified community mental health providers.

(3) Be comprehensive, developmentally appropriate, and sequential in nature.

(d) In establishing and implementing statewide mental health programs under this section, the Department of Education shall consult with mental health experts, including individuals with the Department of Health and Social Services, Department of Services for Children, Youth, and Their Families, Mental Health Association of Delaware, Delaware Guidance Services, National Alliance of Mental Illness Delaware, and National Council for Behavioral Health.

(e) A school district or charter school shall provide in-service training required under this section within the contracted school year.

(f) The Department of Education may, with the approval of the State Board of Education, adopt regulations to implement and enforce this section.

(g) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, the Director and the Librarian of the Division of Legislative Services, and the Public Archives no later than January 15 of each year. The report must include a description of the educational programing provided under subsection (b) of this section, how the programming complies with subsection (c) of this section, and how the programming has been implemented by each school district and charter school.

(83 Del. Laws, c. 387, § 1; 84 Del. Laws, c. 255, § 13.)

## § 4116B. Mental health services for school-connected traumatic events.

(a) As used in this section:

(1) “Public school” means traditional school districts, vocational technical school districts, and charter schools.

(2) “School-connected traumatic event” means the death of any student, educator, administrator, or other building employee of a public school or other traumatic event that affects a significant portion of the students of the school.

(b) By January 1, 2024, the Department of Education, in consultation with National Alliance on Mental Illness, Delaware, the Delaware Associations of School Psychologists, the School Social Workers Association of Delaware, the Delaware School Counselors Association, the Delaware School-Based Health Alliance, at least 1 licensed clinical pediatric psychologist, and other community stakeholders and mental health specialists, shall develop all of the following:

(1) Guidance and best practices for public schools dealing with a school-connected traumatic event, including recommendations on counseling availability during school.

(2) Written materials that public schools may distribute to students and families after a school-connected traumatic event setting forth additional public and private options for mental health care available in the State.

(3) Written materials that public schools may distribute to a student’s parent or caregiver to encourage them to seek counseling if impacted by the school-connected traumatic event.

(c) The Department of Education shall cover the cost of grief counseling offered at the school to students for 45 days after a school-connected traumatic event. After 30 days, the Department and the school administration shall consult about the need for continuing grief counseling services, and the Department shall continue to cover the cost of grief counseling at the school for an additional 45 days where a showing of significant need for and utilization of the services has been made.

(d) Every public school shall prepare a crisis response policy that shall include, at a minimum, the following:

(1) The establishment of a district crisis response team, its composition, and roles of each crisis response team member in a school-connected traumatic event.

(2) Procedures for the verification of the school-connected traumatic event and the determination of the response level necessary from the crisis response team.

(3) Procedures for the assessment of the school-connected traumatic event’s impact on students and educators, the identification and referral of students that are most impacted by the event, and the coordination of required grief counseling and crisis response services.

(4) Evaluations for further continued support after the expiration of 30 days of grief counseling provided under subsection (c) of this section.

(5) Procedures for determining the appropriate amount of information to release about the event and how to disseminate this information to students, faculty, and staff.

(6) Policies providing behavioral health supports for crisis response team members involved in the response to a school-connected traumatic event.

(e) Each public school shall adopt the policy required by subsection (d) of this section and submit a copy to the Department of Education by September 1, 2024, and by September 1 of a newly-approved charter school’s first year of operation. Each school district and charter school shall provide any changes to the crisis response policy to the Department within 60 calendar days.

(f) By September 1 of each year, beginning in 2024, the Department of Education shall submit a report to the Chairs of the House and Senate Education Committees and the Chairs of the Joint Finance Committee detailing the cost of providing grief counseling in schools under this section.

(84 Del. Laws, c. 167, § 2.)

## § 4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

(67 Del. Laws, c. 219, § 1; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4118. Parents as Teachers Program.

(a) The General Assembly finds and declares as follows:

(1) The home environment and parental attitudes about the value of education can have a significant effect on a child's ability or desire to learn.

(2) A well-substantiated body of research on how children learn and grow clearly indicates that a child's most productive and influential years of learning occur before the age of 5.

(3) Experts in child development generally agree that 50 percent of intelligence, and the great majority of language skills, are developed by age 4, and that these, along with the establishment of curiosity and social skills, lay the foundation for all further learning.

(4) Failure in the early years to develop adequately in these areas has been shown to lead directly to underachievement and failure in the elementary grades and beyond.

(5) Most of the children headed for academic difficulty at age 6 and beyond are, by age 3, already significantly behind their peers.

(6) The potential dropout often comes from a home in which well-intentioned but untrained parents have not gained, or do not use effectively, their personal resources to adequately nurture in their child the intellectual and social skills required for success in the early grades.

(7) Parents are the first and most influential teachers in their child's life and a free developmental resource for their child.

(8) Neither public nor private institutions are systematically providing a meaningful number of Delaware parents with research-based, up-to-date instructions in giving their children the best possible beginning.

(9) Delaware's current Parents as Teachers Program was first initiated approximately 15 years ago by Joe Cobb, an elementary school principal and long-time Delaware educator, who recognized such in-home early education efforts as investments in our children's futures.

(10) The family is the proper and most influential first educational delivery system for the child.

(11) Evidence exists that a child's early experiences can significantly enhance or inhibit development and learning. It is both educationally sound and most cost-effective for schools to work cooperatively with the home during the crucial first years.

(12) High quality parenting can be one of this country's greatest national resources. It is a learned skill that can be improved for the benefit of the individual family and for our society.

(b) The Parents as Teachers Program is hereby established under the auspices of the Department of Education and shall be coordinated through 1 or more local school boards. The Department of Education shall establish programs to train parents as teachers. The Program shall address the educational needs of targeted parents of children and shall contain the following elements:

(1) The use of individuals who are professionally trained in child development and parenting.

(2) The provision by participating school systems of instruction in child development and parenting, on a voluntary enrollment basis, to targeted parents of children from infancy through age 3. The Program shall be provided in homes and other appropriate community settings in a cost-effective, accessible and convenient manner.

(3) The Program shall include all of the following:

a. Timely and practical information and guidance on development in language, cognitive and social skills.

b. Instruction in the effective use of community parenting resources, including developmental and medical screening and, as needed, early intervention for children through the first 3 years of life, contingent on the availability of resources and the level of voluntary parental participation.

c. Regular visits to the home of each participating parent, as part of that course of instruction by 1 or more of the qualified educators administering the course.

d. Services shall be focused and targeted, to the extent possible, to parents of at-risk children.

e. Coordination, where appropriate, with other programs in other state agencies, which serve this population.

(c) At least every 3 years, the Department of Education shall solicit proposals and shall select participants for the Program. The request for proposals shall require participants to demonstrate all of the following:

(1) Ability to provide training for the Parents as Teachers Program.

(2) Evidence of significant local support for the project from school system administrators and local school boards and local parent and children advocacy organizations.

(3) Evidence that services will be provided to a racially, culturally, geographically and economically diverse targeted population.

(d) The Department of Education shall evaluate proposals to insure that the development of parenting skills provided by the program increases:

(1) Intellectual and language development.

(2) Knowledge level of child development and child rearing practices by parents.

(3) Positive feelings about the usefulness of the Program.

(4) Positive attitudes toward the school system.

(e) The Department of Education shall require applicants selected for the grant program, as a condition for the receipt of grant proceeds, to participate in in-service training programs.

(f) The implementation of the Parents as Teachers Program shall be subject to specific annual appropriation in the annual appropriations act.

(69 Del. Laws, c. 41, § 1; 70 Del. Laws, c. 425, § 342; 71 Del. Laws, c. 180, § 175; 81 Del. Laws, c. 122, § 2.)

## § 4119. Metal detectors.

The school board of each school district shall have authority to employ the use of metal detectors, or any other similar security devices, to prevent pupils from bringing dangerous instruments, deadly weapons or any other contraband into the schools. Any school board exercising its authority under this section shall promulgate rules and regulations governing the implementation and use of such security devices.

(69 Del. Laws, c. 120, § 4; 81 Del. Laws, c. 122, § 2.)

## § 4120. School dress codes and uniforms.

(a) The school board of each public school district shall have authority to establish and enforce a dress code program, which may include school uniforms, for students within the district to promote an orderly, disciplined school environment and to encourage uniformity of student dress. Any school board exercising its authority under this section shall promulgate rules and regulations governing the establishment and enforcement of its dress code program.

(b) In establishing a dress code that adopts school uniforms, the rules and regulations of the school board shall ensure that any uniform required is available at an affordable price, and shall include provision to assist economically disadvantaged students in obtaining school uniforms.

(70 Del. Laws, c. 69, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4121. Video cameras on public school property.

The school board of each school district shall have authority to establish and implement programs to use video cameras for surveillance on public school property, including, but not limited to, classrooms, halls, auditoriums, cafeterias, gymnasiums and parking areas, for the purpose of monitoring student behavior to help ensure the safety of students and teachers. However, no video camera shall be used for classroom surveillance, pursuant to this section, unless the principal of the school and the teacher of the classroom consent to the surveillance.

Before exercising its authority under this section, a school board shall promulgate rules and regulations governing the implementation and use of video cameras in classrooms. However, in no event shall video cameras be used at any time or at any location which would violate a student's reasonable expectation of privacy including, but not limited to, locker rooms, areas where students may disrobe and lavatories.

(70 Del. Laws, c. 377, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4122. Parent's failure to attend school conference with superintendent; subpoena to compel attendance.

(a) "Parent" as used in this section means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(b) When a parent fails to attend, participate or respond to a public school or charter school superintendent's request for a conference to discuss matters involving alleged violations of school rules or regulations by the parent's child, the public school or charter school superintendent or the superintendent's designee may request that the Justice of the Peace Court issue a subpoena to compel the presence of the parent at a conference with the superintendent.

(c) Prior to the issuance of a subpoena to compel the presence of a parent, the superintendent or a designee must provide evidence that the superintendent or a designee has:

(1) Made a reasonable attempt to schedule the conference at a time that does not conflict with the employment hours of the parent; and

(2) Sent written notice of the conference by regular United States mail to the address of record of the parent, which notice shall include the reason for the conference and a statement that failure to schedule or attend the conference may result in the issuance of a subpoena.

(d) After verifying that the superintendent or a designee has sent the required notice, the Justice of the Peace Court may, in its discretion, issue a subpoena pursuant to Justice of the Peace Civil Rule 18 which shall compel the presence of the parent at a conference with the superintendent.

(e) If a parent fails to obey a subpoena properly served under this section, the superintendent may file a motion for an order holding the parent in contempt of court. The Justice of the Peace Court shall have jurisdiction over this matter. A parent found guilty of contempt for failure to appear at a conference after receiving a subpoena may be ordered by the Court to attend school with the student, attend family counseling, and/or comply with such other conditions as the Court may order.

(f) Proceedings against a parent of a suspended or expelled child may also be filed pursuant to subchapter II of Chapter 27 of this title for each day that the child is absent beyond the period of suspension or expulsion without a valid excuse as a result of the parent's failure to attend or schedule a conference after having received notification of the suspension or expulsion.

(71 Del. Laws, c. 218, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 175, §§ 10, 11; 81 Del. Laws, c. 122, § 2.)

## § 4123. Child abuse detection; reporting training [Repealed].

(72 Del. Laws, c. 173, § 4; repealed by 81 Del. Laws, c. 122, §§ 2, 6, effective Aug. 9, 2017.)

## § 4123. Oral health screening [For application of this section, see 84 Del. Laws, c. 132, § 2].

(a) For purposes of this section, "oral health screening" means the screening done by a dental hygienist or dentist.

(b) Each school district and charter school must provide an oral health screening to each student enrolled in kindergarten by the last student attendance day of each school year.

(c) The school shall record the results of the oral health screenings within the student's electronic health record.

(d) If a student fails an oral health screening, the school must notify the student's parent, guardian, or relative caregiver.

(e) The Bureau of Oral Health and Dental Services must inform a parent or guardian of each student's oral health status by sending home, with the student, a copy of the dental screening results and must refer students who need a dental referral or restorative care to a dentist.

(f) The requirements of this section are contingent on the ongoing funding and implementation of the Delaware Smile Check Program under the Department of Health and Social Services or other comparable program of sufficient capacity to provide free oral health screenings to all enrolled kindergarten students.

(84 Del. Laws, c. 132, § 1.)

## § 4123A. School bullying prevention and criminal youth gang detection training [Repealed].

(76 Del. Laws, c. 14, § 1; repealed by 81 Del. Laws, c. 122, §§ 2, 7, effective Aug. 9, 2017.)

## § 4123B. Posting child abuse and neglect telephone report line.

[Transferred to § 4163(g)(1), (2) of this title by 81 Del. Laws, c. 122, § 8.]

(80 Del. Laws, c. 256, § 1; 81 Del. Laws, c. 122, § 1.)

## § 4123C. Personal body safety and child sexual abuse awareness and prevention.

[Transferred to § 4163 of this title by 81 Del. Laws, c. 122, § 4.]

(81 Del. Laws, c. 122, § 4.)

## § 4124. Cell phone use policy by students during school hours.

(a) For purposes of this section:

(1) "Cell phone" means a portable electronic device used for communication through voice calls, text messages, or Internet access.

(2) "Instructional time" means educator-led time dedicated to teaching and learning.

(b) Each school district and charter school shall adopt a policy, with educator input, about cell phone use by students during school hours that, at a minimum, must include all of the following:

(1) Clear guidelines about what constitutes acceptable cell phone use at school.

(2) A requirement that limits cell phone use during instructional time.

(3) The designation of times and places during which students may use their cell phones at school.

(4) Guidelines that encourage communication between the schools, parents or guardians, and students about the cell phone use policy.

(5) A system of appropriate consequences for violations of the cell phone use policy.

(6) Exceptions that address, and are applicable to, emergency situations and medical or educational accommodations.

(7) A plan to monitor discipline data related to student cell phone use policy violations.

(c) Each school district and charter school shall provide its adopted cell phone policy to the Department.

(d) By August 31, 2026, each school district and charter school shall post its adopted cell phone policy on its website.

(e) Each school district and charter school shall implement and enforce its cell phone policy in a fair and consistent manner. Each school district and charter school is responsible for ensuring that implementation and enforcement is not solely the responsibility of classroom educators.

(f) (1) Each school district and charter school may amend its adopted cell phone use policy as needed.

(2) If a school district or charter school amends its cell phone use policy, it shall provide the amended policy to the Department within 90 days of the amendment.

(3) The school district or charter school shall post the amended policy on its website.

(g) The Department shall provide school districts and charter schools with model language that the school districts and charter schools may use to support the development of cell phone use policies.

(85 Del. Laws, c. 238, § 1.)

## § 4125. Driver education certification.

(a) A driver education teacher may not certify that a student is qualified under § 2710 of Title 21 for either a Driver Education Learner's Permit or a Level 1 Learner's Permit unless the student has completed all of the following:

(1) Fulfilled the requirements of the state-approved driver education program, including all of the following:

a. Successfully completed both components of the driver education program, which are as follows:

1. Classroom.

2. Behind-the-wheel instruction and observation.

b. Demonstrated knowledge related to traffic stops by a law-enforcement officer as required under § 2713(e) of Title 21.

(2) Was enrolled in tenth or a higher grade, on or before September 30 of the school year when the student was enrolled in the driver education course under paragraph (a)(1) of this section.

(3) a. Earned passing grades in at least 5 credits or their equivalent (credits) on the student's most recent, published report card (report card) as follows:

1. All 5 credits must be in a regular course of study, or its equivalent as approved by the local governing body of the student's school.

2. At least 2 of the credits must be in English, mathematics, science, world language, or social studies.

3. When the student's report card includes grades for the marking period and the final grade, the student's final grade determines if the student earned a passing grade.

b. The Department of Education shall establish, through regulations, how the number of credits required under paragraph (a)(3)a. of this section is calculated, including how equivalent credit is determined and calculated.

(b) If a student is receiving special education services under an active student's individualized education plan (IEP), all of the following apply:

(1) The student has until the student's eligibility for special education and related services terminates because the student is 22 years old to complete the driver education certification through the state-approved driver education course.

(2) As provided under Department of Education regulations, the student may be authorized to subsequently enroll in another driver education course if the student fails the driver education course during the regular school year.

(c) A student who is receiving special education services and is precluded from meeting the academic requirements under subsection (a) of this section because of modifications in the grading procedure or course of study for the student, is eligible for certification if the student's school principal, in collaboration with the student's IEP team, determines that the student is making satisfactory progress in accordance with the requirements of that student's IEP.

(d) A local school board may establish requirements higher than the minimum academic eligibility requirements set forth in this section.

(e) If a student has successfully completed the driver education course but does not meet the certification requirements under this section, the student is eligible for certification under § 2710 of Title 21 if the student meets the requirements under this section during the next marking period. If the student fails to meet the requirements under this section at the end of the next marking period, the student is ineligible for certification.

(f) Any permit issued in violation of the provisions of this section shall be cancelled, all fees forfeited and the applicant must reapply as if they were a new applicant.

(72 Del. Laws, c. 158, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 228, § 1; 81 Del. Laws, c. 122, § 2; 81 Del. Laws, c. 350, § 4; 85 Del. Laws, c. 270, § 1.)

## § 4126. School-based health centers.

(a) All public high schools, including vocational-technical schools, but not including charter schools, are required to have a school-based health center compliant with § 3571G of Title 18 and regulations promulgated thereunder.

(b) The State shall bear the start-up costs for a school-based health center at any public high school that lacks such a center as of July 20, 2016. The State shall fund such costs for at least 1 school per fiscal year until such a time as all public high schools, other than charter schools, are in compliance with this section.

(80 Del. Laws, c. 322, § 1; 81 Del. Laws, c. 122, § 2.)

## §§ 4127-4129. [Reserved.]

(81 Del. Laws, c. 122, § 2.)

## § 4130. Expulsion of students; re-enrollment.

(a) In any case where a public school student is expelled from a school district or a charter school, the expelled student shall not be permitted to reenroll in any other school district or charter school in this State until after the full period of expulsion from the school district or charter school where the student was expelled shall have expired.

(b) Prior to enrolling any student who attempts to transfer to a school district or charter school in this State, the superintendent of that school district, or the superintendent's designee, the head of a charter school or such head's designee shall first contact the last school district or charter school where the student was last enrolled, if in this State, to determine if that student is under a current expulsion order in that district or charter school. If it is determined that the student is under a current expulsion order, that student shall not be permitted to enroll until the expulsion order has expired as set forth in subsection (a) of this section.

(c) Any student who has been expelled from a public school in this State or in any other state shall, prior to enrollment in any public school in this State, completely fulfill the terms of that expulsion.

(d) The provisions of subsections (a), (b) and (c) of this section shall not apply to any case in which a student is seeking to enroll in the James H. Grove High School or in any alternative educational or other related program developed to provide educational services to children who have discipline problems.

(e) [Repealed.]

(69 Del. Laws, c. 214, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 236, §§ 1-5; 71 Del. Laws, c. 272, §§ 1, 2; 73 Del. Laws, c. 164, §§ 3, 5; 81 Del. Laws, c. 122, § 2; 81 Del. Laws, c. 434, § 1.)

## § 4131. Notification of provisions pertaining to school crimes.

At the commencement of each school year, the school board of each school district shall ensure that each student enrolled in the district and the parent of each student shall receive notice of the following:

(1) The provisions of § 621 of title 11 which prohibit making a false statement which causes evacuation of a school or other place of assembly and the penalties for such an offense;

(2) The provisions of § 4110 of this title, which prohibit disturbing schools or destroying school property and the penalties for such offenses;

(3) The provisions of § 4112 of this title, which require the reporting of school crimes.

As used in this section, "parent" means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age.

(72 Del. Laws, c. 368, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4132. Student grades; teacher evaluation restriction.

(a) When a teacher assigns an alphabetical symbol or numerical rating as a grade that assesses a student's performance on an individual project, such as a grade for a test or for homework, or that assesses a student's collective performance, such as a grade for a marking period or semester, only the assessing teacher or the superintendent of the school district in which the grade was assigned or, in the case of a charter school, the highest ranking administrative officer of the charter school may alter the student's assigned grade.

(b) If a superintendent or the highest ranking administrative officer alters a student's assigned grade pursuant to subsection (a) of this section, the superintendent or administrative officer shall give written notice of the alteration to the teacher who assigned the grade and to the Secretary of Education. The notice must include the name of the student, the name of the teacher, the title of the course for which the grade was altered, the reason or reasons for the grade alteration, and the extracurricular activities in which the student has participated and intends to participate during the school year. Notice of grade alteration pursuant to this subsection is not subject to the provisions of the Freedom of Information Act, Chapter 100 of Title 29.

(c) Review of grades issued by a teacher shall not be the sole criteria for the determination to not retain a teacher.

(74 Del. Laws, c. 377, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4133. Physical Education/Physical Activity Pilot Program.

(a) For the 2006-07 school year there is established a Physical Education/Physical Activity Pilot Program in at least 6 of Delaware's public elementary, middle or high schools to determine the potential for future expanded use to all of Delaware's public schools. Each

school in the pilot shall be required to provide at least 150 minutes per week of a combination of physical education and physical activity for each student. A pilot school shall not be penalized in any manner if a reasonable attempt has been made to provide the program to each student.

(b) Each potential pilot school shall be required to provide a proposed plan that outlines how the school shall meet the requirements as specified in subsection (a) of this section and the application form developed by the Department of Education. This application shall include the delineation of any unmet funding needs related to, but not limited to, additional program and personnel costs to conduct the planned activities. To the extent funds are available, the Department shall provide for such unmet funding needs.

(c) The Department of Education shall work with the selected pilot schools to develop and implement programs, following the Connections to Learning core principles, that meet the requirement that the school provide at least a 150-minute minimum in the combination of physical education and physical activity which may include physical education classes, recess, planned classroom breaks, and other identified activities. Training shall be provided by the Department of Education upon request.

(d) The Department of Education shall conduct an evaluation of the pilot program which may be done in collaboration with an outside entity and shall report preliminary findings by May 15, 2007, and a final report by July 15, 2007, to the Secretary of Education, President Pro Tempore of the Senate, Speaker of the House of Representatives, Office of Management and Budget, Controller General's Office and Chairpersons for the Joint Finance Committee.

(75 Del. Laws, c. 420, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4134. Mandatory reporting of Delaware Healthy Children Program [CHIP] and Medicaid information.

(a) Each school district shall be required to report to the Department of Health and Social Services [DHSS] on or before November 1 of each calendar year beginning in 2008 the name, eligibility status, family income level, address, and telephone number of each child eligible for free and reduced price meals through programs subsidized by the National School Lunch Program, the School Breakfast Program, or the Special Milk Program for Children.

(b) The information required by subsection (a) of this section shall be provided to the Department on a form and in a manner prescribed by the Department of Health and Social Services.

(c) On or before August 1, 2008, and during each subsequent application or renewal period for free or reduced price meals, each school district shall notify in writing each parent/guardian whose child receives or seeks to receive free or reduced price meals that:

(1) The child's free or reduced price meal or free milk eligibility information will be disclosed to DHSS unless the parent or guardian elects not to have the information disclosed;

(2) The parent/guardian is not required to consent to the disclosure, and the information, if disclosed, will be used solely to identify children eligible for and seek to enroll children in a free or reduced price health insurance program; and

(3) The parent/guardian's decision regarding disclosure will not affect the child's eligibility for free or reduced price meals or free milk.

(d) In connection with the disclosures required by subsection (c) of this section, the school district shall give the parent/guardian an opportunity to elect not to have information disclosed to DHSS.

(e) Prior to August 1, 2008, each school district shall enter into a written, signed agreement with DHSS stating that:

(1) DHSS will be receiving from the school district the names, eligibility status, family income level, address, and telephone number of each child eligible for free and reduced price meals through programs subsidized by the National School Lunch Program, the School Breakfast Program, or the Special Milk Program for Children;

(2) DHSS will use the information received only to seek to enroll children in the State's CHIP and Medicaid programs;

(3) The information disclosed by the school district will be protected from unauthorized uses and disclosures (with specific steps to protect the information described); and

(4) There are federal criminal penalties associated with unauthorized use or disclosure of the information disclosed by the school district (along with a description of the specific criminal sanctions).

(f) The school districts shall cooperate with DHSS and the Office of the Insurance Commissioner in negotiating the agreements required by subsection (e) of this section, and may seek the assistance of the Insurance Commissioner in developing the form required by subsection (b) of this section.

(g) "School district" as used in this section shall mean school district as defined at § 1002(5) of this title, along with vocational and technical school districts.

(76 Del. Laws, c. 241, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4135. American Sign Language.

American Sign Language shall be recognized as and considered a world language for purposes of school curriculum and any course of instruction, involving any school district or public school in the State.

(77 Del. Laws, c. 285, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4136. Limitation of trans fats in food and beverage available or served to students in public schools [See 78 Del. Laws, c. 48, § 2, for applicability to certain contracts].

(a) Public schools, including charter schools, and school districts, through a vending machine, school cafeteria or school food service establishment during school hours, shall not make available to students enrolled in kindergarten through grade 12 any food or beverage containing industrially produced trans fat, as defined in subsection (c) of this section, or use food containing industrially produced trans fat in the preparation of a food item served to those students.

(b) This section shall apply to all food and beverages sold on school grounds during regular school hours and the extended school day. The extended school day includes activities such as clubs, yearbook, band and choir practice, student government, drama, and childcare/ latchkey programs. The extended school day does not include school-based events where parents, families, and the wider community constitute a significant portion of the attendees such as interscholastic sports, school plays and dramatic performances, or other similar school functions.

(c) For purposes of this section, a food contains industrially produced trans fat if a food contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to United States Food and Drug Administration standards, lists the trans fat content as zero grams of trans fat per serving.

(78 Del. Laws, c. 48, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4136A. Prohibition on restricting student participation in extracurricular activities due to meal debt.

(a) For purposes of this section, "extracurricular activity" includes:

(1) Band.

(2) Clubs.

(3) Homecoming.

(4) Interscholastic sports.

(5) Prom.

(6) Student government.

(7) Graduation ceremonies.

(b) Local education agencies, including charter schools, may not prohibit a student from participating in or attending a school-sponsored extracurricular activity due to the student having an outstanding debt for unpaid school meals.

(84 Del. Laws, c. 334, § 1.)

## § 4137. Alternative service models for school breakfast.

(a) *Purpose. —*

The purpose of allowing for alternative service models for school breakfast is:

(1) To increase the total number of public school, excluding charter school, students eating breakfast on school days;

(2) To help improve the academic performance of these students; and

(3) To improve the overall health of these students in the State.

(b) *Definitions. —*

For the purposes of this section:

(1) "Alternative service model" means breakfast meal service that may include 1 or more of the following:

a. Breakfast in the Classroom.

b. Grab-and-Go Breakfast.

c. Second-Chance Breakfast.

(2) "Breakfast in the Classroom" means that breakfast meals are eaten in the classroom at the start of the school day. A breakfast meal can either be delivered to the classroom or be served from the cafeteria or a cart or kiosk placed within the school, the cafeteria, or another location deemed appropriate by the school.

(3) "Community eligibility provision" means a provision from the Healthy, Hunger-Free Kids Act of 2010 [P.L. 111-296] that allows schools and local education agencies with high poverty rates to provide a breakfast and lunch to all students at no cost.

(4) "Department" means the State of Delaware Department of Education.

(5) "Free claiming percentage rate", for the purposes of this program, means the identified student percentage of a school multiplied by a factor of 1.6.

(6) "Grab-and-Go Breakfast" means that students are able to access a breakfast meal from a cart or kiosk placed within the school, the cafeteria or another location deemed appropriate by the school.

(7) "Identified student percentage" means the number of students in a school directly certified for free meals (any student in a household receiving Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) plus any student identified as homeless, foster, migrant or runaway) between the period of July 1 through April 1 annually.

(8) “National School Lunch Program” means the federal National School Lunch Act created in 42 U.S.C. § 1751 et seq.

(9) “Reduced-price meal” means a meal a child is entitled to in the School Breakfast or National School Lunch Program where the family’s income is between 130 and 185 percent of the federal poverty threshold, published annually in the Federal Register as required by § 9 of the Richard B. Russell National School Lunch Act [42 U.S.C. § 1758].

(10) “School Breakfast Program” means the federal School Breakfast Program created in 42 U.S.C § 1773 et seq.

(11) “Second-Chance Breakfast” means that students are offered the opportunity to obtain a breakfast meal at a time prior to the beginning of second period.

(c) *The Program. —*

Beginning in school year 2017-2018, every public school site, including charter school sites, participating in the community eligibility provision, shall be required to offer a breakfast at no cost to every student in the school through an alternative service model, which may be in addition to their traditional breakfast meal service.

(d) *Administration. —*

The Department may promulgate regulations regarding the implementation of this section.

(80 Del. Laws, c. 424, § 1; 81 Del. Laws, c. 122, § 2.)

## § 4137A. Free School Meals Program [For application of this section, see 84 Del. Laws, c. 317, § 2].

(a) *Definitions. —*

As used in this section:

(1) “Department” means the Department of Education.

(2) “National School Lunch Program” means the federal Richard B. Russell National School Lunch Act created in 42 U.S.C.§ 1751 et seq.

(3) “Program” means the Free School Meals Program created under this section.

(4) “Reduced-price meal” means a meal a child is entitled to receive under the School Breakfast Program or National School Lunch Program when the family’s income is between 130% and 185% of the federal poverty threshold, as published annually in the Federal Register, and as required under § 9 of the Richard B. Russell National School Lunch Act, 42 U.S.C. § 1758.

(5) “School Breakfast Program” means the federal School Breakfast Program created in 42 U.S.C. § 1773 et seq.

(b) All public schools that participate in the School Breakfast Program and National School Lunch Program must provide a breakfast meal and a lunch meal free of charge to any student who qualifies for a reduced-price meal with a maximum of 1 free meal for each meal service period. The meals provided free of charge under this Program must meet the meal pattern requirements under the School Breakfast Program and National School Lunch Program.

(c) The Department shall reimburse all public schools participating in the Program. The amount of reimbursement, by the Department to each participating public school for each budget year, will be equal to the federal free reimbursement rate multiplied by the total number of eligible meals that the participating public school serves during the applicable budget year minus the total amount of reimbursement for eligible meals served during the applicable budget year that the participating public school receives under the School Breakfast Program and National School Lunch Program.

(d) The Department may promulgate rules and regulations as necessary to implement this Program, including rules to maximize the amount of federal funding available to implement and operate this Program.

(84 Del. Laws, c. 317, § 1.)

## § 4137B. Red Dye 40 prohibited; school foods and beverages [For application of this section, see 85 Del. Laws, c. 27, § 2].

(a) For purposes of this section:

(1) “Breakfast” means as defined in 7 C.F.R. § 220.2.

(2) “Campus” means areas of the property under the jurisdiction of a school district or charter school that are accessible to students during the school day.

(3) “Competitive food” means all foods and beverages other than meals reimbursed under programs authorized by the Richard B. Russell National School Lunch Act, 42 U.S.C. § 1751 et seq., and the Child Nutrition Act of 1966, 42 U.S.C. § 1771 et seq., available for sale through the school nutrition programs to students on campus during the school day.

(4) “Department” means the Department of Education.

(5) “Lunch” means as defined in 7 C.F.R. § 210.2.

(6) “School day” means the period from the midnight before, to 30 minutes after, the end of the official school day.

(b) A school district or charter school may not sell or serve breakfast, lunch, or competitive food on campus during the school day that contains Red Dye 40 (CAS no. 25956-17-6).

(c) The Department may adopt rules or promulgate regulations to implement this section.

(85 Del. Laws, c. 27, § 1.)

## § 4137C. Free school breakfasts [For application of this section, see 85 Del. Laws, c. 65, § 33; 85 Del. Laws, c. 110, § 2].

(a) For purposes of this section:

(1) "Breakfast" means as defined in 7 C.F.R. § 220.2.

(2) "Community eligibility provision" means the special assistance certification and reimbursement alternative under 7 C.F.R. § 245.9(f).

(3) "Department" means the Department of Education.

(4) "Provision 1" means the special assistance certification and reimbursement alternative under 7 C.F.R. § 245.9(a).

(5) "Provision 2" means the special assistance certification and reimbursement alternative under 7 C.F.R. § 245.9(b).

(6) "Provision 3" means the special assistance certification and reimbursement alternative under 7 C.F.R. § 245.9(d).

(7) "School Breakfast Program" means the federal School Breakfast Program, 42 U.S.C. § 1773 et seq.

(b) A public school that participates in the School Breakfast Program shall make available a breakfast free of charge to any attending student regardless of household income.

(c) (1) The Department shall reimburse a public school providing a free school breakfast under this section.

(2) The Department may not reimburse a public school for more than 1 free breakfast per student per breakfast meal service.

(3) Reimbursements must be made for each budget year.

(4) Subject to paragraph (c)(2) of this section, reimbursements must be equal to the federal free reimbursement rate multiplied by the total number of breakfasts that the participating public school serves during the applicable budget year minus the total amount of reimbursement for breakfasts served during the applicable budget year that the participating public school receives under the School Breakfast Program.

(d) This section does not apply to a school participating in any of the following:

(1) Community eligibility provision.

(2) Provision 1.

(3) Provision 2.

(4) Provision 3.

(85 Del. Laws, c. 110, § 1; 85 Del. Laws, c. 65, § 33.)

## § 4137D. Prohibition of the sale of energy drinks on school campuses.

(a) For purposes of this section:

(1) "Campus" means areas of property under the jurisdiction of a school district or charter school that are accessible to students.

(2) "Energy drink" means a beverage that contains caffeine and is advertised as being specifically designed to provide energy, generally including a combination of methylxanthines, B vitamins, and herbal ingredients. An energy drink does not include a beverage that solely contains caffeine brewed or steeped from coffee beans or tea leaves.

(3) "Extended school day" means any mandatory or voluntary school activity that students attend, including clubs, sporting events, band and choir practice, student government, drama performances, and school dances.

(b) The sale of energy drinks is prohibited on all middle and high school campuses in this State during regular school hours and the extended school day.

(c) This section does not limit possession or consumption by a student of an energy drink obtained off campus.

(85 Del. Laws, c. 486, § 1.)

## § 4138. Cursive writing.

(a) Beginning in the 2018-2019 school year, every public elementary school shall teach cursive writing by the end of grade 4 as a component of English language arts.

(b) Each board of education shall see that the requirements of subsection (a) of this section are complied with in the elementary schools under its respective jurisdiction.

(81 Del. Laws, c. 153, § 1.)

## § 4139. Computer science.

(a) By the 2020-2021 school year, all public high schools, including charter schools, shall offer at least 1 computer science course. The Department of Education is directed to develop standards for computer science and seek approval of the State Board of Education of such standards no later than December 31, 2017.

(b) Beginning with the 2018-2019 school year, the requirements to receive a Delaware diploma, pursuant to § 122(b)(3) of this title, shall permit an advanced placement, honors, college prep or integrated computer science course, meeting the computer science and mathematics

standards, to be used to satisfy a mathematics graduation credit requirement with the exception of algebra I, geometry, algebra II, or the equivalent courses. Guidelines addressing the standards and content requirements for courses that satisfy the graduation requirements shall be developed by the Department, with the assent of the State Board of Education.

(c) A public high school, including a charter school, may request a waiver of subsection (a) of this section requiring the public high school to offer at least 1 computer science course if it can be demonstrated that implementation of the requirement would be a burden either financially or programmatically to the public high school. The waiver request must be provided in writing to the Secretary of Education or designee who shall make the final decision whether to approve or deny the waiver request. The Department may promulgate regulation for implementation of this subsection.

(81 Del. Laws, c. 185, § 1.)

## § 4140. Delaware School Safety and Security Fund.

(a) There is hereby created the Delaware School Safety and Security Fund to provide partial or full funding to school districts, vocational technical schools, or charter schools (LEAs) for projects intended to improve school safety or security. The fund shall initially be funded with $5,000,000, and shall thereafter be subject to available appropriations. The Department of Education shall maintain a list of all eligible schools, which shall be limited to high schools, middle schools, and elementary schools.

(b) The Department of Education shall administer the Delaware School Safety and Security fund to provide funding to school districts, vocational technical schools, or charter schools (LEAs) for certain expenses incurred on or after June 30, 2022, for projects intended to improve school safety or security. The LEA, in conjunction with the Department of Education and Department of Safety and Homeland Security, shall determine which items to apply such funds to and the following expenses for the purposes of this section shall be considered minor capital, supporting implementation and programming expenditures and shall be eligible for such funds:

(1) Camera and monitoring equipment.

(2) Vestibule improvements to include framing, glass, hardware, and doors.

(3) Panic button hardware or software to include electronic software applications and technology, cell phone technology and applications.

(4) Door locks, window locks, or similar items.

(5) Magnet security systems.

(6) Swipe card systems.

(7) Visitor pass cameras and security systems.

(8) Door jamb opening sensors.

(9) Lockdown drills.

(10) Motion detectors.

(11) Security lighting.

(12) Bus camera security systems.

(13) Bus GPS location systems.

(14) Restraint training.

(15) Comprehensive school threat assessments.

(16) Prevention training and other programs effectively that teach youth and adults how to prevent school violence, shootings, and other harmful actions. Programs and training should be aligned with Collaborative for Academic, Social, and Emotional Learning (CASEL) competencies for social-emotional learning including relationship skills, social awareness, responsible decision-making and self-awareness.

(c) In addition to the expenses allowed under subsection (b) of this section, the LEA, in conjunction with the Department of Education and the Department of Safety and Homeland Security, may apply such funds to pay for constables or other law-enforcement personnel to be utilized by the LEA.

(d) The funds appropriated to the Delaware School Safety and Security Fund shall be distributed to the Department of Education and shall be allocated proportionately to LEAs based upon the previous year Division I unit count as certified in §§ 1704 and 1710 of this title. For purposes of this section, the provisions of § 7528(b) of Title 29 shall not apply.

(e) The Department of Education and the Department of Safety and Homeland Security shall create a review process and establish a list of criteria for reviewing such requests from LEAs.

(f) Charter schools shall not be eligible for improvements that would be considered major capital expenditures.

(81 Del. Laws, c. 427, § 1; 83 Del. Laws, c. 340, § 171; 83 Del. Laws, c. 426, § 1.)

## § 4141. Holocaust instruction.

(a) (1) Each school district and charter school serving students in 1 or more of the grades 6 through 12 shall provide instruction on the Holocaust and genocide at least 1 time in each grade.

(2) The instruction required under paragraph (a)(1) of this section may be provided through any of the following:

a. An existing course that meets state standards.

b. Curricula developed or identified by the school district or charter school.

c. Curricula developed by the United States Holocaust Memorial Museum.

(b) The study of the Holocaust serves as a frame of reference and prepares students to learn about other genocides throughout history. The study of the Holocaust and genocide is intended to do all of the following:

(1) Examine the ramifications of prejudice, racism, and intolerance.

(2) Prepare students to be responsible citizens in a pluralistic democracy.

(3) Reaffirm the commitment of free peoples to never again permit such occurrences.

(c) Instruction required under this section must be designed to do all of the following:

(1) Prepare students to confront the immorality of the Holocaust, genocide, slavery, and other acts of mass violence and to reflect on the causes of related historical events.

(2) Develop students' respect for cultural diversity and help students gain insight into the importance of the protection of international human rights for all people.

(3) Promote students' understanding of how the Holocaust contributed to the need for the term "genocide" and led to international legislation that recognized genocide as a crime.

(4) Stimulate students' reflection on the roles and responsibilities of citizens in democratic societies to combat misinformation, indifference, and discrimination through tools of resistance such as protest, reform, and celebration.

(5) Provide students with opportunities to contextualize and analyze patterns of human behavior by individuals and groups who belong in 1 or more categories, including perpetrator, collaborator, bystander, victim, and rescuer.

(6) Enable students to understand the ramifications of prejudice, racism, and stereotyping.

(7) Preserve the memories of survivors of genocide and provide opportunities for students to discuss and honor survivors' cultural legacies.

(8) Provide students with a foundation for examining the history of discrimination in this State.

(9) Explore the various mechanisms of transitional and restorative justice that help humanity move forward in the aftermath of genocide.

(d) In establishing and implementing a curriculum on the Holocaust and genocide under this section, a school district or charter school may consult with organizations that have the primary purpose of providing education about the Holocaust, including the Halina Wind Preston Holocaust Education Committee of the Jewish Federation of Delaware.

(e) School districts and charter schools shall provide in-service training required under this section within the contracted school year.

(f) (1) No later than June 20 each year, each school district and charter school shall report to the Department of Education regarding how the school district or charter school implemented the requirements under this section.

(2) The Department of Education may, with the approval of the State Board of Education, adopt regulations to implement and enforce this section.

(82 Del. Laws, c. 269, § 1.)

## § 4142. Free feminine hygiene products in schools.

(a) For the purposes of this section, "feminine hygiene products" means tampons and sanitary napkins, for use in connection with the menstrual cycle.

(b) By the 2022-2023 school year, all public and charter schools maintaining any combination of grades 4-12 shall provide free feminine hygiene products in a minimum of ½ of bathrooms, including those designated nongender conforming, used by students who can have a menstrual cycle.

(c) Schools must publish on the school's website and post in the school's common areas the locations of the bathrooms where feminine hygiene products are provided. Such information should be updated if bathroom locations are changed.

(d) Each school must consult with its school nurse regarding the feminine hygiene products to be provided.

(83 Del. Laws, c. 11, § 1; 83 Del. Laws, c. 304, § 1.)

## § 4143. Black history instruction.

(a) (1) Each school district and charter school serving students in 1 or more of the grades K through 12 shall provide instruction on Black history.

(2) The instruction required under paragraph (a)(1) of this section is provided through curricula developed or identified by the school district to charter school.

(3) At a minimum, Black history curricula must include all of the following:

a. The history and culture of Black people prior to the African and Black diaspora, including contributions to science, art, and literature.

b. The significance of enslavement in the development of the American economy.

c. The relationship between white supremacy, racism, and American slavery.

d. The central role racism played in the Civil War.

e. How the tragedy of enslavement was perpetuated through segregation and federal, state, and local laws.

f. The contributions of Black people to American life, history, literature, economy, politics, and culture.

g. The socio-economic struggle Black people endured, and continue to endure, in working to achieve fair treatment in the United States; as well as the agency they employ in this work for equal treatment.

h. Black figures in national history and in Delaware history.

(4) The curricula developed must rely heavily on primary sourcing to receive a true perspective of the Black experience inclusive of the triumphs, setbacks, and contributions of Black persons.

(5) The curricula developed must ensure the material is presented in an age appropriate manner.

(b) The study of Black history serves to educate students about how Black persons were treated throughout history in this country. The study of Black history is intended to do all of the following:

(1) Examine the ramifications of prejudice, racism, and intolerance.

(2) Prepare students to be responsible citizens in a pluralistic democracy.

(3) Reaffirm the commitment of free peoples to the U.S. Const. amend. 13.

(c) Curricula required under this section must be designed to do all of the following:

(1) Be trauma-responsive and recognize the impact of racial and historical trauma on students.

(2) Stimulate students' reflection on the roles and responsibilities of citizens in democratic societies to combat racism, inequality, and discrimination through tools of resistance such as protest, reform, and celebration.

(3) Incorporate contemporary events into discussions of Black history and the tools of resistance.

(4) Develop students' respect for cultural and racial diversity.

(5) Enable students to understand the ramifications of prejudice, racism, and stereotyping.

(6) Provide opportunities for students to discuss and uplift the Black experience.

(7) Provide students with a foundation for examining the history of discrimination in this State.

(8) Explore the various mechanisms of transitional and restorative justice that help humanity move forward.

(d) The Department of Education shall develop and make publicly available a list of resources to assist a school district or charter school in creating Black history curricula. The Department shall consult with organizations that provide education about the experiences of Black people, or seek to promote racial empowerment and social justice, including the following:

(1) The National Association for the Advancement of Colored People ("NAACP").

(2) Africana studies programs at Delaware State University and the University of Delaware.

(3) Delaware Heritage Commission.

(4) Metropolitan Wilmington Urban League.

(5) Black student coalitions.

(6) Delaware Black Student Coalition.

(7) Eastern Shore AFRAM.

(e) School districts and charter schools shall provide in-service training required under this section within the year.

(f) (1) Each school district and charter school shall designate an individual responsible for overseeing the implementation of the educational programming provided under this section. Each school district and charter school shall provide the name and contact information for the individual designated under this subsection to the Department of Education no later than September 15 of each year.

(2) Each individual designated under paragraph (f)(1) of this section shall report to the Department of Education no later than November 15 of each year regarding how the curriculum has been implemented by that individual's school district or charter school.

(3) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, and the Director and the Librarian of the Division of Legislative Services no later than January 15 of each year. The report must include the educational programming provided under paragraph (a)(3) of this section and how the curricula has been implemented by each school district and charter school.

(g) The Department of Education may, with the approval of the State Board of Education, adopt regulations to implement and enforce this section.

(83 Del. Laws, c. 51, § 1; 84 Del. Laws, c. 255, § 14; 84 Del. Laws, c. 514, § 25.)

## § 4144. Pupil identification cards; publication of safety hotline numbers.

(a) All public schools serving pupils in grades 7 to 12 that issue pupil identification cards shall have printed on either side of the pupil identification card the following public safety telephone or text numbers:

(1) National Suicide Prevention Lifeline: Call or text “988”.

(2) National Domestic Violence Hotline: 1-800-799-7233 (SAFE).

(3) Crisis Text Line:Text “DE” to 741741.

(4) Teen Dating Violence Hotline: 1-866-331-9474 or Text “loveis” to 22522.

(5) Stop Bullying Now Hotline: 1-800-273-8255(TALK).

(b) All public schools serving pupils in grades 7 to 12 that issue pupil identification cards, in addition to printing the required public safety numbers listed in subsection (a) of this section on the pupil identification cards, may also print the following telephone number for the National Sexual Assault Hotline: 1-800-656-4673(HOPE).

(1)-(3) [Repealed.]

(c) If any of the numbers listed in subsection (a) or (b) of this section have been updated, the most updated numbers must be printed on the pupil identification card when the card is reissued or reprinted.

(d) If a public school has unissued pupil identification cards that do not comply with the requirements of subsection (a) of this section, the school may continue to issue the identification cards until the school’s supply of identification cards depleted.

(83 Del. Laws, c. 404, § 1; 84 Del. Laws, c. 108, § 1; 85 Del. Laws, c. 261, §§ 1, 2, § 3.)

## § 4145. Evidence-based reading curricula.

(a) (1) The Department of Education (Department) shall maintain a list of evidence-based, reading instruction curricula for grades kindergarten through 3 in school districts and charter schools. A curriculum on this list must meet all of the following requirements:

a. Align with evidence-based reading instruction in the essential components of reading based on science of reading research, as listed under § 1280(c)(3) of this title.

b. Include a logical scope and sequence that is sequential, systematic, and cumulative.

c. Include or support the use of high-quality instructional materials.

(2) The Department shall maintain all of the following on the Department website:

a. The current list of curricula under paragraph (a)(1) of this section.

b. The criteria and rubric used to identify high-quality curriculum under paragraph (a)(1) of this section.

(3) a. The Department shall provide a process through which school districts and charter schools can submit an application for Department approval of an alternative curriculum that meets the requirements under paragraph (a)(2)b. of this section.

b. The Department shall add curricula approved under paragraph (a)(3)a. of this section to the list under paragraph (a)(2)a. of this section.

(b) If a school district or charter school serves students in 1 or more of the grades kindergarten through 3, the school district or charter school must do all of the following before the beginning of the 2027-2028 school year:

(1) For students served in grades kindergarten through 3, adopt a reading instruction curriculum from the list under subsection (a) of this section.

(2) Approve competency-based professional development for educators providing reading instruction. This professional development must be completed during the contractual day and must be high-quality professional learning aligned with the essential components of evidence-based reading instruction, including any of the following:

a. Professional learning associated with the curriculum adopted under paragraph (b)(1) of this section.

b. Attainment of microcredentials.

(3) Identify an individual responsible for assisting each school with the implementation of the curricula adopted under paragraph (b)(1) of this section.

(4) Demonstrate that all educators responsible for reading instruction or coaching have completed approved professional development under paragraph (b)(2) of this section, including all educators identified or certified as any of the following:

a. Elementary teacher.

b. School reading specialist.

c. Reading interventionist.

d. Special education teacher of students with disabilities.

e. The individual identified, under paragraph (b)(3) of this section.

f. Literacy coach.

g. A literacy cadre position.

(c) On or before October 31 and June 30 of each year, each school district and charter school must report all of the following to the Department for the Department's annual report:

(1) The curricula adopted under this section.

(2) The individuals identified under paragraph (b)(3) of this section and each individual's responsibilities for approving and providing professional development required under paragraphs (b)(2) and (b)(4) of this section.

(3) How the school district or charter school will ensure that educators have access to and have successfully completed the professional development required under paragraph (b)(4) of this section.

(d) (1) On or before August 30 of each year, the Department shall produce an annual report that provides all of the following:

a. A list of the curricula adopted under subsection (a) of this section and the number of schools that have adopted each curriculum listed.

b. The number of educators who have received each type of professional development provided under paragraph (b)(2) of this section.

c. The percentage of the educators required to receive professional development under paragraph (b)(4) of this section that have successfully completed that professional development.

d. Longitudinal data analysis for each district and charter school of the data collected in the October 31 and June 30 submissions required under subsection (c) of this section.

(83 Del. Laws, c. 415, § 1; 83 Del. Laws, c. 415, § 2; 84 Del. Laws, c. 255, § 15; 85 Del. Laws, c. 379, § 2.)

## § 4146. Media literacy [For application of this section, see 83 Del. Laws, c. 417, § 2].

(a) For purposes of this section:

(1) "Media literacy" means the ability to access, analyze, evaluate, create, and take action with all forms of communication, and encompasses the foundational skills of digital citizenship and internet safety including the norms of appropriate, responsible, ethical, and healthy behavior, and cyberbullying prevention.

(2) "Digital citizenship" means the diverse set of skills related to current technology and social media including the norms of appropriate, responsible, and healthy behavior.

(b) (1) The Department of Education (Department) shall adopt evidence-based, media literacy standards (standards) for use by each school district and charter school serving students in 1 or more of the grades kindergarten through 12.

(2) The Delaware State Librarian and school districts and charter schools, including certified school librarians, may provide technical expertise to the Department regarding the standards.

(c) The standards and instructional materials must be age-appropriate and must address appropriate, responsible, and healthy online behavior, including all of the following:

(1) The purpose and acceptable use of different social media platforms.

(2) Understanding the negative impact of inappropriate technology use, including online bullying and harassment, hacking, intentional virus setting, invasion of privacy, and piracy of software, music, video, and other media.

(3) Social media behavior that promotes cybersafety, cybersecurity, and cyberethics, including etiquette, safety, security, and the identification of hate speech.

(4) Identifying credible sources of information and how to access, analyze, evaluate, create, and participate in all forms of digital communication.

(5) Critical thinking skills, including all of the following:

a. Understanding how media messages shape culture and society.

b. Identifying target-marketing strategies and naming techniques of persuasion used.

c. Recognizing bias and misinformation by discovering parts of the story that are not being told and evaluating media messages based on personal experiences, skills, beliefs, and values.

(6) Identifying the purpose of media messages and how they are constructed, including all of the following:

a. Explicit and implicit media messages.

b. Values and points of view that are included and excluded.

c. How the media may influence ideas and behaviors.

d. The importance of obtaining information from multiple sources.

(d) Every 3 years, the Department shall prepare a written report, no later than July 31, that includes the educational programming provided under this section and how the school districts and charter schools implemented the standards under this section. The Department shall send this report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, with copies to all members of the General Assembly, the Governor, the Director and the Librarian of the Division of Legislative Services, and the Delaware Public Archives.

(e) The Department, with the approval of the State Board of Education, may promulgate regulations necessary to implement and enforce this section.

(83 Del. Laws, c. 417, § 1; 84 Del. Laws, c. 255, § 16.)

## § 4147. Delaware Public Education Equity Ombudsperson Program; codification; purpose.

(a) The Delaware Public Education Equity Ombudsperson Program (Program) is hereby established and adopted in place of the contractual program currently maintained by the Department of Education. The expanded Program shall be maintained by the Department of State.

(b) The purposes of the Program are as follows:

(1) To address issues involving both individual students and systemic reform where inequities arise for students who are of low socioeconomic status or members of a protected class under Delaware state or federal law.

(2) To provide nonlegal intervention and assistance with schools, districts, and the Department of Education to resolve disputes or complaints concerning disparate discipline, inequitable access to school programs, or otherwise different or unfair treatment of students, particularly those who are members of protected classes or of low socioeconomic status.

(3) To support schools, districts, and the Department of Education to develop and revise policies and regulations to improve education equity.

(4) To provide information and resources regarding research-based best practices to ensure equity, including discipline, academic, teacher diversity, effective instruction, curriculum, social emotional learning and extended learning supports.

(5) To assist in finding legal assistance for students or families where nonlegal advocacy fails or where the nature of the dispute warrants legal assistance.

(c) The Program shall be run through a nonprofit, nonstate entity that is contracted for a period of 3 years by the Department of State through a request for proposal (RFP) process. The Department of State is the contracting entity, but RFP development and award decisions shall be made in consultation with the Education Equity Council as set forth under § 4148 of this title.

(d) The Program staff shall be available to act as nonlawyer advocates for students and their families in any proceedings conducted by schools or local, Delaware state, or federal education agencies.

(e) (1) The Program may, if it determines it to be appropriate and desirable, refer systemic matters to attorneys for further investigation and action. The Program may refer individual matters for legal services, if requested by the family, when any of the following conditions are met:

a. Reasonable efforts have been made to resolve the issue with the school, district, and/or Department of Education and such attempts have been unsuccessful.

b. The nature of ongoing harm to the student is such that immediate legal intervention is in the best interest of the student.

(2) Funds appropriated to the Program may be used to:

a. Procure general legal counsel regarding the scope of rights and protections under local, state, or federal education law; or

b. Pay a lawyer for assistance with, attendance at, or representation in administrative proceedings and appeals, including appeals taken to Delaware state or federal courts.

In no event may Program funds be used to pay for preparation of, commencement of, participation in, or advising upon litigation or other proceedings against the State or its agencies, employees, or officials except as permitted in the preceding sentence.

(f)(1) The Program shall annually provide a report to the Education Equity Council, the Governor, the Chairs of the House and Senate Education Committees, the State Board of Education, the Department of Education, the Chairs of the Joint Finance Committee, the Controller General, the Director and the Librarian of the Division of Legislative Services, and the Public Archives that contains at least the following information:

a. The number of students served by the Program in each of the preceding 3 years. This shall include a breakdown of students by grade level (elementary, middle, or high school), school district, school, race, gender, disability status, and socioeconomic status.

b. The number of students referred to a legal services provider or pro bono attorney.

c. The category of the problem the Program assisted with, including academic concerns, disciplinary issues, attendance, transportation, safety, bullying, or harassment.

d. The number of employees or consultants engaged by the Program. For employees, whether they are full- or part-time, and for consultants, the number of hours worked over the course of the contract period.

e. Systemic equity issues identified by the Program, and recommended solutions.

f. The amount spent on legal services or otherwise paid to a lawyer or a law firm.

g. The number of referrals made to a lawyer, law firm, or legal services agency, including the category of the problem faced by the student, and whether the referral was made to a nonprofit legal services agency or a private attorney or law firm.

(2) The report required by this paragraph may not include any personal identifying information for any student or their family and must comply with the requirements of the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g; 34 C.F.R Part 99.

(84 Del. Laws, c. 200, § 1; 84 Del. Laws, c. 255, § 17.)

## § 4148. Educational Equity Council.

(a) The Educational Equity Council (Council) is formed for the purpose of providing input and oversight into the Education Equity Ombudsperson Program (Program) and to study and recommend solutions to ongoing or systemic equity problems.

(b) The Council is composed of the following voting members:

(1) One family member representative nominated by the chair of the Governor's Advisory Council on Exceptional Citizens and appointed by the Chair of the House Education Committee.

(2) One member of the Delaware Hispanic Commission, nominated by the Delaware Hispanic Commission and appointed by the Governor.

(3) Two parents of children who attend Title I schools, nominated by not-for-profit community organizations engaged in education issues, and appointed by the Chair of the House Education Committee.

(4) One community representative nominated by not-for-profit community organizations engaged in education equity issues and appointed by the Chair of the Senate Education Committee.

(5) Two educators nominated by the Delaware State Education Association and appointed by the Chair of the House Education Committee, each of which meets at least 1 of the following criteria:

a. Has 1 or more children who are members of a class protected from discrimination under Delaware and federal laws and regulations.

b. Was as a child educated for a minimum of 6 years in a Delaware Title I school or was a child with a disability or whose first language was not English.

c. Is currently a classroom educator in a Title I school or is a special education certified classroom teacher or is an English language classroom educator specializing in teaching students whose first language is not English.

(6) Three members nominated by the NAACP Delaware State Conference of Branches, 1 from each county, and appointed by the Chair of the Senate Education Committee.

(7) The Secretary of State, or the Secretary's designee.

(8) Two members of the House of Representatives, 1 from the majority party and 1 from the minority party, appointed by the Speaker of the House.

(9) Two members of the Senate, 1 from the majority party and 1 from the minority party, appointed by the President Pro Tempore.

(10) A member of the Delaware Association of School Administrators, nominated by the Delaware Association of School Administrators and appointed by the Governor.

(11) A member of a school board appointed by the Chair of the Senate Education Committee.

(c) The Council is additionally composed of the following nonvoting members:

(1) A member of the Delaware State Education Association, appointed by the Chair of the House Education Committee.

(2) One school or district administrator of Title I programs nominated by the Delaware Association of School Administrators and appointed by the Chair of the Senate Education Committee.

(3) One school or district administrator of Title III programs nominated by the Delaware Association of School Administrators and appointed by the Chair of the House Education Committee.

(4) One school or district administrator of programs for students with disabilities nominated by the Delaware Association of School Administrators and appointed by the Chair of the Senate Education Committee.

(5) The Secretary of Education, or the Secretary's designee.

(6) One school district chief financial officer nominated by the Delaware Association of School Business Officers and appointed by the Chair of the House Education Committee.

(7) A member of the Delaware Chief School Officers Association appointed by the Governor.

(8) A charter school leader appointed by the Governor.

(d) The public members of the Council shall serve for terms of 3 years; provided, however, that the initial terms may be of lengths of 1, 2, or 3 years in order to stagger the terms. A member appointed to the Council may continue to serve until such time as the member's replacement has been appointed or the member's term renewed. A member may serve no more than 2 consecutive terms, and then must be off of the Council for at least 3 years prior to being eligible for reappointment.

(e) The Secretary of State, or the Secretary's designee, shall serve as the temporary chair of the Council and shall do all of the following:

(1) Set a date, time, and place for the initial organizational meeting.

(2) Notifying the individuals who are members of the Council of the formation of the Council and notifying those persons who are responsible for nominating or appointing a member.

(f) At the first meeting of the Council, the members shall elect a chair from among the voting members.

(g) The Department of State shall provide administrative support to the Council.

(h) The duties of the Council are as follows:

(1) To work with the Department of State to annually develop a request for proposal or renewal for the Program.

(2) To approve the awarding of the contract for the Program. The Council may appoint a subcommittee to review and consult with the Department of State on the award of the contract for the Program.

(3) To meet at least twice each year to review the operation and effectiveness of the Program.

(4) To provide recommendations to the Program to improve its effectiveness.

(5) To provide recommendations to the General Assembly and the Department of Education to improve equity in the public educational system.

(i) The Council may request, and the Department of Education shall provide, or work with districts and charters to provide, global data that is relevant to student equity. The provision of such data must comply with the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g; 34 C.F.R Part 99.

(84 Del. Laws, c. 200, § 1.)

## § 4149. Vision screening.

(a) For purposes of this section, "vision screening" means a screening performed by the school nurse or other qualified healthcare professional in accordance with the Delaware School Nurse Manual. "Vision screening" includes a test for color blindness.

(b) Each school district and charter school must provide a vision screening to each student enrolled in kindergarten. Students in subsequent grade levels shall receive vision screenings at appropriate intervals to be determined by the Department. All new students to a district or charter school must receive a vision screening in a nontesting year if there is no record of a vision screening in the student's electronic health record.

(c) The school shall record the results of the vision screening within the student's electronic health record.

(d) If a student fails a vision screening, the school must notify the student's parent, guardian, or relative caregiver.

(84 Del. Laws, c. 413, § 1.)

## § 4150. Type 1 diabetes informational material.

(a) The Department of Health and Social Services, in consultation with the Department of Education, shall post existing appropriate informational materials on type 1 diabetes on the Department of Health and Social Services' website. Each local education agency shall make the informational materials available to the parents or guardians of students enrolled in their schools.

(b) The informational materials shall include all of the following:

(1) A description of type 1 diabetes.

(2) A description of the risk factors and warning signs associated with type 1 diabetes.

(3) A recommendation that the parents or guardians of a student displaying warning signs of type 1 diabetes consult with the student's primary care provider to determine if immediate screening for type 1 diabetes is appropriate.

(4) A description of the screening process for type 1 diabetes and the implications of test results.

(5) A recommendation that, following a type 1 diabetes diagnosis, parents or guardians should consult with the student's primary care provider to develop an appropriate treatment plan, which may include consultation with and examination by a qualified specialist, such as an endocrinologist.

(85 Del. Laws, c. 96, § 1.)

## § 4151. Title IX requirements.

(a) Any school that receives federal funding and is subject to the requirements of Title IX [20 U.S.C. § 1681 et seq.] shall ensure that students, staff, and faculty are protected from sex-based discrimination, including sex-based harassment.

(b) Any school that receives federal funding and is subject to the requirements of Title IX shall prominently post on their school webpage a section regarding the school's responsibilities to Title IX. The webpage must contain all of the following:

(1) A brief description of the roles and duties of Title IX administrators:

a. The roles and duties of a Title IX coordinator.

b. The roles and duties of a Title IX investigator.

c. The roles and duties of a Title IX decision-maker.

(2) The name, email address, office address, and phone number of the Title IX coordinator for the school.

(3) A link to the school's policy manual related to Title IX.

(4) The right of a student, staff, and faculty to file a complaint to start an investigation into a report of sex-based discrimination, including sex-based harassment.

(5) A link to the appropriate form to make a complaint.

(6) A link to the most recent version of the frequently asked questions webpage regarding Title IX from the U.S. Department of Education's Office for Civil Rights.

(7) The right of a student, staff, and faculty who reports sex-based discrimination, including sex-based harassment, to receive supportive measures, regardless of whether there is an investigation.

(8) Provide an explanation of and list of examples of supportive measures that may be available to assist students, staff, and faculty who report sex-based harassment.

(c) At the beginning of the academic school year, every Title IX coordinator shall provide a written reminder to all school staff and faculty regarding the school's policy for reporting sex-based discrimination, including sex-based harassment, and how to make a report pertaining to sex-based discrimination or sex-based harassment.

(85 Del. Laws, c. 192, § 1.)

### § 4152. Financial literacy education as a required ½ credit.

(a) For purposes of this section:

(1) "Charter school" means a public school established under Chapter 5 of this title.

(2) "Department" or "DOE" means the Department of Education.

(3) "School district" means a clearly defined geographic subdivision of this State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(b) A school district or charter school serving high school students shall provide, at a minimum, a ½ credit on financial literacy.

(1) A standards-aligned curriculum with high rigorous instructional materials that includes assessments.

(2) Opportunities for high-quality initial and ongoing professional learning made available to teachers by the local education agency.

(c) Beginning with students entering grade 9 in the 2026 through 2027 school year, students must successfully complete a ½ credit in financial literacy as part of the social studies or elective credits required to receive a high school diploma issued under § 152(a) of this title.

(d) School districts and charter schools are encouraged to partner with private or public enterprises or individuals to add value to the student experience in the ½ credit required under subsection (b) of this section. These partnerships may include serving as expert class presenters on financial literacy topics, sponsoring student competitions, awarding scholarships for outstanding achievements, and sponsoring or providing teacher professional development, or serving as expert presenters.

(e) The Department, with the approval of the State Board of Education, shall adopt or update regulations to implement this legislation.

(f) The ½ credit must be aligned to the current financial literacy standards.

(85 Del. Laws, c. 224, § 1.)

## Subchapter II

## Regulatory Provisions For Nonacademic Training and Related Resources

### § 4161. Definitions [For applicability of section, see 83 Del. Laws, c. 407, § 2].

For purposes of this subchapter:

(1) "Adult sexual misconduct" is any activity, physical, sexual, or otherwise, directed to a student with the objective of developing a romantic or sexual relationship.

(2) "Bullying" means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:

a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student's, volunteer's, or employee's emotional or physical well-being or substantial damages to the student's, volunteer's, or employee's property.

b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.

c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.

(3) "Charter school" means a public school established under Chapter 5 of this title.

(4) "Child abuse" means causing or inflicting any of the following on a child:

a. Sexual abuse.

b. Serious physical injury or death, or physical injury through unjustified force not permitted under § 468 of Title 11. For purposes of this paragraph (4)b., "serious physical injury" and "physical injury" mean as defined in § 222 of Title 11.

c. Emotional abuse.

d. Torture.

e. Exploitation.

f. Maltreatment or mistreatment.

(5) “Child sexual abuse”, “sexual abuse”, or “sexually abused” means the commission of any act that is listed in the definition of sexual offense in § 761 of Title 11.

(6) “Consent” means the unambiguous, voluntary, and freely given agreement by all participants in each physical act in the course of sexual activity, including respect for personal boundaries. Consent does not include any of the following:

a. The lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another individual in fear.

b. A current or previous dating, social, or sexual relationship.

(7) “Criminal youth gang” means as defined in § 617(a) of Title 11.

(8) “Grooming for the purpose of sexual contact” means actions, interactions, communications in any capacity, and behaviors by a person of trust to build a relationship with a student or individuals close to the student in an effort to gain access to and time alone with the student, with the ultimate goal of engaging in sexual contact or sexual penetration with the student, regardless of when in the student’s life the sexual contact or sexual penetration would take place.

(9) “Parent” means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(10) “Personal body safety” means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.

(11) “Protective hairstyle” includes braids, locks, and twists.

(12) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

(13) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(14) “School district and charter school employee,” “school district or charter school employee,” or “employee” means all individuals, including teachers, school administrators, school support personnel, instructional aides, nurses, school counselors, coaches, custodial staff, and nutrition staff, hired by a school district or charter school or a program established under Chapter 16 of this title, who provide services to students on a regular, ongoing basis. “School district and charter school employee,” “school district or charter school employee,” or “employee” does not include contractors or subcontractors, such as bus drivers or security guards; substitute employees; and individuals hired by or subcontracted by other state agencies to work on school property.

(15) “Sexual assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. “Sexual assault” includes the following behaviors: sexual harassment, as defined in § 763 of Title 11; sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

(16) “Sexual contact” has the same meaning as defined in § 761 of Title 11.

(17) “Sexual penetration” has the same meaning as defined in § 761 of Title 11.

(18) “Teen dating violence” means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

(81 Del. Laws, c. 122, § 5; 82 Del. Laws, c. 212, § 1; 83 Del. Laws, c. 13, § 10; 83 Del. Laws, c. 407, § 1.)

## § 4162. Child safety awareness, prevention, and other nonacademic trainings [For applicability of section, see 83 Del. Laws, c. 407, § 2].

(a) Each school district and charter school shall require its employees to receive 9 hours of training every 3 years consisting of all of the following:

(1) Four hours of a child abuse and child safety awareness, prevention, detection, and reporting training program established under § 4163(b)(1) of this title.

(2) One hour of a school bullying prevention and criminal youth gang detection training program established under § 4164(a) of this title.

(3) Three hours of a suicide prevention training program established under § 4165(a) of this title, with each school district and charter school employee receiving 60 minutes of suicide prevention training each year.

(4) One hour of additional, nonacademic training programs that are evidence-based, whenever available, and are related to a training subject required by this subchapter, as selected by the school district or charter school.

(b) Each school district and charter school shall require a school administrator, school nurse, or school counselor serving 1 or more of the grades in grades 7 through 12 to receive 1 hour of a teen dating violence and sexual assault training program established under § 4166(a) of this title every 3 years. This training may be included in paragraph (a)(4) of this section.

(c) Notwithstanding subsection (a) of this section, a school district or charter school shall require all of the following:

(1) That a new school district or charter school employee receive 1 hour of a child abuse detection and reporting training program established under § 4163(b)(1) of this title within 30 days of employment with the school district or charter school, unless the new school district or charter school employee received such training within the last year.

(2) That a new school administrator, school nurse, or school counselor serving 1 or more of the grades in grades 7 through 12 in a school district or charter school receive 1 hour of a teen dating violence and sexual assault training program established under § 4166(a) of this title within 1 year of employment in that position.

(3) That a new school district or charter school employee receive 1 hour of bullying prevention and criminal youth gang detection training program established under § 4164(a) of this title within 1 year of employment in that position.

(4) That a new school district or charter school employee receive 1 hour of a suicide prevention training program established under § 4165(a) of this title within 1 year of employment in that position.

(d) A school district or charter school shall provide any in-service training required under this section within the contracted school year as provided in § 1305(e) of this title.

(e) A school district or charter school may provide the trainings required under this section to any of its volunteers or contractors.

(f) The Department shall require early intervention service providers to receive 3 hours of a child abuse and child safety awareness, prevention, detection, and reporting training program established under § 4163(b)(1) of this title.

(g) The Department of Education shall develop regulations that create a schedule for all trainings under this section.

(81 Del. Laws, c. 122, § 5; 83 Del. Laws, c. 213, § 6; 83 Del. Laws, c. 407, § 1; 84 Del. Laws, c. 315, § 1.)

## § 4163. Child abuse and child safety awareness, prevention, detection, and reporting [For applicability of section, see 83 Del. Laws, c. 407, § 2; 85 Del. Laws, c. 223, § 3].

(a) [Repealed.]

(b) *Educational programming. —*

The Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families shall identify and maintain educational programming to be used by each school district and charter school for informing school district and charter school employees, students, and parents about personal body safety and child abuse and about how to detect and report child abuse. The Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families, in collaboration with the Department of Education, must review the educational programming and trainings required under this subsection every 3 years, at a minimum, and update the educational programming and trainings as needed to be relevant to Delaware students and conform with best practices. The educational programming must include all of the following:

(1) Training and education for school district and charter school employees that is evidence-based, whenever available, in order to raise awareness of issues regarding personal body safety, child abuse, child safety, sexual extortion, and adult sexual misconduct in schools. The training and education must include all of the following:

a. Warning signs indicating that a child may be a victim of child abuse, including sexual abuse and adult sexual misconduct.

b. Techniques for responding when child abuse is suspected or disclosed.

c. Skills and policies to prevent inappropriate sexual misconduct.

d. Skills and policies to establish appropriate adult and student interactions.

e. Warning signs of inappropriate interactions with students by school employees, contractors, coaches, or volunteers.

f. Mandatory reporting requirements under § 903 of Title 16.

g. Applicable state and federal civil and criminal laws and penalties for violations of such laws.

(2) a. Evidence-based, whenever available, age-appropriate instruction for students enrolled in grades pre-kindergarten through 12 that is related to personal body safety, sexual abuse, other forms of child abuse, and sexual extortion. The instruction must include information on the difference between appropriate and inappropriate conduct and the actions that a child may take to be protected from sexual abuse and other forms of child abuse. The instruction must be designed to build on skills learned the previous year.

b. The instruction about sexual extortion must include age-appropriate instruction on the dangers and consequences of sexual extortion and resources for online safety.

(3) Information for parents of students enrolled in grades pre-kindergarten through 12, online or in-person upon request, on all of the following:

a. Warning signs indicating that a child may be a victim of child abuse, including sexual abuse and adult sexual misconduct.

b. Effective, age-appropriate methods for discussing personal body safety and child abuse, including sexual abuse and adult sexual misconduct.

c. Resources for reporting suspected child abuse, including sexual abuse and adult sexual misconduct.

d. Counseling and other resources available to a child who has been the victim of child abuse, including sexual abuse and adult sexual misconduct.

e. Warning signs of adult sexual misconduct, including the derivative grooming of parents.

f. Counseling and other resources available to parents.

g. Effective, age-appropriate ways to discuss sexual extortion.

h. Warning signs that a child may be a victim of sexual extortion.

(4) Each school district and charter school shall require a school administrator, school nurse, or school counselor to receive training in addition to the requirements set forth in paragraph (b)(1) of this section. The training and education must be evidence-based, whenever available, and must include all of the following:

a. Strategies for the prevention of misconduct and compliance with policies concerning the prevention of misconduct.

b. Strategies for the establishment of appropriate adult and student interactions by school employees, contractors, coaches, and volunteers.

c. Skills for responding to student disclosures of adult sexual misconduct, with an emphasis on disclosures that involve sexual grooming.

d. Coordination with law enforcement and Title IX coordinators for any suspected violation of applicable policies or civil or criminal law, including the crime of "sexual extortion" as defined in § 774 of Title 11.

e. Measures to promote school recovery after an incident of adult sexual misconduct.

f. Obligations under district and charter school policies and state and federal law, including mandatory reporting requirements under § 903 of Title 16.

g. Skills for interviewing and completing reference checks on potential employees.

(c) *Role of the Department of Education. —*

The Department of Education shall provide technical expertise to assist the Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families in their identification of educational programming under subsection (b) of this section and the Department of Education shall make a list of the approved educational programing available to each school district and charter school.

(d) *Implementation of training program. —*

Each school district and charter school shall implement the educational programming provided under subsection (b) of this section as follows:

(1) The educational programing provided under paragraph (b)(1) of this section must be provided to all of its employees as required by § 4162 of this title.

(2) The educational programing provided under paragraph (b)(2) of this section must be provided to all students enrolled in grades pre-kindergarten through 6 through health education programs or related classes.

(3) The educational programing provided under paragraph (b)(3) of this section must be provided to parents of students enrolled in grades pre-kindergarten through 6 through written materials, available online through the school district's or charter school's website or in hard copy upon a request by parents, on an annual basis and may be provided through live presentations.

(e) *Notification of parents. —*

Prior to providing any instruction under paragraph (d)(2) of this section, each school district and charter school shall inform the parent of any student enrolled in grades pre-kindergarten through 6 in writing that the parent may examine and review the educational materials before the materials are taught.

(f) *Accountability. —*

(1) Each school district and charter school shall designate an individual responsible for overseeing the implementation of the educational programing provided under subsection (b) of this section. Each school district and charter school shall provide the name and contact information for the individual designated under this subsection to the Department of Education no later than November 15 of each year.

(2) Each individual designated under paragraph (f)(1) of this section shall report to the Department of Education no later than November 15 of each year how the educational programming has been implemented by that individual's school district or charter school.

(3) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, and the Director and the Librarian of the Division of Legislative Services no later than January 15 of each year. The report must include the educational programing provided under subsection (b) of this section and how the curriculum has been implemented by each school district and charter school under subsection (d) of this section.

(g) (1) Each school in a school district and each charter school shall post, in a conspicuous location where notices to students are customarily posted, the number for the toll-free telephone report line for child abuse and neglect as established under § 905 of Title 16. The posting must be made in English and Spanish and must be made in a format and language that is clear, simple, and understandable to students.

(2) There is no private right of action for a violation of this subsection.

(h) *Short title. —*

This section shall be known and may be cited as "Erin's Law."

(i) Nothing in this section shall be construed to limit reporting obligations under Chapter 9 of Title 16.

(80 Del. Laws, c. 256, § 1; 80 Del. Laws, c. 370, § 1; 81 Del. Laws, c. 122, § 5; 83 Del. Laws, c. 407, § 1; 84 Del. Laws, c. 255, § 18; 84 Del. Laws, c. 315, § 2; 85 Del. Laws, c. 223, § 2.)

## § 4164. School bullying awareness and prevention; criminal youth gang detection.

(a) *School bullying prevention and criminal youth gang detection training program. —*

The Department of Justice and the Department of Education, in collaboration with law-enforcement agencies, the Delaware State Education Association, the Delaware School Boards Association, and the Delaware Association of School Administrators, shall identify and maintain a school bullying prevention and criminal youth gang detection training program for school district and charter school employees. The Department of Justice and the Department of Education, in collaboration with law-enforcement agencies, the Delaware State Education Association, the Delaware School Boards Association, and the Delaware Association of School Administrators, must review these trainings every 3 years, at a minimum, and update the trainings as needed to be relevant to Delaware students and conform with best practices.

(b) *Prohibition of bullying. —*

(1) Each school district and charter school shall prohibit bullying and reprisal, retaliation, or false accusation against a target, witness, or one with reliable information about an act of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes all of the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, "school property" and "school functions" mean as defined in § 4112 of this title.

b. A definition of bullying no less inclusive than that in § 4161 of this title.

c. Direction to develop a school-wide bullying prevention program.

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval, and monitoring of the program. A majority of the members of the site-based committee must be members of the school professional staff, of which a majority must be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for a school enrolling students in grades 7 through 12), parents, and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group, except that the school principal shall appoint the representatives of the nonemployee groups. The committee shall operate on a 1-person, 1-vote principle. If a site-based school discipline committee has been established under § 1605(7)a. and b. of this title, that committee shall vote whether to accept the responsibilities of this paragraph (b)(2)d.

e. A requirement that any school district or charter school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying must immediately report it to the administration.

f. A requirement that each school have a procedure for the administration to promptly investigate in a timely manner and determine whether bullying has occurred, and that such procedure include investigation of such instances, including a determination of whether the target of the bullying was targeted or reports being targeted wholly or in part due to the target's race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity or expression, or national origin. This subsection does not preclude schools from identifying other reasons or criteria why a person is a target of bullying.

g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan must provide for the review and exchange of information regarding nonclassroom areas.

h. An identification of an appropriate range of consequences for bullying.

i. A procedure for a student or parent to provide information on bullying activity. However, this paragraph does not permit formal disciplinary action solely based on an anonymous report.

j. A requirement that the school use the Department of Education's template to notify a parent of a student who is an alleged target of bullying or an alleged perpetrator of bullying.

k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.

*l.* A statement prohibiting retaliation following a report of bullying.

m. A procedure for communication between school staff members and medical professionals who are involved in treating students for bullying issues.

n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

(c) *Dissemination of policy and accountability. —*

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Department of Education by January 1 of each year, or by January 1 of a newly approved charter school's first year of operation. For purposes of this paragraph, "submit" includes providing access to the policy via the school district's or charter school's website. Each school district and charter school shall submit a revised policy to the Department of Education within 30 calendar days of a school district's or charter school's revision. The Department of Education shall review a policy or a revised policy submitted under this paragraph for compliance with state and federal law.

(2) Each school district and charter school shall include the policy adopted under subsection (b) of this section in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall distribute a copy of the policy annually to all students, parents, faculty, and staff. Each school district and charter school shall provide the telephone number of the Department of Justice School Ombudsperson in writing to parents, students, faculty, and staff and provide the telephone number on the school district's or charter school's website and the website of each school in the school district. Each school district shall prominently display the telephone number of the Department of Justice School Ombudsperson in each school in the school district. Each charter school shall prominently display the telephone number of the Department of Justice School Ombudsperson in the school.

(3) [Repealed.]

(4) The Department of Education shall prepare an annual report, which must include a summary of all reported and all substantiated incidences of bullying, a summary of the information gathered under paragraph (b)(2)f. of this section, and the results of audits conducted under paragraph (d)(4) of this section. The Department shall post the report required by this subsection on its website.

(d) *Duties of the Department of Education. —*

(1) The Department of Education shall collaborate with the Department of Justice to identify and maintain a model policy that is applicable to kindergarten through grade 12, and post this policy, along with the contact information for the School Ombudsperson, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. Each school district and charter school shall adopt the Department's uniform cyberbullying policy within 90 days of the policy becoming final.

(2) Distribution of the Comprehensive School Discipline Improvement Program funds to a school district and charter school provided in the General Appropriations Act starting in fiscal year 2009 and thereafter is contingent upon Department of Education approval of the school district's or charter school's bullying prevention policy.

(3) To the extent that funding is available, the Department of Education shall provide for an award system for schools with exemplary programs based on criteria promulgated by the Department.

(4) The Department of Education shall conduct random audits of schools to insure compliance with paragraphs (b)(2)i. and (b)(2)k. of this section. The Department shall report the results of these audits annually in the report required by paragraph (c)(4) of this section.

(e) *Immunity. —*

A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting bullying in good faith and to the appropriate person using the procedures specified in the school district's or charter school's bullying prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, wilfull, or intentional conduct.

(f) *Other defenses. —*

(1) The physical location or time of access of a technology-related incident is not a valid defense in any disciplinary action by the school district or charter school initiated under this section provided there is sufficient school nexus.

(2) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology when acting within the scope of that person's lawful employment or investigation of a violation of this section in accordance with school district or charter school policy.

(g) *Relationship to reporting requirements. —*

An incident may meet the definition of bullying and also the definition of a particular crime under state or federal law. Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under§ 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

(h) [Repealed.]

(76 Del. Laws, c. 14, § 2; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 378, § 1; 78 Del. Laws, c. 379, § 1; 80 Del. Laws, c. 375, § 1; 81 Del. Laws, c. 122, § 5; 84 Del. Laws, c. 315, § 3; 85 Del. Laws, c. 359, § 1.)

## § 4165. Suicide awareness and prevention.

(a) *Suicide prevention training program. —*

The Department of Health and Social Services, the Department of Services for Children, Youth and Their Families, and the Department of Education shall identify and maintain a suicide prevention training program for school district and charter school employees that is evidence-based, whenever available. The Department of Health and Social Services, the Department of Services for Children, Youth, and Their Families, and the Department of Education must review these trainings every 3 years, at a minimum, and update the trainings as needed to be relevant to Delaware students and conform with best practices.

(b) *Suicide prevention policy. —*

Each school district and charter school shall establish a policy which shall require, at a minimum, all of the following:

(1) Recognition of the serious problem of youth suicide.

(2) The development of a suicide prevention program that is consistent with § 122(b)(29) of this title.

(3) That each school within a school district and each charter school establish a committee that is responsible for coordinating the suicide prevention program within that school.

(4) A statement prohibiting retaliation against a school district or charter school employee, a school district or charter school volunteer, or student for reporting the warning signs of suicide.

(5) That a procedure be established for the confidential and anonymous reporting of the warning signs of suicide.

(6) That a procedure be established for communication between school staff members and medical professionals who are involved in treating students for suicide issues.

(c) *Accountability. —*

Each school district and charter school shall adopt the policy required by subsection (b) of this section and shall submit a copy to the Department of Education by September 1, 2016, and by September 1 of a newly approved charter school's first year of operation. Each school district and charter school shall provide any changes to the policy to the Department within 60 calendar days.

(d) *Dissemination of policy. —*

Each school district and charter school shall ensure that the policy adopted under this section appears in the student and staff handbook and on its website.

(e) *Immunity. —*

A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting warning signs of suicide to the appropriate person using the procedures specified in the school district's or charter school's suicide prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, wilful, or intentional conduct.

(80 Del. Laws, c. 32, § 1; 81 Del. Laws, c. 122, § 5; 83 Del. Laws, c. 387, § 3; 84 Del. Laws, c. 315, § 4.)

## § 4166. Teen dating violence and sexual assault awareness and prevention.

(a) *Teen dating violence and sexual assault training program. —*

The Delaware Domestic Violence Coordinating Council shall identify and maintain a teen dating violence and sexual assault training program for school administrators, school nurses, and school counselors serving 1 or more of the grades in grades 7 through 12. The Delaware Domestic Violence Coordinating Council, in collaboration with the Department of Education, must review these trainings every 3 years, at a minimum, and update the trainings as needed to be relevant to Delaware students and conform with best practices.

(b) *Teen dating violence and sexual assault policies. —*

Each school district and charter school serving 1 or more of the grades in grades 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault that includes, at a minimum, all of the following components:

(1) Definitions of teen dating violence and sexual assault, the behaviors which constitute each, and the consequences for committing offenses.

(2) Guidelines on mandatory reporting and confidentiality as required by the law of this State and school district or charter school policy.

(3) A protocol for responding to incidents of teen dating violence and sexual assault which includes all of the following:

a. Procedures regarding initial response.

b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required.

c. Procedures for the documentation of incidents.

d. Procedures for working with victims.

e. Procedures for working with perpetrators.

(c) [Repealed.]

(d) Each school district and charter school shall ensure existing health standard programming related to comprehensive healthy relationships, based on the health standards adopted by the Department of Education as approved by the State Board of Education, is provided in health education programs or related classes. The Domestic Violence Coordinating Council shall have the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.

(e) *Dissemination of policy and accountability. —*

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Department of Education by January 5, 2015, or by January 5 of a newly approved charter school's first year of operation.

(2) Each school district and charter school shall ensure that its policy adopted under subsection (b) of this section appears in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall ensure that a copy of the policy is distributed annually to all students, parents, faculty, and staff.

(3) The Department of Education shall prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. The Department shall submit the report to the Domestic Violence Coordinating Council by October 15 of each year.

(f) *Immunity. —*

A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting teen dating violence or sexual assault in good faith and to the appropriate person using the procedures specified in the school district's or charter school's teen dating violence and sexual assault policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, wilful, or intentional conduct.

(g) *Relationship to reporting requirements. —*

Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. For purposes of this subsection, "school property" and "school function" mean as defined in § 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

(h), (i) [Repealed.]

(j) *Short title. —*

This section shall be known and may be cited as the "Liane Sorenson Act."

(78 Del. Laws, c. 357, § 1; 81 Del. Laws, c. 122, § 5; 83 Del. Laws, c. 114, § 1; 84 Del. Laws, c. 315, § 5.)

## § 4167. Consent education.

(a) *Educational programming. —*

Beginning in the 2020-2021 school year, each school district and charter school serving 1 or more of the grades 7 through 12 shall provide age- and developmentally-appropriate, evidence-informed instruction on the meaning of consent and respecting others' personal boundaries as part of health standard programming related to comprehensive healthy relationships.

(b) *Reporting. —*

(1) Each school district and charter school shall designate an individual responsible for overseeing the implementation of the educational programing provided under subsection (a) of this section. Each school district and charter school shall provide the name and contact information for the individual designated under this subsection to the Department of Education no later than September 15 of each year.

(2) Each individual designated under paragraph (b)(1) of this section shall report to the Department of Education no later than November 15 of each year regarding how the educational programming has been implemented by that individual's school district or charter school.

(3) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, and the Director and the Librarian of the Division of Legislative Services no later than January 15 of each year. The report must include the educational programing provided under subsection (a) of this section and how the curriculum has been implemented by each school district and charter school under subsection (a) of this section.

(82 Del. Laws, c. 212, § 2; 84 Del. Laws, c. 255, § 19.)

## § 4168. Regulatory authority.

The Department of Education may promulgate regulations necessary to implement and enforce this chapter.

(81 Del. Laws, c. 122, § 5; 82 Del. Laws, c. 212, §§ 2, 3.)

# Part I
# Free Public Schools

## Chapter 42
## Delaware Center For Educational Technology

### § 4201. Legislative intent.

The Delaware Center for Educational Technology is intended to create a modern educational technology infrastructure in Delaware's public schools for the purpose of enabling students, through the use of technology, to meet the academic achievement standards set by the State of Delaware through the Department of Education and its State Board of Education and to develop the skills needed by a world-class workforce. To these ends, the General Assembly intends for the Delaware Center for Educational Technology to concentrate on the deployment of technology at the school level in a way that will be of maximum effect in improving teaching and learning in Delaware schools. The General Assembly expressly desires to avoid the creation of bureaucracies that duplicate functions of the Department of Education and local school districts and intends that the Delaware Center for Educational Technology operate as an efficient organization making maximum use of existing staff and expertise of state agencies and school districts.

(70 Del. Laws, c. 111, § 1; 71 Del. Laws, c. 180, §§ 176, 177.)

### § 4202. Delaware Center for Educational Technology.

There is hereby established the Delaware Center for Educational Technology (Center). The Center shall be a public education agency, created for the purpose of coordinating the use of technology by Delaware's several school districts, the Department of Education and any other organization, public body or other entity specifically designated by the General Assembly for the purpose of carrying out the public education of citizens of Delaware.

(70 Del. Laws, c. 111, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 176; 74 Del. Laws, c. 68, §§ 338-340; 75 Del. Laws, c. 88, § 21(7); 77 Del. Laws, c. 84, § 386; 81 Del. Laws, c. 58, § 344.)

### § 4203. Duties and authorities.

To achieve the purposes set forth in § 4201 of this title:

(1) The Center shall be responsible for deploying and/or assisting in the deployment of educational technology to enable students, through the use of technology, to meet the academic achievement standards set by the State of Delaware through the Department of Education and its State Board of Education and to develop the skills needed by a world-class workforce.

(2) The Center shall be responsible for providing support to the several school districts and to the Department of Education for the acquisition, implementation and operation of: telecommunications systems and networks; computers; audio and video equipment; transmission equipment and such other equipment and processes necessary to provide modern telecommunications and computing resources. The Center shall also provide support for the training of public education employees in the use, operation and maintenance of such equipment and processes.

(3) The Center shall have the capacity to sue and be sued, and the Center and its employees shall be entitled to the same privileges and immunities of any political subdivision of the State pursuant to the Tort Claims Act, Chapter 40 of Title 10.

(4) The Center shall consult with and coordinate its activities with the Government Support Services Section of the Office of Management and Budget. Notwithstanding the previous sentence, the Center shall be subject to the same procurement and purchasing policies as required by Title 29 of Chapter 69.

(5) The Center shall be subject to the provisions of subchapter IV of Chapter 63 of Title 29 [see now the Department of Technology and Information in Chapter 90C of Title 29], as directed by the Office of Information Systems. The Center shall ensure the ability of public school districts to transmit and receive information in formats acceptable to parties that require access to administrative or educational information as determined by the Governor, the General Assembly or the Department of Education.

(6) The Center, in partnership with the Department of Education and the Office of Information Systems, is authorized to establish statewide policies and procedures for the access of state-provided computer networks. This includes, but is not limited to, acceptable use and copyright policies. Statewide policies will be developed through a collaborative process involving major education constituencies. School districts may develop more restrictive policies and procedures, but school districts may not modify their procedures to bypass state requirements.

(70 Del. Laws, c. 111, § 1; 71 Del. Laws, c. 180, §§ 176-178; 73 Del. Laws, c. 143, § 3; 74 Del. Laws, c. 68, § 342; 75 Del. Laws, c. 88, §§ 16(2), 22(2); 77 Del. Laws, c. 84, § 386.)

### § 4204. Finances of the Center.

(a) The Center shall be authorized to receive state appropriations, federal moneys, and local school district funding and shall follow state and federal policies and procedures for the investment of such funds.

(b) The Center shall be authorized to establish special fund accounts for the purpose of receiving donations, grants, gifts and such other contributions that may be presented to it for use in the conduct of its business, subject to approval of the State Clearinghouse Committee. These accounts shall be interest-earning. The Center may accept such restrictions as the grantor or grantors may impose; provided, however, that no such restrictions contravene the laws of the State. These accounts shall be subject to audit by the State Auditor.

(c) The General Assembly intends that any funding provided to the Center shall augment, rather than replace, funding for existing programs. Toward this end, any funds provided to local education agencies by the Center shall not be used to reduce expenditures from funds received by districts from other funding sources, including but not limited to: State appropriations, federal grants, local district funding and other nonpublic funding sources.

(70 Del. Laws, c. 111, § 1.)

## § 4205. Reporting requirements.

(a) No later than 6 months after the establishment of the Center, the Center shall provide the Governor, the General Assembly, the Department of Education and the State Board of Education with the Center's initial strategic plan. The strategic plan shall include suggested performance measures and shall identify with specificity a strategy to deploy educational technology to meet the duties set forth in § 4203 of this title.

(b) On or before September 1 of each year subsequent to 1995, the Center shall report to the Governor, the General Assembly, the Department of Education and the State Board of Education on its progress toward meeting the objectives set forth in its strategic plan, on any update to its strategic plan, on the status of any of its other activities and on the disbursement of moneys for the purposes specified in this chapter. Included in this report shall be plans for future activities, with a detailed implementation schedule, cost estimates and grant/contribution projections.

(c) The Center shall provide the Joint Finance Committee with reports from time to time regarding the Center's activities and coordination with other state agencies and related organizations including, but not limited to, the Office of Information Systems, the Department of Education and local school districts. On or after 3 years from June 27, 1995, the Joint Finance Committee shall review the Center's activities and progress in meeting the objectives of this chapter.

(70 Del. Laws, c. 111, § 1; 71 Del. Laws, c. 180, §§ 176, 179; 77 Del. Laws, c. 84, § 386.)

## § 4206. Technology block grants.

This act creates a Technology Block Grant to be administered by the Delaware Center for Educational Technology (DCET) and the Department of Education (DOE). DCET shall administer a noncompetitive application process to determine grant awards to local school districts and charter schools. Funds provided by this act shall be used for the purpose of supporting the maintenance, replacement, personnel and/or contractual requirements to maintain a system of technology within the school districts. Such funding distribution shall be calculated using a funding formula based on a per pupil cost of technology maintenance. Notwithstanding the formula, each district shall be guaranteed a minimum level of block grant support. The formula developed shall be approved by the co-chairs of the Joint Finance Committee. It shall be the responsibility of the Department of Education, in consultation with DCET, to receive and disburse the block grant funds. The Department shall also be charged with the authority to verify the use of the funds and shall require each school district to annually report on expenditures of the funds.

(72 Del. Laws, c. 450, § 1.)

# Part I
# Free Public Schools
## Chapter 43
## Healthy Schools Indoor Environment Standards and Portal

(83 Del. Laws, c. 435, § 2.)

### § 4301. Definitions.

As used in this chapter:

(1) "HVAC system" means the equipment, distribution network, and terminals that provide, either collectively or individually, heating, ventilation, or air conditioning to a building.

(2) "Indoor environment" means the overall potential health factors within a specific school, including air quality, mold levels, and other potentially harmful toxins.

(3) "Occupational Safety and Health Administration" (OSHA) refers to the federal agency created under the Occupational Safety and Health Act of 1970 [29 U.S.C. § 651 et seq.] to ensure safe and healthful working conditions for workers by setting and enforcing standards and by providing training, outreach, education, and assistance.

(4) "Routine indoor air monitoring program" means testing procedures, testing protocols, and testing frequency established by the Division of Public Health in accordance with this chapter.

(5) "School activity hours" means any time of day in which students or school personnel occupy school facilities throughout the year.

(6) "Standard 62.1" means the American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 62.1 as updated or amended entitled "Ventilation for Acceptable Indoor Air Quality."

(81 Del. Laws, c. 93, § 1; 83 Del. Laws, c. 435, § 2.)

### § 4302. Public school indoor air quality.

(a) On or before January 1, 2024, the Division of Public Health shall establish a routine indoor air quality monitoring program and standards that includes allowable ranges for temperature and humidity in public schools. The Division of Public Health must take into consideration indoor air quality recommendations provided by OSHA and industry best practices, such as Standard 62.1. The program must be developed by individuals with expertise in indoor air quality and industry professionals having detailed knowledge and experience with Standard 62.1 and must be developed in consultation with the Department of Education and Delaware school districts. The Division of Public Health shall publish the air quality monitoring program guidelines on the Department of Health and Social Services website.

(b) On or before January 1, 2024, the Division of Public Health shall establish reporting requirements for local and regional boards of education.

(c) On or before January 1, 2024, the Division of Public Health shall establish a contractor certification program for public school indoor air quality services.

(d) Once the contractor certification program is established, local and regional boards of education entering into contracts for indoor air quality remediation may do so only with contractors certified by the Division of Public Health to provide public school indoor air quality services.

(83 Del. Laws, c. 435, § 2.)

### § 4303. Procedures for indoor air quality complaints in public schools.

(a) On or before May 1, 2025, each school district superintendent shall do all of the following:

(1) Identify an individual within each school district to be responsible for receiving indoor air quality complaints and for reporting such complaints to the superintendent.

(2) Make available on the district's website the procedure for any party to file such a complaint with the identified individual.

(b) Complaints received by the school district must be reported to the school board at the next regularly-scheduled meeting.

(c) Indoor air quality complaints filed under this section must be investigated by the local board of education.

(83 Del. Laws, c. 435, § 2.)

### § 4304. Collaboration with local school districts.

The Division of Public Health and the Department of Education shall collaborate with local school districts to identify information and technical resources to guide schools in improving the indoor environment based on the requirements of this chapter.

(81 Del. Laws, c. 93, § 1; 83 Del. Laws, c. 435, § 2.)

### § 4305. Indoor environment portal.

The Division of Public Health shall provide technical expertise and information that are consistent with the requirements of this chapter to support to local school districts in addressing indoor environment concerns via an information portal on the Delaware Health and Social Services website.

(81 Del. Laws, c. 93, § 1; 83 Del. Laws, c. 435, § 2.)

### § 4306. Notification to school districts.

The Department of Education shall provide notification to local school districts of the newly created portal at least once per school year.

(81 Del. Laws, c. 93, § 1; 83 Del. Laws, c. 435, § 2.)

### § 4307. Access to the Division of Public Health

Every public school within a local school district shall post the contact number for the Division of Public Health in a location for public display.

(81 Del. Laws, c. 93, § 1; 83 Del. Laws, c. 435, § 2.)

### § 4308. Cooperation with the Division of Public Health

The Division of Public Health has the authority to make unannounced visits to any public school within a local school district for the purpose of complying with this chapter. No public school official may attempt to prohibit any unannounced visit by the Division of Public Health when acting pursuant to this chapter.

(81 Del. Laws, c. 93, § 1; 83 Del. Laws, c. 435, § 2.)

# Part I
# Free Public Schools

## Chapter 44

## Adult Sexual Misconduct in Schools Policy [For applicability of chapter, see 83 Del. Laws, c. 408, § 2]

(83 Del. Laws, c. 408, § 1.)

### § 4401. Adult sexual misconduct in schools policy [For applicability of section, see 83 Del. Laws, c. 408, § 2].

Each school district and charter school shall establish a policy which shall require, at a minimum, all of the following:

(1) A provision establishing appropriate and inappropriate interactions between adult employees, contractors, coaches, and volunteers and students.

(2) A provision prohibiting adult sexual misconduct in schools which shall apply to employees, contractors, coaches, and volunteers.

(3) A provision prohibiting any sexual relationship between a student, even if the student is an adult, and a school district or charter school employee while the student is a current student.

(4) A provision emphasizing the mandatory reporting requirements of § 903 of Title 16.

(5) A procedure for notifying the Department of Education and law enforcement of suspected adult sexual misconduct.

(6) A provision delineating preferred and prohibited methods of electronic communications between school employees, contractors, coaches, and volunteers and students.

(7) A provision that substantiated incidents of adult sexual misconduct will be reported in future reference checks for employment or volunteer work.

(8) A provision requiring the development of hiring practices to screen for adult sexual misconduct in school employees, contractors, coaches, and volunteers.

(83 Del. Laws, c. 408, § 1.)

# Part I
# Free Public Schools

## Chapter 45
## Grow Your Own Educator Program

(83 Del. Laws, c. 428, § 1.)

### § 4501. Title.

This chapter shall be known as the "Grow Your Own Educator Program."

(83 Del. Laws, c. 428, § 1.)

### § 4502. Establishment; statement of purpose.

There is established a Grow Your Own Educator Program to improve the recruitment, retention, and diversity of educators in Delaware's K-12 public schools.

(83 Del. Laws, c. 428, § 1.)

### § 4503. Definitions.

As used in this chapter:

(1) "Applicant" means a school district, as defined in this title, acting independently, or as part of a consortia with other school districts, or an institution of higher education acting on behalf of school districts, or a charter school established under Chapter 5 of this title.

(2) "Candidate" means a student enrolled in a public school or a post-secondary institution of higher learning in Delaware.

(3) "Department" means the Department of Education.

(4) "District" means a reorganized school district.

(5) "Educator" shall have the meaning set forth in § 1202 of this title.

(6) "High-need school" means any school either:

a. In the top quartile in 3 or more of the following:

1. Percentage of low-income students.

2. Percentage of English learners.

3. Percentage of minority students.

4. Percentage of students with disabilities; or

b. Has 90% of its students classified as low-income, English learners, or minority.

(7) "Low-income students" means students within the statewide metric determined by the Department of Education utilizing direct certification for Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP).

(8) "Minority student" means students who are members of a racial or ethnic group other than the racial or ethnic group that represents the majority of the State's population.

(9) "Program" means a Grow Your Own Educator Program as established under this chapter.

(10) "Students with disabilities" means students who because of mental, physical, emotional, developmental, speech or learning disability problems, as defined by the Department of Education rules and regulations, require special education and related services in order to develop their own capabilities.

(11) "Teacher academies" means high school programs of study that prepare students for education careers by providing a career and technical education.

(83 Del. Laws, c. 428, § 1.)

### § 4504. District or charter school Grow Your Own Educator Programs.

(a) District or charter school Grow Your Own Educator Programs will be established to offer support and guidance to candidates who are on a career path towards becoming future educators, starting as early as middle school, or through nontraditional routes, and continuing through their postsecondary education and training and culminating in their being hired, as an educator, by the district or charter school.

(b) The Department, under the Program, will establish a competitive grant process for applicants to apply for grants to develop their own Grow Your Own Educator Program.

(83 Del. Laws, c. 428, § 1.)

### § 4505. Grant applications.

(a) The grant application shall be in a form as prescribed by the Department.

(b) The applicant must submit a new grant application every 2 years, along with any additional information the Department may request, in accordance with the Program's rules and regulations.

(c) The grant application must include a description of the following:

(1) Applicant's vision for the Program and process to develop this vision which must include input from students, educators, paraprofessionals, and cultural liaisons in the community.

(2) Applicant's recruitment and hiring goals as they relate to educator diversity.

(3) Applicant's staff retention goals, specifically in regard to educators of color, including current and projected hiring needs based on current staff data.

(4) Applicant's goals and/or strategies to ensure the Program will:

a. Support candidates accepted into the Program through their postsecondary education, student teaching/residency, certification, licensure, and hiring.

b. Stress diversity, equity, and inclusion in the approach to recruiting, supporting and retaining candidates.

c. Create clear partnerships and connections between any current or proposed high school teacher academies and institutions of higher education partners to accelerate and improve credential and degree attainment.

d. Assist accepted candidates with obtaining state scholarships, loan forgiveness, and alternative routes to certification programs such as the Christa McAuliffe Teacher Program, Delaware Teacher Corps Incentive Program, Speech-Language Pathologist Incentive Program, Critical Needs Reimbursement Program, and High Needs Loan Repayment Program.

e. Seek candidates from community-based organizations, parents, and paraprofessionals who can be developed through earn and learn models.

f. Propose incentives for accepted candidates to remain employed long-term in applicant's district or charter school.

g. Propose how Program will align with applicant's current mentoring and induction programs for new teachers.

(5) Applicant's current and proposed partnerships with institutions of higher education and community-based organizations to develop and implement the Program.

(6) Applicant's plan for collecting and providing all data required by the Department for purposes of evaluating the effectiveness of the Program.

(7) Applicant's plan to continue and sustain the Program beyond any grant awards as well as leverage other funding to support the Program.

(8) Applicant's success in implementation of the Program, ability to leverage other funding to support the Program, and other best practices that are a result of the grant, should the applicant apply for continued funding under the grant beyond the initial 2-year period.

(83 Del. Laws, c. 428, § 1.)

## § 4506. Timeline and distribution of grant funds.

(a) The Department will award funds annually to approved grant applicants as follows:

(1) Applicants may use funds over a 2-year period to implement the Program, provided the Program was successful in the first year of the grant.

(2) Contingent upon the availability of sufficient funds.

(b) Where there are insufficient funds to award a grant to every applicant who satisfies the requirements of this chapter, the Department will give priority to applicants who meet the following criteria:

(1) Recruit candidates that reflect the diversity of the student population and community.

(2) Develop programs that support teachers and the placement of candidates in high-need schools.

(3) Increase opportunities in the high school teacher academies to support more diverse participants, integrate culturally responsible curriculum, provide meaningful work-based learning opportunities, and accelerate postsecondary credits and credentials during high school.

(4) Create apprenticeship programs in education.

(5) Expand year-long teacher residency models.

(83 Del. Laws, c. 428, § 1.)

## § 4507. Use of grant funds.

Grant funds, awarded under § 4506 of this title, must be used by the applicant to implement or sustain a Grow Your Own Educator Program, including for any of the following purposes:

(1) Design and startup of the Program.

(2) Compensate personnel and contractors hired to assist in the design and implementation of the Program, including technical assistance.

(3) Review and upgrade of teacher academies and other existing programs that will complement and support the Program.

(4) Revise applicant's existing programs and policies to support candidates accepted into the Program who work in educational professional roles such as paraprofessionals.

(5) Hire substitute teachers to enable educators to lend their time to support the Program.

(6) Provide career ladder opportunities and monetary compensation for highly effective educators to serve as leaders and provide coaching and mentoring for their colleagues and candidates participating in the Program.

(7) Provide candidates last-dollar support for postsecondary education, including tuition, student fees, books, technology, credentialing fees, transportation, and support for passing state testing requirements for licensure if the candidate makes a formal commitment to teach in a Delaware high-need school, for a minimum of 3 years, after obtaining their Delaware teachers license or certification.

(8) Provide financial incentives for candidates including paid internships, residency, apprenticeship and professional learning opportunities.

(9) Partner with institutions of higher education to provide tutoring, academic counseling, cohort models, assistance with credential requirements, and support for taking and passing state testing requirements for licensure.

(10) Expand teacher residency models or develop a teacher apprenticeship model in which candidates can learn while earning a salary and participating in competency-based educator preparation.

(83 Del. Laws, c. 428, § 1.)

## § 4508. Funding.

(a) Funding appropriated through the annual Appropriations Act for teacher recruitment and retention may be used to implement the Program established under this chapter.

(b) The Department is authorized to accept and retain private donations to support the Program.

(83 Del. Laws, c. 428, § 1.)

## § 4509. Annual reporting.

(a) Each fiscal year, the applicant shall provide to the Department the following summary data and any other data requested by the Department which shall be de-identified to the greatest extent possible:

(1) The number of candidates served, types of programs that were supported, types of occupations that candidates entered, the participating schools and number of candidates who were employed.

(2) The institutions of higher learning that candidates in the Program attend.

(3) The number of candidates who fulfill the Program's 3-year teaching commitment and the percentage of teachers retained by the school district or charter school beyond 3 years.

(4) Demographic information related to candidates who participate in the Program to gauge the success at recruiting demographically underrepresented groups to the education profession.

(5) The amount of private or federal funding, if any, utilized by the applicant to financially support the Program.

(b) Each fiscal year the Department shall report to the Chairs of the House and Senate Education Committees of the General Assembly and shall include, in its report, the summary data received in subsection (a) of this section.

(83 Del. Laws, c. 428, § 1.)

## § 4510. Rules and regulations.

The Department shall adopt and promulgate such rules and regulations as will be necessary for the implementation of the Grow Your Own Educator Program authorized by this chapter.

(83 Del. Laws, c. 428, § 1.)

# Part I
# Free Public Schools

## Chapter 46
## Delaware Educator Apprenticeship Program

(84 Del. Laws, c. 180, § 1.)

### § 4601. Definitions.

As used in this chapter:

(1) "Applicant" means any school district, public school, or institute of higher education acting independently, or as part of a consortium with other school districts or public schools.

(2) "Public school" means any school that is part of a reorganized school district, a vocational school, or a charter school established under Chapter 5 of this title.

(84 Del. Laws, c. 180, § 1.)

### § 4602. Establishment; statement of purpose.

(a) The Department of Education, in partnership with the Department of Labor, shall create and administer the Delaware Educator Apprenticeship Program. School districts and charter schools will place participants into positions in schools, alongside teacher mentors, while the participants complete training and education programs to become a credentialed Delaware educator.

(b) The purpose of this program is to support educator recruitment and increase the pipeline of qualified educators for our public schools by utilizing an apprenticeship model for training. This program will complement additional strategies underway through the State's Grow Your Own Educator Program and teacher residency programs by providing a low-cost pathway to become a certified educator to address the educator shortage in Delaware.

(c) In selecting applicants for this program, the Department shall consider all of the following:

(1) An applicant's commitment to Grow your Own Educator programs, including well-developed teacher academies and pathways that start in middle school and extend through high school.

(2) An applicant's established and proposed partnerships with other institutions and programs.

(3) An applicant's commitment to diversifying the workforce and supporting underrepresented populations.

(4) An applicant's commitment to providing on-the-job training, competitive wages and benefits, and long-term hiring opportunities to program participants.

(5) An applicant's commitment to new teacher mentoring programs, including mentor teacher training and support programs.

(d) The Department of Education shall explore and may include the following elements in the design of the Delaware Educator Apprenticeship Program:

(1) Technical assistance services to be provided by programs with expertise in the apprenticeship model.

(2) National credentials that may be available for teacher apprentice programs.

(3) Tax credits available to program participants.

(4) Federal and state funding available for training and educating teacher mentors and apprentices.

(5) Additional incentives for recruiting program participants.

(84 Del. Laws, c. 180, § 1.)

### § 4603. Rules and regulations.

The Department of Education shall adopt and promulgate rules and regulations as will be necessary for the implementation of the Delaware Educator Apprenticeship Program authorized by this chapter.

(84 Del. Laws, c. 180, § 1.)

# Part I
# Free Public Schools

## Chapter 47
## Teacher Academies [For application of this chapter, see 84 Del. Laws, c. 524, § 2]

(84 Del. Laws, c. 524, § 1.)

### § 4701. Definitions [For application of this section, see 84 Del. Laws, c. 524, § 2].

For purposes of this chapter:

(1) "Career and technical education program of study" means programs established by the Department of Education that provide students with rigorous academic content, relevant technical knowledge and skills, and leadership development or provide students with the opportunity to participate in work-based learning and to earn a recognized postsecondary credential as well as advanced postsecondary credit or standing.

(2) "Local education agency" means a traditional school district, vocational-technical school district, or charter school, legally constituted and established under Delaware law for either administrative control or the direction of public elementary or secondary schools.

(3) "Teacher academy" means a career and technical education program of study offered in public schools, including charter and vocational-technical schools, that prepares students for careers in elementary and secondary education.

(84 Del. Laws, c. 524, § 1.)

### § 4702. Teacher academies [For application of this section, see 84 Del. Laws, c. 524, § 2].

(a) The Department of Education shall update and revise statewide standards and guidelines that apply to all teacher academies throughout the State. By the beginning of the 2025-2026 school year, local education agencies that offer teacher academies must submit teacher academy curriculum to the Department for approval. The Department may develop an application that local education agencies must use when seeking approval for new teacher academies.

(b) The Department shall provide technical assistance to local education agencies to develop articulation agreements with postsecondary educator preparation programs, including the Delaware Educator Apprenticeship Program [Chapter 46 of this title] and the Grow Your Own Educator Program [Chapter 45 of this title] under this title.

(c) Any local education agency offering teacher academies shall offer value-added credits to students after they complete the credits required by the program of study. "Value-added credits" includes dual enrollment classes, work-based learning experiences, and preparation for certification assessments.

(d) Any local education agency offering teacher academies shall offer a work-based learning immersion option for students to gain additional hands-on experience in classrooms and other educational environments.

(e) The Department shall offer technical support to local education agencies that seek to create, modify, or expand a teacher academy program. Technical support shall include a model curriculum to assist local education agencies in developing state-approved teacher academies.

(f) The Department shall provide written information about the teacher academy programs on a website that is readily available and shared with students in eighth grade throughout the State. The Department shall also provide annual information sessions, in person or virtually, to promote student enrollment in teacher academies.

(g) The Department of Education may adopt regulations to implement this chapter.

(h) The Department of Education shall publish an annual report with the following information relating to teacher academy participants.

(1) The number of participants statewide in the teacher academy program.

(2) The institutions or programs that participants transition into after they have completed the program, including the number of students in each institution or program.

(3) A summary of each teacher academy in the State and the number of students in each program. The summary shall include:

a. The programs offered to students who have completed their third year of the program and wish to pursue further teacher preparation for a fourth year.

b. The number of students from each teacher academy who transition to a program or institute of higher learning to pursue a teaching certificate, associate degree, or bachelor's degree in the field of education.

c. The number of teacher mentors and the number of students each mentor is assigned.

d. The number of participants issued state scholarships for aspiring educators.

(84 Del. Laws, c. 524, § 1.)

# Part I
# Free Public Schools

## Chapter 48
## Delaware Play to Learn Program

(85 Del. Laws, c. 191, § 1.)

### § 4801. Purpose.

Child-centered, play-based learning is the most rigorous and most developmentally-appropriate way for children in the early childhood grade levels to learn literacy, science, technology, engineering, art, and math academic concepts. Therefore, it is the intent of the General Assembly to encourage local education agencies and the Department of Education to include play-based learning in all curricula domains from preschool through second grade and to provide professional development in play-based learning for all public school early childhood educators in preschool through second grade.

(85 Del. Laws, c. 191, § 1.)

### § 4802. Definitions.

For purposes of this chapter:

(1) “Child-directed” means interaction in which the child is helped to direct and lead play in any way the child wishes unless there is harmful or destructive activity.

(2) “Domain” means a specified sphere of activity or knowledge.

(3) “Early childhood education” includes prekindergarten, kindergarten, and first through second grade in all public schools.

(4) “Early childhood educators” includes administrators, teachers, and other educators of children in prekindergarten, kindergarten, and first through second grade in all public schools.

(5) “Guided play” means a playful learning context in which an experience is initiated and supported by the teacher, is directed by children, and involves a purposeful learning goal.

(6) “Play” or “play-based learning” means a universal, innate, and essential human activity that children engage in for pleasure, enjoyment, and recreation. Play, solitary or social, begins during infancy and develops in increasing complexity through childhood. Play integrates and supports children’s development and learning across cognitive, physical, social, and emotional domains, and across curriculum content. Play can lead to inquiry and discovery and facilitate future learning.

(7) “Professional development” means any of a wide variety of specialized training, formal education, or advanced professional learning intended to help administrators, teachers, and other educators improve their professional knowledge, competence, skill, and effectiveness.

(8) “Reading for pleasure” means reading that is freely chosen or that readers freely and enthusiastically continue after it is assigned.

(85 Del. Laws, c. 191, § 1.)

### § 4803. Program.

(a) Early childhood educators are encouraged to create a learning environment that facilitates play-based learning as follows:

(1) Create a learning environment that facilitates child-directed experiences based upon developmentally-appropriate, evidence-based and research-based early childhood practices and purposefully planned, sustained, play opportunities, including movement, creative expression, exploration, socialization, reading for pleasure, art, music, and dramatic play.

(2) Develop physical, social, emotional, cognitive, and academic learning opportunities in all curricular domains which may include time for the discovery of each child’s individual needs, abilities, and talents.

(3) Allow the needs of students to be met by incorporating and integrating play-based learning into daily practice.

(b) Local education agencies may provide ongoing early childhood professional development in play-based learning for early childhood educators, which may include existing early childhood professional development programs developed by the Department, and which may include how to internalize units and lessons within curriculum to ensure the most interactive and engaging portions of the lessons are included as well as strategies to include a play-based approach that still maintains the rigor of the instructional materials.

(85 Del. Laws, c. 191, § 1.)

# Part II
# University of Delaware

## Chapter 51
## Charter

### § 5101. Corporate status, membership and perpetuity.

(a) The University of Delaware, hereinafter referred to as "the University," is continued as a corporation and, as such, shall have perpetual succession and existence.

(b) The members of the Board of Trustees of the University shall constitute the membership of the corporation.

(Code 1852, §§ 775, 781; 13 Del. Laws, c. 513, §§ l, 6; 18 Del. Laws, c. 625; 25 Del. Laws, c. 108; 26 Del. Laws, c. 122; 27 Del. Laws, c. 117, § 1; Code 1915, §§ 2327, 2339; 32 Del. Laws, c. 166, § 1; Code 1935, §§ 2768, 2781; 14 Del. C. 1953, § 5101.)

### § 5102. Purpose.

The leading object of the University shall be to promote the liberal and practical education of persons of all classes in the several pursuits and professions in life through the teaching of classical, scientific and agricultural subjects, the mechanical arts, military tactics and such other subjects as are related to and will contribute to the achievement of the objectives of a land-grant state University.

(Code 1852, § 781; 13 Del. Laws, c. 513, § 2; 27 Del. Laws, c. 117, §§ 1, 2; Code 1915, § 2328; 28 Del. Laws, c. 186, § 1; 32 Del. Laws, c. 166, § 1; Code 1935, § 2769; 14 Del. C. 1953, § 5102.)

### § 5103. Nonsectarian, nonpartisan institution.

The University shall never be managed or conducted in the interest of any party, sect or denomination.

(13 Del. Laws, c. 513, § 9; Code 1915, § 2342; 32 Del. Laws, c. 166, § 1; Code 1935, § 2784; 14 Del. C. 1953, § 5103.)

### § 5104. Powers of University — University Police.

(a) The University shall have all the powers and franchises incident to a corporation, including the power to take and hold real and personal estate by deed, devise, bequest, gift, grant or otherwise, and the same to alien, sell, transfer and dispose of as occasion may require, and the proceeds thereof to reinvest in other property, funds or securities for the benefit of the University, and in accordance with the spirit and purpose of its charter.

(b) (1) The University may appoint such number of police officers as are necessary to preserve the peace and good order of the University, and such officers shall be known as the "University Police" and shall be supervised by a Director. They shall have jurisdiction on the University campuses.

(2) The University Police shall be law-enforcement officers of the State and conservators of the peace with the right to investigate and arrest, in accordance with the laws of the State, any person for violation of federal or state laws or applicable county or city ordinances when such violations occur on any property or facilities which are under the supervision, regulation or control of the University of Delaware or on contiguous streets and highways.

(3) The provisions of this section shall neither reduce nor restrict the jurisdiction of other duly appointed peace officers who are empowered to enforce federal or state laws or applicable county or city ordinances on the property of the University of Delaware.

(Code 1852, § 781; 13 Del. Laws, c. 513, § 6; Code 1915, § 2339; Code 1935, § 2781; 14 Del. C. 1953, § 5104; 66 Del. Laws, c. 307, § 1.)

### § 5105. Board of Trustees — Composition, selection, term and vacancies.

(a) The Board of Trustees of the University shall consist of 28 members, together with the Governor of the State, the President of the University, the Master of the State Grange and the President of the State Board of Education, all of whom shall be members of the Board, ex officio.

(b) Eight of the trustees shall be appointed by the Governor, by and with the consent of a majority of the members elected to the Senate. At least 1 of the members to be appointed by the Governor shall be a person skilled in the mechanical arts.

(c) Twenty of the trustees shall be elected by a majority of the whole Board, as constituted, not less than 5 of whom shall reside in each county in the State, and the election shall not be final until reported to the Senate at its next regular session and confirmed by a majority of all of the members elected thereto.

(d) No trustee shall be chosen, elected or appointed for a longer term than 6 years.

(e) Any vacancy in the Board caused by the expiration of term, death, resignation or otherwise, of a trustee who was appointed by the Governor, shall be filled by the Governor, so that there shall at all times be 8 members of the Board appointed by the Governor. All other vacancies shall be filled by election by the Board.

(Code 1852, § 776; 13 Del. Laws, c. 513, § 3; 27 Del. Laws, c. 117, §§ 3, 4; Code 1915, § 2334; 32 Del. Laws, c. 166, §§ 1, 2; Code 1935, § 2776; 14 Del. C. 1953, § 5105.)

## § 5106. Board of Trustees — Powers.

(a) The Board of Trustees shall have the entire control and management of the affairs of the University. The Board may exercise all the powers and franchises of the University, appoint and remove all subordinate officers and agents, and make bylaws as well for their own government as that of the University.

(b) Notwithstanding any provisions appearing elsewhere in the laws of this State which might suggest or provide the contrary, the entire control and management of the affairs of the University, which is conferred upon the Board of Trustees by the foregoing paragraph, shall be construed, in the area of fiscal and revenue matters, as including, but not as being limited to, the following powers and duties:

(1) All authority with respect to salaries and compensatory payments or benefits, as well as other terms of employment, of any and all University personnel, and individual salaries or salary increases or other benefits do not have to be reported or justified to any official or agency of the State (except to comply with applicable laws and regulations providing for preference in employment of laborers, workers and mechanics who reside in the State and the applicable minimum wage requirements for public construction projects, and to cooperate in the ordinary way with the appropriate officials with respect to income tax and other tax matters);

(2) The management of all of the remaining fiscal affairs of the University, including the establishment of fees and charges, the collection thereof and the adoption of the University's budget, the establishment of all accounting and auditing procedures (subject to the duty to obtain independent certified audits as provided in § 5109 of this title), the authorization, issuance and repayment of bonds or other obligations of the University;

(3) The selection of means and procedures for the deposit, investment and control of all moneys, funds and securities which are now held or which may at any time be received by the University, as well as the allocation, use and reinvestment of the proceeds and earnings of any such deposits and investments and the right to commingle funds appropriated by the State with other funds of the University;

(4) The right to elect whether and to what extent to participate in programs of which all or a part of the costs are provided by the United States of America or by the State or any subdivision or municipality thereof;

(5) Control of all matters having to do with the formulation of the terms of contracts for the construction of buildings or other University facilities, as well as the manner of awarding contracts or purchasing supplies and equipment; provided however, all contracts necessary for the construction of any building or other University facility that have a total cost in excess of $500,000 for new construction (including painting and decorating) or $45,000 for alteration, repair, renovation, rehabilitation, demolition, or reconstruction (including painting and decorating of buildings or works), and require or involve the employment of mechanics or laborers, shall contain a provision stating that the minimum wages to be paid to various classes of laborers and mechanics shall be based upon the wages determined by the Delaware Department of Labor, Division of Industrial Affairs, to be prevailing in the county where the work is performed;

(6) In respect to the purchase of supplies and equipment, regulations established by the State for bulk or central purchasing are not to apply to the University of Delaware unless the General Assembly expressly so provides, and in that case are to be understood as applying only to transactions involving the expenditures of moneys which have been appropriated from the General Fund of the State;

(7) The planning for buildings and improvements and the extension or diminution of the campus or other land holdings are matters wholly under the control of the Trustees except where inspection or regulations may be provided for by law in respects involving the health or safety of the occupants of the buildings;

(8) Where moneys are appropriated by the General Assembly to the University, unless the General Assembly should expressly provide otherwise, they are intended to be paid to the University in equal monthly installments and are not in any event to be cumbered by any procedures calling for preaudit or other administrative control exercised by the Director of the Office of Management and Budget or other agency or official of the State.

(Code 1852, §§ 776, 781; 13 Del. Laws, c. 513, §§ 3, 6; Code 1915, §§ 2334, 2339; 32 Del. Laws, c. 166, § 1; Code 1935, §§ 2776, 2781; 14 Del. C. 1953, § 5106; 54 Del. Laws, c. 256, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 88, § 21(7); 83 Del. Laws, c. 130, § 1.)

## § 5107. Board of Trustees — Meetings.

(a) There shall be 2 stated meetings of the Board of Trustees every year at such time and place as may be fixed by the bylaws, and occasional meetings may be held on the call of the President, which the President may make at the President's own discretion, and shall make, on the written request of any 2 or more members of the Board.

(b) The Secretary of the Board shall give 2 weeks' written notice of all meetings, and the time, place and purpose of occasional meetings shall be stated in the notice thereof, and the proceedings of such meetings shall be confined strictly to the purpose stated therein.

(Code 1852, § 777; 13 Del. Laws, c. 513, § 4; Code 1915, § 2335; Code 1935, § 2777; 14 Del. C. 1953, § 5107; 70 Del. Laws, c. 186, § 1.)

## § 5108. Board of Trustees — Quorum and failure to attend meetings or accept appointment.

(a) Nine members of the Board of Trustees shall constitute a quorum to do business, but a less number may adjourn. Officers may be appointed for the occasion in the absence of the regular officers.

(b) The place of a trustee, who shall be absent from 3 successive stated meetings, shall be vacated unless the Board shall otherwise specially direct, and a vacancy thus created shall be filled as in other cases. A trustee appointed and not accepting at or before the next stated meeting shall be considered as declining and a new appointment shall be made.

(Code 1852, §§ 778, 779; 13 Del. Laws, c. 513, § 5; Code 1915, § 2336; Code 1935, § 2778; 14 Del. C. 1953, § 5108.)

## § 5109. Audit of accounts.

The accounting records of the University may be audited by the Auditor of Accounts of the State or such other auditing official as the General Assembly may from time to time appoint. Neither this nor any other law of this State, however, shall hereafter be construed as imposing any duty upon, or creating the occasion for, any state official (with the exception of such state officials as may from time to time also be Trustees of the University) to audit, question or inquire into the receipt, handling or expenditure of any funds coming to the University from any source other than a state appropriation, provided, however, that if the University should hereafter commingle funds which came from a state appropriation with other funds, the audit of state appropriated funds may be made complete even if in the process of doing so, because of such commingling, nonstate funds have to be audited as well.

The University shall continue the practice, which has heretofore been followed on a voluntary basis, of obtaining an annual certified audit of all its financial transactions and making the audit report available to the Board of Trustees.

(27 Del. Laws, c. 117, § 5; Code 1915, § 2337; 32 Del. Laws, c. 166, § 1; Code 1935, § 2779; 14 Del. C. 1953, § 5109; 54 Del. Laws, c. 256, § 2.)

## § 5110. President's report.

The President of the University shall each year, not later than December 1, make a report of all the activities of the University, instructional, administrative and financial, for the preceding scholastic and fiscal year, to the Board of Trustees, who shall transmit the same to the Governor to be presented by him or her to the General Assembly at its next regular session.

(27 Del. Laws, c. 117, § 6; Code 1915, § 2338; 32 Del. Laws, c. 166, § 1; Code 1935, § 2780; 14 Del. C. 1953, § 5110; 70 Del. Laws, c. 186, § 1.)

## § 5111. Faculty; powers.

The faculty, consisting of the professors, instructors and others employed by the Board of Trustees, 1 of whom shall be President of the University, shall have the care, control, government and instruction of the students, subject, however, to the bylaws. They shall have authority, with the approbation of the Board, to confer degrees and grant diplomas.

(Code 1852, §§ 782, 783; 13 Del. Laws, c. 513, § 7; Code 1915, § 2340; 32 Del. Laws, c. 166, § 1; Code 1935, § 2782; 14 Del. C. 1953, § 5111.)

## § 5112. Endowment fund.

The college fund, created by resolution of the General Assembly of January 28, 1824, and transferred by Act of February 5, 1833, to "The Trustees of Newark College," and all other funds, stock, money or property belonging to or appropriated for, or raised, paid or payable to the University of Delaware, by that or any other name, or to any of its predecessors, shall be a part of the endowment of the University, and shall be held, appropriated and used as such by the University.

(Code 1852, § 789; 13 Del. Laws, c. 513, § 8; Code 1915, § 2341; 32 Del. Laws, c. 166, § 1; Code 1935, § 2783; 14 Del. C. 1953, § 5112.)

## § 5113. Donations; misnomer.

Devises, bequests, gifts and grants to the University shall not be avoided by any misnomer if the description can be understood with reasonable certainty.

(Code 1852, § 788; 13 Del. Laws, c. 513, § 9; Code 1915, § 2342; 32 Del. Laws, c. 166, § 1; Code 1935, § 2784; 14 Del. C. 1953, § 5113.)

## § 5114. Eminent domain; condemnation.

Whenever the Board of Trustees of the University cannot agree with the owner or owners for the purchase of any land, with the improvements thereon, in New Castle County, deemed by the Board necessary for the purpose of erecting any building or buildings to be used by and in connection with the University, or for the enlargement of its grounds or for any other purpose in connection with the University or the agricultural experiment station connected therewith, to better carry out the purposes of the University and agricultural experiment station, the University, in the exercise of the power of eminent domain, may acquire the land and improvements by condemnation by proceedings in accordance with Chapter 61 of Title 10.

(27 Del. Laws, c. 117, § 9; Code 1915, § 2343; 32 Del. Laws, c. 166, § 1; Code 1935, § 2785; 14 Del. C. 1953, § 5114.)

## § 5115. Authority to issue bonds.

(a) The Board of Trustees may provide by resolution, from time to time, for the issuance in the name of the University of Delaware of revenue bonds of the University, for the purpose of paying all or any part of the costs, including financing costs and necessary reserves for debt service, maintenance and the like, of 1 or more income producing capital improvements, including constructing and equipping income producing buildings and facilities together with incidental acquisition of land therefor, landscaping, walks, drives and utility installations deemed necessary by said Board for the sound expansion and development of the University and for the purpose of refunding outstanding issues of such revenue bonds.

(b) The principal of such bonds shall be payable solely from University funds (other than state appropriated funds) specifically pledged in each case by said Board by resolution, and the adoption of such resolution shall fully perfect such pledge for all purposes. No part of the revenues or funds of the University from other sources shall in any manner be expended for the purpose of paying such principal and interest.

(c) The bonds of each issue shall be dated, shall bear interest at such rate or rates per annum, payable semiannually, shall mature at such time or times and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the Board of Trustees prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The Board of Trustees shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof which may be at any bank or trust company within or without the State.

(d) The bonds shall be signed by the President of the Board of Trustees, or shall bear the facsimile signature of the President of the Board of Trustees, in which latter event such bonds shall be authenticated by the manual signature of an officer of a bank or trust company appointed by resolution of the Board of Trustees as fiscal agent in connection with the bond issue, and the seal of the University, or facsimile thereof, shall be affixed to the bonds and shall be attested by the Secretary of the Board of Trustees, which attestation may, if the bonds are authenticated as above provided, be by facsimile signature of the Secretary of the Board of Trustees; and any coupons attached to the bonds shall bear the facsimile signature of the President of the Board of Trustees. In case any officer whose signature or a facsimile thereof shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(e) All revenue bonds issued under this chapter shall have, and are declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the law of this State.

(f) Such bonds and the income therefrom shall be exempt from all taxation by the State or by any political subdivision, agency or authority thereof.

(g) The bonds may be issued in coupon or in registered form or both as the Board of Trustees may determine and provision may be made for the registration of any coupon bond as to principal alone and also as to both principal and interest, and for the reconversion of any bonds registered both as to principal and interest into coupon bonds.

(h) The Board of Trustees may sell such bonds either at public or private sale in such manner and for such price as it may determine to be for the best interests of the University.

(i) The proceeds of such bonds shall be used solely for the payment of the cost of the specified capital improvements and shall be disbursed in the same manner as other University funds. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds are issued, the surplus shall be held for application to the payment of principal and interest of such bonds.

(j) Prior to the preparation of definitive bonds, the Board of Trustees may, under like restrictions, issue temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The Board of Trustees may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost.

(k) Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this chapter.

(14 Del. C. 1953, § 5115; 50 Del. Laws, c. 521, § 1; 54 Del. Laws, c. 223, §§ 1-3; 57 Del. Laws, c. 381, §§ 1, 2; 70 Del. Laws, c. 186, § 1.)

## § 5116. Bonds as legal investments for institutions and fiduciaries.

Bonds issued under this chapter are made securities in which all state and municipal officers and administrative departments, boards and commissions of the State, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital belonging to them or within their control; and such bonds are made securities which may properly and legally be deposited with and received by any state, county or municipal officer or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.

(14 Del. C. 1953, § 5116; 50 Del. Laws, c. 521, § 1.)

## § 5117. Credit of State not pledged.

Revenue bonds issued under this chapter shall be payable exclusively from specified funds of the University. All such bonds shall contain a statement on their face that the State is not obligated to pay the same or the interest thereon and that the faith and credit of the State are not pledged to the payment of the principal or interest of such bonds. The issuance of revenue bonds under this chapter shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(14 Del. C. 1953, § 5117; 50 Del. Laws, c. 521, § 1.)

# Part II
# University of Delaware

## Chapter 53
## Academic Program; Extension Services and Facilities

### § 5301. School of Education.

The University may maintain a School of Education which shall have for its object the education of teachers for the public schools of this State.

(27 Del. Laws, c. 117, § 8; Code 1915, § 2328; 28 Del. Laws, c. 186, § 1; 32 Del. Laws, c. 166, § 1; Code 1935, § 2769; 14 Del. C. 1953, § 5301.)

### § 5302. Summer school for teachers and instructional aides [Operation suspended pending appropriations; see 85 Del. Laws, c. 324, § 285].

The University shall maintain at the University, for a period of not less than 6 weeks during the summer of each year, a school for teachers and instructional aides in which shall be given courses in pedagogy and such other subjects as will give increased efficiency to those who are now teaching or providing instructional assistance or wish to prepare to teach in the free public schools of this State. The courses given in the school shall be arranged by the University. All persons who are now teaching, or providing instructional assistance or who will give satisfactory assurance to the Department of Education that they intend to teach in the free public schools of this State shall be admitted into the school, so long as class space is available and provided their applications are approved by the Department. Tuition shall be free to all Delaware teachers and instructional aides who meet University requirements.

(27 Del. Laws, c. 122, § 1; Code 1915, § 2328; 28 Del. Laws, c. 186, § 1; 32 Del. Laws, c. 166, § 1; 32 Del. Laws, c. 168, § 1; Code 1935, § 2769; 14 Del. C. 1953, § 5302; 68 Del. Laws, c. 92, § 1; 71 Del. Laws, c. 180, § 180; 78 Del. Laws, c. 78, § 294; 78 Del. Laws, c. 290, § 292; 79 Del. Laws, c. 78, § 289; 79 Del. Laws, c. 290, § 300; 80 Del. Laws, c. 79, § 296; 80 Del. Laws, c. 298, § 293; 81 Del. Laws, c. 58, § 298; 81 Del. Laws, c. 280, § 294; 82 Del. Laws, c. 64, § 294; 82 Del. Laws, c. 242, § 286; 83 Del. Laws, c. 54, § 299; 83 Del. Laws, c. 325, § 303; 84 Del. Laws, c. 81, § 292; 84 Del. Laws, c. 295, § 305; 85 Del. Laws, c. 62, § 301; 85 Del. Laws, c. 324, § 285.)

### § 5303. Course on Delaware history and government.

The University shall provide a course on Delaware history and government that shall be elective by undergraduates, required for social studies teachers, and offered as an in-service program for teachers coming to this State from other schools or colleges.

(26 Del. Laws, c. 124, § 2; Code 1915, § 2346; 32 Del. Laws, c. 26, § 16; 32 Del. Laws, c. 166, § 1; Code 1935, § 2788; 14 Del. C. 1953, § 5303; 59 Del. Laws, c. 47, § 1.)

### § 5304. School of Agriculture — General scope and objects.

(a) The University shall maintain a School of Agriculture which shall include a Division of Instruction, a Division of Short Courses, a Division of Research and a Division of Agricultural Extension.

(b) The objectives of the School of Agriculture shall be to:

(1) Develop and implement a comprehensive on-campus program of instruction;

(2) Develop and implement a comprehensive on-campus or off-campus program of instruction in practical agriculture through a short course program;

(3) Conduct research, both fundamental and applied, in all phases of agriculture and rural life through the Agricultural Experiment Station; and

(4) Diffuse among the people of the State useful and practical information on subjects relating to agriculture and home economics, and to encourage the application of the same through the Agriculture Extension Service.

(14 Del. C. 1953, § 5304.)

### § 5305. School of Agriculture — Division of Instruction.

The University shall determine the courses of study in which instruction shall be offered by the Division of Instruction of the School of Agriculture.

(14 Del. C. 1953, § 5305.)

### § 5306. School of Agriculture — Division of Short Courses.

There shall be given at the University a short course of instruction in agriculture. The course shall be arranged by the University and shall offer to on-campus or off-campus groups instruction in practical agriculture, horticulture, home economics and related subjects. Tuition for such short courses of instruction shall be free to all persons engaged in agricultural or horticultural pursuits in the State.

(30 Del. Laws, c. 171, § 1; 32 Del. Laws, c. 26, § 16; 32 Del. Laws, c. 166, § 1; Code 1935, § 2770; 14 Del. C. 1953, § 5306.)

## § 5307. School of Agriculture — Division of Research, Agricultural Experiment Station.

(a) The University shall maintain the Agricultural Experiment Station. The function of the Experiment Station shall be to conduct research, both fundamental and applied, in all phases of agriculture and rural life, for the purpose of increasing the efficiency of farming and elevating the standards of rural living to the end that consumers may be assured an adequate supply of food and fiber and that farming itself will continue to be a satisfactory and profitable way of life. The work of the station shall be in conformity with the act of Congress entitled "An Act to Establish Agricultural Experiment Stations, etc.," being the Act of March 2, 1887, Chapter 314, 24 Stat. 440 [7 U.S.C. §§ 361a, 361b].

(b) The Agricultural Experiment Station shall maintain, manage and operate a farm on the campus for experimental purposes in providing instruction in agriculture and in conducting investigations and original research. It shall also operate and maintain the Agricultural Research Substation for Lower Delaware for the benefit of the citizens of the State in the development and improvement of poultry, horticulture and vegetables. The receipts from sales and otherwise of the farm and substation shall be retained by the Agricultural Experiment Station for their continuous operation and for experimental purposes thereat.

(24 Del. Laws, c. 50, § 6; 43 Del. Laws, c. 228, §§ 2, 4; 14 Del. C. 1953, § 5307.)

## § 5308. School of Agriculture — Division of Agricultural Extension.

The function of the Division of Agricultural Extension shall be to aid in diffusing among the people of the State useful and practical information on subjects relating to agriculture and home economics and to encourage the application of the same.

(26 Del. Laws, c. 127, §§ 1, 2; Code 1915, § 2345; 32 Del. Laws, c. 166, § 1; Code 1935, § 2787; 14 Del. C. 1953, § 5308.)

## § 5309. Department of Physical Education.

The University shall maintain a Department of Physical Education. The objects and purposes of the Department shall be the teaching of physical education and other allied subjects.

(37 Del. Laws, c. 208, § 1; Code 1935, § 2789; 14 Del. C. 1953, § 5309.)

## § 5310. Copies of public documents for University library.

The Secretary of State shall transmit to the University library a copy of all public documents of which the Secretary of State may receive duplicates, whenever the same shall not have been already appropriated.

(Code 1852, § 791; 13 Del. Laws, c. 513, § 9; Code 1915, § 2342; 32 Del. Laws, c. 166, § 1; Code 1935, § 2784; 14 Del. C. 1953, § 5310; 70 Del. Laws, c. 186, § 1.)

# Part II
# University of Delaware
## Chapter 55
## Scholarships
### Subchapter I
### General

### § 5501. Scholarships.

(a) There is appropriated the sum of $100,000 annually to the Delaware College, University of Delaware for the purpose of establishing scholarships at Delaware College, University of Delaware.

(b) The minimum number of scholarships to be awarded in each and every year shall be 60.

(c) The committee to award such scholarships shall be 3 in number, and shall be composed of 1 member of the faculty at Delaware College, 1 member of the Athletic Council at Delaware College and 1 member of the Alumni Association of Delaware College. The said committee shall be appointed by the Board of Trustees of the University of Delaware for such term or terms as the said Board may deem advisable.

(d) The State Treasurer is authorized and directed to pay to the University of Delaware for Delaware College the sum of $100,000 in each and every year upon warrant or warrants signed by the chair and secretary of the committee.

(42 Del. Laws, c. 19, §§ 1-4; 47 Del. Laws, c. 186, § 1; 14 Del. C. 1953, § 5501; 50 Del. Laws, c. 435, § 1; 53 Del. Laws, c. 281, § 1; 56 Del. Laws, c. 342, §§ 1-3; 70 Del. Laws, c. 186, § 1.)

### § 5502. Prospective teachers' scholarships.

(a) The General Assembly shall at each biennial session appropriate $20,000, of which $10,000 shall be paid annually to the University for the purpose of establishing scholarships at the University, which shall be awarded to students who desire, upon completion of their studies, to enter the teaching profession and who agree in writing with the scholarships committee provided in subsection (c) of this section to make themselves available as teachers in the public schools of Delaware for a period of at least 1 year after graduation.

(b) The minimum number of such scholarships to be awarded in each year shall be 20.

(c) The committee to award such scholarships shall be 5 in number and shall be composed of 2 members to be selected from the faculty of the University (other than from the School of Education of the University), 1 member to be selected from the Alumni Association of the University and 2 members to be selected from the faculty of the School of Education of the University. The committee shall be appointed by the Board of Trustees of the University. Such appointment shall originally be as follows: Two members shall be appointed for the term of 1 year, 1 member for the term of 2 years, another for the term of 3 years and another for the term of 4 years. Thereafter, as the terms of office of members expire, by death, resignation, removal from the State or otherwise, appointments shall be made for terms of 4 years each.

(48 Del. Laws, c. 188, §§ 1-3; 14 Del. C. 1953, § 5502.)

### § 5503. 4-H Boys' and Girls' Clubs.

The sum of $750 shall be appropriated annually to the School of Agriculture, University of Delaware, for the purpose of payment of scholarships to 4-H Boys' and Girls' Clubs and for maintenance of the Junior Short Course at the University.

(37 Del. Laws, c. 210, § 1; Code 1935, § 2790; 14 Del. C. 1953, § 5503.)

### Subchapter II
### Aid to Needy Delaware Students

### § 5520. Establishment of aid program; purpose.

There is established a program to provide financial aid to needy Delaware residents who are enrolled or selected as undergraduate students at the University of Delaware to the end that no resident of this State shall be denied an opportunity for a college education because of financial need.

(14 Del. C. 1953, § 5520; 51 Del. Laws, c. 86, § 1; 59 Del. Laws, c. 325, § 1.)

### § 5521. Administration of program.

The aid program shall be administered by the officer of the University of Delaware who is designated by the President as responsible for the total University financial aid program.

(14 Del. C. 1953, § 5521; 51 Del. Laws, c. 86, § 1.)

### § 5522. Application; grants; duration.

Each applicant for aid shall provide on forms supplied by the University, biographical information, a financial budget and a parents' financial statement. Financial grants shall not be for any fixed amount per student and grants shall be made available to students who are

qualified to matriculate or to continue their courses of study solely upon the basis of economic need. All grants shall be for 1 year or for 1 semester and may be renewed if a qualified student reapplies in the same manner required for an initial request for assistance.

(14 Del. C. 1953, § 5522; 51 Del. Laws, c. 86, § 1.)

### § 5523. Principles governing administration.

In the administration of §§ 5520-5524 of this title no discrimination shall be made on the basis of field of study, county residence, sex, campus residence or commutation. As long as funds are available to meet the needs of all qualified students, no preference shall be given to 1 student over another because of superior ability or academic accomplishment.

(14 Del. C. 1953, § 5523; 51 Del. Laws, c. 86, § 1.)

### § 5524. Annual reports to General Assembly.

Within a reasonable time after the end of each fiscal year the University officer responsible for the administration of §§ 5520-5524 of this title shall submit through the appropriate University channels a written report to the General Assembly in which shall be outlined the number of grants given, the amount received by each student and an analysis of whether the aim of §§ 5520-5524 of this title to eliminate economic need as a bar to an education at the University of Delaware has been accomplished.

(14 Del. C. 1953, § 5524; 51 Del. Laws, c. 86, § 1.)

## Subchapter III

## Optometric Institutional Aid

### §§ 5530, 5531. Administration of program; advisory committee.

Repealed by 73 Del. Laws, c. 188, § 8, effective July 17, 2001. For present law, see § 3424 of this title.

# Part II
# University of Delaware

## Chapter 57
## Land-Grant College

### § 5701. Designation of University as land-grant college.

The University of Delaware is the institution provided by the State in accordance with an act of Congress entitled "An Act donating public lands to the several States and Territories which may provide Colleges for the benefit of Agriculture and the Mechanical Arts," being the Act of July 2, 1862, Chapter 130, 12 Stat. 503 [7 U.S.C. § 301 et seq.].

(13 Del. Laws, c. 137, § 1; Code 1915, § 2329; 32 Del. Laws, c. 166, § 1; Code 1935, § 2771; 14 Del. C. 1953, § 5701.)

### § 5702. Annual report.

The University shall, annually, on or before February 1 in each year make up and distribute the reports required by paragraph 4 of § 5 of the Act of Congress of July 2, 1862, Chapter 130, 12 Stat. 504 [7 U.S.C. § 305].

(13 Del. Laws, c. 137, § 7; Code 1915, § 2330; 32 Del. Laws, c. 166, § 1; Code 1935, § 2772; 14 Del. C. 1953, § 5702.)

### § 5703. Proceeds of sale of land scrip; investment.

The $83,000 received by the University from the sale of land scrip pursuant to the Act of July 2, 1862, Chapter 130 [7 U.S.C. § 301 et seq.], shall be invested in securities selected by the Governor and State Treasurer, which securities shall conform in all respects to the requirements of an Act of Congress of April 13, 1926, Chapter 130, 44 Stat. 247 [7 U.S.C. § 304], and shall yield a net return of not less than 2 percent per annum. The principal sum of the proceeds of sale of land scrip shall forever remain unimpaired and the income shall be inviolably appropriated to the University.

(37 Del. Laws, c. 207, § 2; 41 Del. Laws, c. 176, § 1; 14 Del. C. 1953, § 5703.)

### § 5704. Separate fund.

The securities purchased under § 5703 of this title shall be held by the State Treasurer in a separate fund, as investments of the State are held, and the income shall be collected and disbursed as provided in this chapter.

(37 Del. Laws, c. 207, § 3; 14 Del. C. 1953, § 5704.)

### § 5705. Disbursement of income.

The State Treasurer shall pay semiannually to the Treasurer of the University the income accrued upon the securities invested pursuant to § 5703 of this title.

(13 Del. Laws, c. 137, § 5; 15 Del. Laws, c. 373; Code 1915, § 2331; 32 Del. Laws, c. 166, § 1; 37 Del. Laws, c. 207, § 2; Code 1935, § 2773; 14 Del. C. 1953, § 5705.)

### § 5706. Expending income.

The income referred to in § 5704 of this title shall be devoted to the maintenance of such course or courses in the University as shall carry out the intent of the Act of Congress of July 2, 1862, Chapter 130 [7 U.S.C. § 301 et seq.].

(13 Del. Laws, c. 137, § 6; 13 Del. Laws, c. 420, § 1; 14 Del. Laws, c. 54, § 1; Code 1915, § 2332; 32 Del. Laws, c. 166, § 1; Code 1935, § 2774; 14 Del. C. 1953, § 5706.)

# Part III
# Delaware State University
## Chapter 65
## Organization, Administration and Functions

### § 6501. Corporate status and membership.

(a) Delaware State University, hereafter in this part referred to as "the University," is and shall be a corporation.

(b) The members of the Board of Trustees of the University shall constitute the membership of the corporation.

(19 Del. Laws, c. 119, § 2; 19 Del. Laws, c. 635; 26 Del. Laws, c. 130; Code 1915, § 2350; Code 1935, § 2794; 46 Del. Laws, c. 202, § 2; 14 Del. C. 1953, § 6501; 69 Del. Laws, c. 67, § 1.)

### § 6502. Purpose and object.

The purpose and object of the University shall be to impart instruction in agriculture, the mechanical arts, the English language, the various branches of mathematical, physical, natural and economic science, with special reference to their application in the industries of life, and to the facilities for such instruction, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life, but other scientific and classical studies may be taught, and a normal school for the preparation of teachers may be connected with the University under such rules and regulations as the Trustees may adopt.

(19 Del. Laws, c. 119, § 3; Code 1915, § 2351; Code 1935, § 2795; 14 Del. C. 1953, § 6502; 69 Del. Laws, c. 67, § 1.)

### § 6503. Powers.

(a) The University shall have all the powers and franchises incident to a corporation, including the power to take and hold real and personal estate by deed, devise, bequest, gift, grant or otherwise, and the same to alien, sell, transfer and dispose of as occasion may require, and the proceeds thereof to reinvest in other property, funds or securities for the benefit of the University and in accordance with the spirit and purpose of its charter.

(b) (1) The University may appoint such number of police officers as are necessary to preserve the peace and good order of the University, and such officers shall be known as the "University Police" and shall be supervised by a Director. They shall have jurisdiction on the University campuses.

(2) The University police shall be law-enforcement officers of the State and conservators of the peace with the right to investigate and arrest, in accordance with the laws of the State, any person for violation of federal or state laws or applicable county or city ordinances when such violations occur on any properties or facilities which are under the supervision, regulation and control of the Delaware State University or on contiguous streets and highways.

(3) The provisions of this section shall neither reduce nor restrict the jurisdiction of other duly appointed peace officers who are empowered to enforce federal or state laws or applicable county or city ordinances on the property of the Delaware State University.

(19 Del. Laws, c. 119, § 2; 19 Del. Laws, c. 635; 26 Del. Laws, c. 130; Code 1915, § 2350; Code 1935, § 2794; 46 Del. Laws, c. 202, § 2; 14 Del. C. 1953, § 6503; 69 Del. Laws, c. 67, § 1; 72 Del. Laws, c. 395, § 343.)

### § 6504. Board of Trustees — Composition, appointment or election, term and vacancies.

(a) The Board of Trustees of the University shall consist of 15 members whose appointment or election is provided for in subsections (b) and (c) hereof and the Governor of the State and the President of the University, both of whom shall be members of the Board, ex officio.

(b) Eight of the trustees shall be appointed and commissioned by the Governor for a term of 6 years each, to begin upon the expiration of the term of the trustee whom each is to succeed. Two such trustees shall reside in each county of the State.

(c) Seven of the trustees shall be elected by a majority of the whole Board as constituted. One such trustee shall reside in each county of the State. They shall be elected for a term of 6 years each beginning September 1 in the year of election. The election of these trustees shall be held on the date and in the manner established in the bylaws. The first set of trustees elected under this subsection shall be elected as follows:

In 1957, 1 member shall be elected for a 4-year term and 1 member for a 5-year term. In 1958, 1 member shall be elected for a 6-year term and 1 member for a 5-year term and in 1959, 1 member shall be elected for a 6-year term.

(d) The Governor shall fill any vacancies that occur as to appointments made by the Governor, and the Board shall fill any vacancies that occur as to elections made by the Board. All vacancies occurring for reasons other than the expiration of the term shall be filled for the unexpired term.

(19 Del. Laws, c. 119, § 1; 19 Del. Laws, c. 635; Code 1915, § 2349; Code 1935, § 2793; 45 Del. Laws, c. 201, § 1; 46 Del. Laws, c. 202, § 2; 14 Del. C. 1953, § 6504; 51 Del. Laws, c. 98, § 1; 69 Del. Laws, c. 67, § 1; 75 Del. Laws, c. 82, §§ 1-3.)

### § 6505. Board of Trustees — Powers; meetings; quorum; bylaws.

The Board of Trustees shall have the superintendence of the University, with power to appoint and remove the faculty and other officers and agents of the University and of its own body; to fill vacancies and to make bylaws as well for the government of the University as

its own government; and to conduct all the concerns of the institution. A majority of all those members appointed by the Governor and those members elected by the Board shall constitute a quorum. Meetings of the Board shall be held as the bylaws prescribe.

(19 Del. Laws, c. 119, § 4; 19 Del. Laws, c. 635; Code 1915, § 2352; Code 1935, § 2796; 14 Del. C. 1953, § 6505; 50 Del. Laws, c. 406, § 2; 51 Del. Laws, c. 98, § 1; 69 Del. Laws, c. 67, § 1.)

## § 6506. Faculty; powers.

The faculty of the University, composed of the teachers whom the trustees shall employ, 1 of whom shall be President of the University and, ex officio, a member of the Board of Trustees, shall have the care, government and instruction of the students, subject, however, to the bylaws. They shall have authority, with the approbation of the Board, to confer degrees and grant diplomas.

(19 Del. Laws, c. 119, § 5; Code 1915, § 2353; Code 1935, § 2797; 14 Del. C. 1953, § 6506; 69 Del. Laws, c. 67, § 1.)

## § 6507. Donations; misnomer.

Devises, bequests, grants and gifts to the University shall not be avoided by any misnomer if the description can be understood with reasonable certainty.

(19 Del. Laws, c. 119, § 6; Code 1915, § 2354; Code 1935, § 2798; 14 Del. C. 1953, § 6507; 69 Del. Laws, c. 67, § 1.)

## § 6508. Annual payment from State Treasurer.

The State Treasurer shall pay annually to the treasurer of the University, 20 percent or one-fifth part of the sum of money which the State Treasurer shall receive annually by virtue of an act of Congress, entitled "An Act to Apply a Portion of the Proceeds of the Public Lands to the More Complete Endowment and Support of the Colleges for the Benefit of Agriculture and the Mechanic Arts, Established under the Provisions of an Act of Congress, Approved July 2, 1862," being the Act of August 30, 1890, Chapter 841, 26 Stat. 417 [7 U.S.C. §§ 321-328].

(19 Del. Laws, c. 119, § 8; Code 1915, § 2355; Code 1935, § 2799; 46 Del. Laws, c. 202, § 2; 14 Del. C. 1953, § 6508; 69 Del. Laws, c. 67, § 1; 70 Del. Laws, c. 186, § 1.)

## § 6509. Use of annual payments.

The moneys received by the University as provided in § 6508 of this title shall be used by the University for the support and maintenance of the University.

(19 Del. Laws, c. 119, § 9; Code 1915, § 2356; Code 1935, § 2800; 14 Del. C. 1953, § 6509; 69 Del. Laws, c. 67, § 1.)

## § 6510. Scholarships.

(a) The General Assembly shall at each biennial session appropriate $50,000 of which $25,000 shall be paid annually to the University for the purpose of establishing scholarships at the University.

(b) The minimum number of scholarships to be awarded in each year shall be 50.

(c) A committee to award such scholarships shall be selected by the President of the University.

(d) The State Treasurer shall pay to the University the sum of $25,000 in each year upon warrants signed by the President of the University and the secretary of its Board of Trustees.

(47 Del. Laws, c. 179, §§ 1-4; 14 Del. C. 1953, § 6510; 51 Del. Laws, c. 98, § 4; 51 Del. Laws, c. 200, § 1; 69 Del. Laws, c. 67, § 1.)

## § 6511. Summer school for teachers and instructional aides [Operation suspended pending appropriations; see 85 Del. Laws, c. 324, § 285].

The University shall maintain at the University, for a period of not less than 6 weeks during the summer of each year, a school for teachers and instructional aides in which shall be given courses in pedagogy and such other subjects as will give increased efficiency to those who are now teaching or providing instructional assistance or wish to prepare to teach in the free public schools in this State. The courses given in the school shall be arranged by the University. All persons who are now teaching, or providing instructional assistance or who will give satisfactory assurance to the Department of Education that they intend to teach in the free public schools of this State shall be admitted into the school, so long as class space is available and provided their applications are approved by the Department. Tuition shall be free to all Delaware teachers and instructional aides who meet University requirements.

(64 Del. Laws, c. 90, § 141; 68 Del. Laws, c. 92, § 2; 69 Del. Laws, c. 67, § 1; 71 Del. Laws, c. 180, § 180; 78 Del. Laws, c. 78, § 294; 78 Del. Laws, c. 290, § 292; 79 Del. Laws, c. 78, § 289; 79 Del. Laws, c. 290, § 300; 80 Del. Laws, c. 79, § 296; 80 Del. Laws, c. 298, § 293; 81 Del. Laws, c. 58, § 298; 81 Del. Laws, c. 280, § 294; 82 Del. Laws, c. 64, § 294; 82 Del. Laws, c. 242, § 286; 83 Del. Laws, c. 54, § 299; 83 Del. Laws, c. 325, § 303; 84 Del. Laws, c. 81, § 292; 84 Del. Laws, c. 295, § 305; 85 Del. Laws, c. 62, § 301; 85 Del. Laws, c. 324, § 285.)

## § 6512. Authority to issue bonds.

(a) The Board of Trustees of Delaware State University may provide by resolution, from time to time, for the issuance, in the name of Delaware State University, of revenue bonds of the University, for the purpose of paying all or any part of the costs, including financing costs and necessary reserves for debt service, maintenance and the like, of 1 or more income-producing capital improvements, including constructing and equipping income-producing buildings and facilities to include dormitories/student residences, cafeteria

facilities, parking facilities, together with incidental acquisition of land therefor, landscaping, walks, drives and utility installations deemed necessary by said Board for the sound expansion and development of the University and for the purpose of refunding outstanding issues of such revenue bonds.

(b) The principal of such bonds shall be payable solely from University funds (other than state-appropriated funds) specifically pledged in each case by said Board by resolution, and the adoption of such resolution shall fully perfect such pledge for all purposes. No part of the revenues or funds of the University from other sources shall in any manner be expended for the purpose of paying such principal and interest.

(c) The bonds of each issue shall be dated, shall bear interest at such rate or rates per annum, payable semiannually, shall mature at such time or times and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the Board of Trustees prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The Board of Trustees shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof which may be at any bank or trust company within or without the State.

(d) The bonds shall be signed by the President of the Board of Trustees, or shall bear the facsimile signature of the President of the Board of Trustees, in which latter event such bonds shall be authenticated by the manual signature of an officer of a bank or trust company appointed by resolution of the Board of Trustees as fiscal agent in connection with the bond issue, and the seal of the University, or facsimile thereof, shall be affixed to the bonds and shall be attested by the Secretary of the Board of Trustees, which attestation may, if the bonds are authenticated as above provided, be by facsimile signature of the Secretary of the Board of Trustees; and any coupons attached to the bonds shall bear the facsimile signature of the President of the Board of Trustees. In case any officer whose signature or a facsimile thereof shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(e) All revenue bonds issued under this chapter shall have, and are declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the law of this State.

(f) Such bonds and the income therefrom shall be exempt from all taxation by the State or by any political subdivision, agency or authority thereof.

(g) The bonds may be issued in coupon or in registered form or both as the Board of Trustees may determine and provision may be made for the registration of any coupon bond as to principal alone and also as to both principal and interest, and for the reconversion of any bonds registered both as to principal and interest into coupon bonds.

(h) The Board of Trustees may sell such bonds either at public or private sale in such manner and for such price as it may determine to be for the best interests of the University.

(i) The proceeds of such bonds shall be used solely for the payment of the cost of the specified capital improvements and shall be disbursed in the same manner as other University funds. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds are issued, the surplus shall be held for application to the payment of principal and interest of such bonds.

(j) Prior to the preparation of definitive bonds, the Board of Trustees may, under like restrictions, issue temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issue of the latter. The Board of Trustees may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost.

(k) Any contracts or classes of contracts with firms or individuals entered into by Delaware State University in connection with the issuance and sale of any revenue bonds authorized by this section must be approved by the majority of the State's bond issuing officers (as defined for the purposes of Title 29, Chapter 74), or authorized designees.

(*l*) Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this chapter.

(68 Del. Laws, c. 97, § 1; 69 Del. Laws, c. 67, § 1; 70 Del. Laws, c. 186, § 1.)

## § 6513. Bonds as legal investments for institutions and fiduciaries.

Bonds issued under this chapter are made securities in which all state and municipal officers and administrative departments, boards and commissions of the State, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital belonging to them or within their control; and such bonds are made securities which may properly and legally be deposited with and received by any state, county or municipal officer or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.

(68 Del. Laws, c. 97, § 1.)

## § 6514. Credit of State not pledged.

Revenue bonds issued under this chapter shall be payable exclusively from specified funds of the University. All such bonds shall contain a statement on their face that the State is not obligated to pay the same or the interest thereon and that the faith and credit of the

State are not pledged to the payment of the principal or interest of such bonds. The issuance of revenue bonds under this chapter shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(68 Del. Laws, c. 97, § 1; 69 Del. Laws, c. 67, § 1.)

# Part IV
# Libraries

## Chapter 71
## District Libraries

### § 7101. District library commissions requesting exemption.

Any district library commission, heretofore established to administer and supervise a free public library established by a school district pursuant to this chapter that requests and qualifies for exemption from § 6(a) and (b), Chapter 480, Volume 59, Laws of Delaware, on or before August 31, 1975, shall continue in existence and subject to this chapter shall be empowered to administer and supervise the free public library in its district; provided, however, that the Lewes Public Library may request exemption as provided herein after August 31, 1975.

(60 Del. Laws, c. 285, § 1; 69 Del. Laws, c. 29, § 1.)

### § 7102. Appointment, term, etc., of district library commission.

Each district library commission shall be composed of 5 members who are residents of the school district in which the public library is established. The 5 members serving on any such district library commission as of July 1, 1975, shall continue in office until the expiration of the terms for which they were appointed. Upon the expiration of the term of any member, such member's successor shall be appointed by the Resident Judge of the Superior Court of the State for the county in which the school district is located for a term of 5 years. In case a district is located partly in each of 2 counties, the appointments to fill vacancies caused by expiration of a term shall be made alternately from the 2 counties by the Resident Judge of the county in which the greater number of residents of the school district reside. Appointment to fill an unexpired term is not to be considered a complete term. Each member shall hold office until the member's successor is appointed and qualified. Any vacancy in the membership of the commission shall be filled by the Resident Judge for the unexpired portion of the 5 year term.

(60 Del. Laws, c. 285, § 1; 70 Del. Laws, c. 186, § 1.)

### § 7103. Election of officers; meetings; failure to hold or attend meetings.

A district library commission shall annually, from its members, elect a president, secretary and treasurer. The secretary and treasurer may be one and the same person. The district library commission shall meet at least quarterly in each year. Failure to hold 4 formal meetings shall, at the option of the county library advisory board, necessitate the appointment of a new district library commission as provided in § 7102 of this title. The district library commission may adopt a rule that the failure of any member to attend a specified number of meetings of the district library commission shall create a vacancy in the office of such member.

(60 Del. Laws, c. 285, § 1.)

### § 7104. Librarian and other employees.

The district library commission shall select a librarian and other employees necessary for the proper conduct of the library. The district library commission may fix the compensation of its employees.

(60 Del. Laws, c. 285, § 1.)

### § 7105. Powers of district library commission.

(a) The district library commission shall have the custody and management of the library and all property owned or leased, or donated, relating thereto. All money, from whatever source, shall be placed in the care and custody of the commission to be expended or retained by the commission for and in behalf of the library.

(b) The district library commission may procure and maintain suitable quarters for the library; purchase or accept donations or gifts of printed matter; employ employees; and shall have such further and additional powers as may be necessary for the foundation and establishment, and the support and maintenance of a library.

(c) The district library commission shall have the power to take and hold in the name of the district library commission real and personal property by deed, devise, bequest, gift, grant or otherwise, except by eminent domain, and to alien, sell, transfer and dispose thereof as an occasion may require, and the proceeds realized therefrom may be reinvested in other property, funds or securities for the benefit of the district library.

(d) The district library commission shall have the power to enter into contracts for any library service with any other library, business or with any governmental unit.

(e) All deeds of real estate and bills of sale and contracts shall be executed on behalf of the district library commission by the president and secretary of the district library commission.

(60 Del. Laws, c. 285, § 1.)

## § 7106. Reports.

(a) The district library commission shall make a detailed report to the county library advisory board annually of all its receipts and expenditures, and of all the property of the district in its care and custody, including a statement of any unexpended balance of money and of any bequests or donations in behalf of the district, and of any sum or sums received from the county or other governmental unit, with such recommendations as are deemed desirable.

(b) The district library commission shall also make such reports as may be requested by other governmental units.

(60 Del. Laws, c. 285, § 1.)

## § 7107. Rules and regulations.

The district library commission may make such rules and regulations for the conduct of the persons employed by it, and for the care and use of the books, newspapers, magazines, reviews and other media in the library by the persons using the library, and also concerning the conduct and deportment of all persons while in or about the library or reading room, as the commission shall or may from time to time deem proper and advisable. The use of the library and reading rooms or the contents thereof for library purposes shall be free to any citizen of the State. The rules and regulations made by the commission may be enforced by a suitable penalty including fines as may be set by the commission.

(60 Del. Laws, c. 285, § 1.)

## § 7108. Consolidated districts.

A district library commission located in a consolidated school district and responsible for the operation of more than 1 library may request the Resident Judge to appoint separate library commissions for each library in that district. Upon written request from the consolidated district library commission, the Resident Judge will make the number of appointments necessary to establish individual commissions for those libraries hitherto served by a consolidated commission, using those members currently serving on the consolidated commission as representatives of their library as nuclei for the new commissions. Upon such appointment of separate district library commissions the consolidated district library commissions shall cease to exist.

(60 Del. Laws, c. 285, § 1.)

# Part IV
# Libraries

## Chapter 72
## School Library Collection Development Policy

(85 Del. Laws, c. 218, § 5.)

### § 7201. Library collection development policy for school libraries.

(a) For purposes of this section:

(1) “Classroom library” means materials donated to, purchased by, or acquired by an individual teacher, which are made available in the teacher’s classroom to students assigned to the teacher’s class.

(2) “Library” means all school libraries established, administered, or under the control of a local education agency. A “library” does not include classroom libraries.

(3) “Library materials” or “material” includes books, periodicals and serials, audio materials, audiovisual materials, instructional materials, maps, databases, government documents, records, photographs, and other similar materials, whether in tangible or electronic form.

(4) “Local education agency” means any public authority legally constituted by this State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions. Local education agencies include reorganized school districts, juvenile correctional facilities, vocational-technical school districts, and charter schools.

(b) This State establishes the following school library collection development principles:

(1) The library materials, services, and resources provided in a school library are provided for the interest, information, and instructional support of students and school personnel of the schools the program serves.

(2) Library material may not be excluded, removed, or prohibited from a school library solely because of the origin, background, or views of the person who created the material.

(3) Library material may not be excluded, removed, or prohibited from the catalog of a school library because of partisan, ideological, or religious disapproval.

(4) Nothing in this section is intended to override or negate any provision of state law relating to material that is in violation of Title 11, Chapter 5, subchapter VII, Subpart C.

(c) Each local education agency shall develop and implement policies and procedures to review objections to library material in a school library. The policies and procedures must align with the school library collection development principles established under subsection (b) of this section. The policies and procedures developed under this subsection must do the following:

(1) Establish a uniform process to submit an objection to library material in a school library by a student, parent or guardian of a student enrolled in a public school, or school personnel.

(2) Require that library material under review due to an objection remain available for use by students and school personnel until the review process is concluded.

(3) Establish a reasonable timeline to conduct and conclude the review process.

(d) Only the following individuals may make objections to library material in a school library under subsection (c) of this section:

(1) A student enrolled in a school that carries the objectionable material in the school’s library.

(2) A parent or guardian of a student in a school that carries the objectionable material in the school’s library.

(3) School personnel in a school that carries the objectionable material in the school’s library.

(e) A local education agency may not dismiss, demote, suspend, discipline, reassign, transfer, or otherwise retaliate against a librarian, a certified library media specialist, or employee of a local education agency for performing their job duties consistent with the principles established under subsection (b) of this section or policies developed under subsection (c) of this section.

(f) The Division of Libraries, in cooperation with the Library Consortium, shall develop model policies and procedures that libraries may use to ensure compliance with this section.

(g) At the conclusion of a review process established under subsection (c) of this subsection, an appeal may be made to the board of the local education agency. The board of the local education agency must issue a decision confirming or reversing a decision by a local education agency within 30 days.

(h) After a decision is made in an appeal under subsection (g) of this section, an appeal may be made to the School Library Review Committee, established under § 7202 of this title. A decision of the School Library Review Committee shall be a final decision. The Committee’s decision must only apply to the school library that received the initial complaint that is subject to appeal.

(i) An individual who is not a party to the original complaint, objection, or underlying appeal, may appeal a decision made by a school, a local education agency, or the board of a local education agency under this section, so long as the individual making the appeal is a student, parent or guardian of a student, or school personnel in the school where the complaint, objection, or underlying appeal initiated.

(j) Notwithstanding any provision of § 10002 to the contrary, all records relating to material objections, removals, the review process, appeals, and appeal decisions, including the reasons for material removal, if applicable, are public records under Chapter 100 of Title 29.

(85 Del. Laws, c. 218, § 5.)

## § 7202. School Library Review Committee; procedures.

(a) There is established a School Library Review Committee. Membership is composed as follows:

(1) The President of the School Chiefs' Association, or the President's designee.

(2) The State Librarian, or the State Librarian's designee.

(3) The Secretary of the Department of Education, or the Secretary's designee.

(4) The President of the Delaware State Education Association, or the President's designee.

(5) The President of the Delaware Association of School Administrators, or the President's designee.

(6) The President of the Delaware Association of School Librarians, or the President's designee.

(7) The President of the Delaware Library Association, or the President's designee.

(b) The Committee may adopt procedural rules to carry out its functions under this chapter.

(c) A majority of the committee members must be present at a committee meeting in order to have a quorum and conduct official business. A majority of the members present is sufficient to approve an action of the Committee.

(d) The State Librarian, or the librarian's designee, shall be the chair of the committee.

(e) The Department of Education shall provide reasonable staff support to assist the Committee in performing its duties under this title.

(85 Del. Laws, c. 218, § 5.)

# Part V
# Miscellaneous

## Chapter 80
## The Red Clay Consolidated School District School Bus Safety Camera Pilot Program

(82 Del. Laws, c. 240, § 1.)

### § 8001. Definitions.

For purposes of this chapter:

(1) "Owner" means the registered owner of such vehicle on record with this or any state; provided, however, that in the event that the owner is a vehicle leasing company, the "owner", for purposes of this chapter, shall mean the person shown on the records to be the lessee of such vehicle. "Owner" does not include vehicle rental companies.

(2) "Red Clay Consolidated School District personnel" means an employee or contractor of Red Clay School District. "Red Clay Consolidated School District personnel" does not include any of the following:

a. A law-enforcement officer as defined in § 9200(b) of Title 11.

b. An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.

(3) "School bus safety camera system" means a camera placed on the exterior of a school bus that is designed to capture a recorded image that clearly identifies the license plate number of the motor vehicle that fails to stop when a school bus is stopped and displays flashing lamps to take on or discharge school children.

(4) "School district" means Red Clay Consolidated School District.

(82 Del. Laws, c. 240, § 1; 83 Del. Laws, c. 67, § 1; 83 Del. Laws, c. 283, § 19.)

### § 8002. Purpose.

The purpose is to implement a pilot program that utilizes school bus safety cameras to issue civil violations to individuals who fail to stop when a school bus is stopped and displays flashing lamps to take on or discharge school children. If this program is successful in helping to protect students, this may become a program that it utilized statewide. This program further funds itself with revenue from the civil violations and will create additional funds to spread public awareness of the dangers of failing to stop when a school bus is stopped and displays flashing lamps to take on or discharge school children.

(82 Del. Laws, c. 240, § 1; 83 Del. Laws, c. 67, § 1.)

### § 8003. School bus safety camera systems.

(a) The school district may enter into an agreement with a private vendor or manufacturer to provide a school bus safety camera system on each bus utilized by the school district, whether the bus is owned, contracted, or leased, up to and including the installation, operation, and maintenance of the systems.

(1) Any school bus utilizing the school bus safety camera system must display at a minimum, a strip of, yellow and black, high-intensity, reflective conspicuity adhesive tape on the front and the back of school bus stating, "Violation for Passing When Red Lights Flashing".

(2) While utilizing the school bus safety camera systems, the school district must make at least 1 public service announcement each year warning the public in the school district that the school bus safety camera system is being utilized by the school district and that there is at least a $100 fine associated with illegally overtaking and passing a school bus utilizing the school bus safety camera system.

(b) *Reimbursement. —*

The fines collected through the implementation of school bus safety camera systems shall be used to reimburse the private vendor or manufacturer and the school district for the cost of installation, operation, and maintenance of the systems, requirements as listed in § 8803(a) of this title, to cover additional costs related to the administration of the program, and transportation safety related costs.

(c) *Liability. —*

The owner or operator of a vehicle approaching a school bus from the front or from the rear who has failed to stop when a school bus is stopped and displays flashing lamps to take on or discharge school children as evidenced by information obtained from a school bus safety camera system, shall be subject to a civil or administrative assessment of $100 for a first offense, which shall increase to $500 for each subsequent offense within 10 years of the prior offense or offenses; provided, however, that the school district may provide for an additional assessment not to exceed $10 if the civil or administrative assessment is not paid within 20 days, which assessment may be increased to an amount not to exceed $20 if the assessment is not paid within 45 days, and may be increased to an amount not to exceed $30 if the assessment is not paid within 90 days. Court costs or similar administrative fees not to exceed $35 may also be assessed against an owner or operator who requests a hearing to contest the violation and is ultimately found or pleads responsible for the violation or

who fails to pay or contest the violation in a timely manner. No assessments or court costs other than those specified in this subsection may be imposed. A violation for which a civil assessment is imposed under this subsection shall not be classified as a criminal offense and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance. Assessments collected as a result of a traffic control signal monitoring system shall be paid to the school district, after first being applied to reimburse the private vendor or manufacturer and the school district for their costs of administering such systems. This subsection does not apply to an owner or operator of a vehicle on a roadway with 4 or more lanes approaching a school bus from the front.

(d) *Summons and notice of violation. —*

Any nonresident owner or operator of any motor vehicle which is operated or driven on the public streets, roads, turnpikes, or highways of the school district is deemed to have submitted to the jurisdiction of the Delaware courts for purposes of this section. Notwithstanding any other provision of the Delaware Code, a summons for a civil violation of this section may be executed by mailing to any Delaware resident or nonresident by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Division of Motor Vehicles of this or any other state, as appropriate. Collection actions, including default judgment and execution, may proceed based upon jurisdiction obtained through the mailing by first-class mail of a summons and subsequent court notices pursuant to this subsection. Every initial mailing shall include the:

(1) Name and address of the owner of the vehicle;

(2) Registration number of the motor vehicle involved in the civil violation;

(3) Civilviolation charges;

(4) Location where the civil violation occurred;

(5) Date and time of the civil violation;

(6) A copy of a photograph of the registration number of the motor vehicle involved in the civil violation and reference to where recorded video images taken as proof of the civil violation can be accessed by the owner of the motor vehicle;

(7) Amount of the civil assessment imposed and the date by which the civil assessment should be paid;

(8) Information advising the summonsed person of the matter, time and place by which liability as alleged in the notice may be contested, and warning that the failure to pay the civil assessment or to contest liability in a timely manner is an admission of liability and may result in a judgment being entered against the summonsed person or the denial of the registration or the renewal of the registration of any of the owner’s vehicles; and

(9) Notice of the summonsed person’s ability to rebut the presumption that the summonsed person was the operator of the vehicle at the time of the alleged violation and the means for rebutting such presumption.

(e) *Payment by voluntary assessment. —*

Persons electing to pay by voluntary assessment shall make payments to the school district. Procedures for payment under this subsection shall be as provided by the school district.

(f) *Procedures to contest the civil violation. —*

A person receiving the summons pursuant to this subsection may request a hearing to contest the civil violation by notifying, in writing, the school district within 20 days of the date on the summons. Upon receipt of a timely request for a hearing a civil hearing shall be scheduled and the defendant notified of the hearing date by first-class mail. A civil hearing shall be held by the Justice of the Peace Court servicing the school district. The hearing may be informal and shall be held in accordance with Justice of the Peace Court Rules. Additional administrative collection processes may be established by court rule, policy directive, regulation, code, or ordinance, as applicable. Costs for such hearing shall not be assessed against the prevailing party. There shall be no right of transfer to the Court of Common Pleas.

(g) *Failure to pay or successfully contest the violation. —*

If the owner or an operator identified by the owner fails to pay the civil penalty by voluntary assessment, request a hearing within the required time, or submit an affidavit stating that the owner or operator identified was not the driver, or if the owner or operator identified by the owner is found responsible at a hearing and fails to pay as ordered by the Court, or requests a hearing and fails to appear they will be considered in non-compliance. Upon receiving a record of non-compliance, the Clerk may enter a civil traffic judgment against the owner or operator in the amount of the civil penalty, costs, and any applicable penalty amounts, giving credit for any amount paid. Such judgment may, upon motion, be transferred by the Court to the civil docket. Any judgment so transferred may be executed and enforced or transferred in the same manner as other judgments of the Court and the school district shall have authority to seek such execution, enforcement or transfer.

(h) *Proof of civil violation. —*

Proof of a civil violation of this subsection shall be evidenced by information obtained from a school bus signal violation monitoring system authorized pursuant to this subsection. A certificate, or facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a school bus signal violation monitoring system shall constitute prima facie evidence of the facts contained therein, if the certificate, or facsimile thereof, is sworn to or affirmed by a technician that is Red Clay Consolidated School District personnel authorized to impose assessments pursuant to this section. Any photographs, microphotographs, videotape or

other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to regulation, ordinance, or other law adopted pursuant to this section.

(i) *Presumptions. —*

The owner of any vehicle found to be in violation of this chapter shall be held prima facie responsible for such civil violation in the same manner as provided for under § 7003 of Title 21, unless the owner can furnish evidence that the vehicle was, at the time of the civil violation, in the care, custody or control of another person. Such presumption shall be rebutted if the owner does any of the following:

(1) Furnishes an affidavit by regular mail to the entity indicated on the summons that the owner was not the operator of the vehicle at the time of the alleged violation and provides the name and address of the person or company who leased, rented or otherwise had the care, custody or control of the vehicle, or attaches a certified copy of a police report showing that the vehicle or license plate or plates thereof had been reported to the police as stolen prior to the time of the alleged violation of this section.

(2) Provides proof in court that the owner was not the operator of the vehicle at the time of the alleged violation. A summons may be issued to a person identified by affidavit or evidence in court as the actual operator of the vehicle shown to have violated the school bus signal. There shall be a presumption that the person so identified was the driver. The presumption may be rebutted as described in this subsection.

(j) Notwithstanding any other provision in this section, if the motor vehicle which is found by the school bus safety camera system to have failed to comply with a school bus signal is commercially licensed, then the owner of that vehicle shall be sent notice of the date, time, and location of the violation with 2 photographs thereof. Within 10 days of the receipt of said notice, the owner of the vehicle shall provide the school district with the name and address of the driver of the vehicle at the date, time, and location of the violation and, within the same time period, shall provide the driver of the vehicle with the photographs of the violation. After receipt by the school district of the name and address of the driver of the vehicle at the time of the violation, the driver of the vehicle shall be prima facie responsible for such violation in the same manner as provided for under § 7003 of Title 21 and shall be subject to the provisions of this section. Failure of the owner of the vehicle found to be in violation of subsection (d) of this section to provide the name and address of the driver at the time of the violation within the period prescribed shall cause the owner to be held responsible as set forth in subsection (g) of this section.

(k) Any person found responsible for a bus safety camera violation shall have a right of appeal only in those cases in which the civil penalty imposed exceeds $500, upon giving bond with surety satisfactory to the judge before whom such person was found responsible, such appeal to be taken and bond given within 15 days from the time of the finding of responsible. Such appeal shall operate as a stay or supersedes all proceedings in the court below in the same manner that a certiorari from the Superior Court operates. The taking of such appeal shall constitute a waiver by the appellant of the appellant’s right to a writ of certiorari in the Superior Court. Additional penalty assessments for late payment/response shall be included.

(82 Del. Laws, c. 240, § 1; 83 Del. Laws, c. 67, § 1; 84 Del. Laws, c. 233, § 28.)

# Part V
# Miscellaneous

## Chapter 81
## Education Privacy Act

### § 8101. Short title.

This chapter may be known and cited as the "Education Privacy Act."

(78 Del. Laws, c. 354, § 1.)

### § 8102. Definitions.

(a) "Academic institution" means public or nonpublic institution of higher education or institution of postsecondary education.

(b) "Applicant" means a prospective student applying for admission into the subject academic institution.

(c) "Electronic communication device" means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device whether mobile or desktop, 2-way messaging device, electronic game, or portable computing device.

(d) "Social networking site" means an Internet-based, personalized, privacy-protected website or application whether free or commercial that allows users to construct a private or semi-private profile site within a bounded system, create a list of other system users who are granted reciprocal access to the individual's profile site, send and receive email, and share personal content, communications, and contacts.

(e) "Student" means a person which at all relevant times is admitted into the academic institution.

(78 Del. Laws, c. 354, § 1.)

### § 8103. Academic institution; prohibited acts.

(a) An academic institution shall not request or require that a student or applicant disclose any password or other related account information in order to gain access to the student's or applicant's social networking site profile or account by way of an electronic communication device.

(b) An academic institution shall not require or request that a student or applicant log onto a social networking site, mail account, or any other internet site or application by way of an electronic communication device in the presence of an agent of the institution so as to provide the institution access.

(c) No public or nonpublic academic institution shall monitor or track a student's or applicant's personal electronic communication device by installation of software upon the device, or by remotely tracking the device by using intercept technology.

(d) An academic institution shall not request or require a student or applicant to add the employer or its representative to their personal social networking site profile or account.

(e) An academic institution is prohibited from accessing a student's or applicant's social networking site profile or account indirectly through any other person who is a social networking contact of the student or applicant.

(78 Del. Laws, c. 354, § 1.)

### § 8104. Academic institution; wrongful dismissal or refusal to admit.

An academic institution may not discipline, dismiss or otherwise penalize or threaten to discipline, dismiss or otherwise penalize a student for refusing to disclose any information specified in § 8103(a) or (b) of this title. It shall also be unlawful for a public or nonpublic academic institution to fail or refuse to admit any applicant as a result of the applicant's refusal to disclose any information specified in § 8103(a) or (b) of this title.

(78 Del. Laws, c. 354, § 1.)

### § 8105. Health and safety exceptions.

This chapter shall not apply to investigations conducted by an academic institution's public safety department or police agency who have a reasonable articulable suspicion of criminal activity, or to an investigation, inquiry or determination conducted pursuant to an academic institution's threat assessment policy or protocol.

(78 Del. Laws, c. 354, § 1.)

# Part V
# Miscellaneous

## Chapter 81A
## Student Data Privacy Protection Act[For applicability of chapter, see 80 Del. Laws, c. 149, § 2]

### § 8101A. Short title [For applicability of chapter, see 80 Del. Laws, c. 149, § 2].

This chapter shall be known and may be cited as the "Student Data Privacy Protection Act."

(80 Del. Laws, c. 149, § 1; 80 Del. Laws, c. 335, § 3.)

### § 8102A. Definitions [For applicability of chapter, see 80 Del. Laws, c. 149, § 2].

For purposes of this chapter:

(1) "Aggregate student data" means data that is not personally identifiable and that is collected or reported at the group, cohort, or institutional level.

(2) "De-identified data" means a student data set that cannot reasonably be used to identify, contact, single out, or infer information about a student or a device used by a student.

(3) "Department" means the Delaware Department of Education.

(4) "Education record" means an education record as defined in the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and its implementing regulations, 34 C.F.R. Part 99, as amended.

(5) "Geolocation data" means information that is, in whole or part, generated by, derived from, or obtained by the operation of an electronic device that can be used to identify the past, present, or future location of an electronic device, an individual, or both.

(6) "Internet" means, collectively, the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

(7) "K-12 school purposes" means purposes that customarily take place at the direction of a school, teacher, or school district or aid in the administration of school activities, including instruction in the classroom or at home, administrative activities, preparing for postsecondary education or employment opportunities, and collaboration between students, school personnel, or parents, or are for the use and benefit of the school.

(8) "Law-enforcement entity" means any government agency or any subunit thereof which performs the administration of criminal justice pursuant to statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice, including the Delaware State Police, all law-enforcement agencies and police departments of any political subdivision of this State, the Department of Correction, and the Department of Justice.

(9) "Online contact information" means an e-mail address or any other substantially similar identifier that permits direct contact with an individual online, including an instant messaging user identifier, a voice-over-internet protocol (VOIP) identifier, a video chat user identifier, or a screen name or user name that permits such contact.

(10) "Operator" means any person other than the Department, school districts, or schools, to the extent that the person does any of the following:

a. Operates an internet website, online or cloud computing service, online application, or mobile application with actual knowledge that the internet website, online or cloud computing service, online application, or mobile application is used primarily for K-12 school purposes and was designed and marketed for K-12 school purposes.

b. Collects, maintains, or uses student data in a digital or electronic format for K-12 school purposes.

(11) "Parent" means a student's parent, legal guardian, or relative caregiver pursuant to § 202(f) of this title.

(12) "School" means any public school in the State providing educational instruction in one or more grades from kindergarten through grade 12.

(13) "School district" means a clearly defined geographical subdivision of the State organized for the purpose of administering public education in that area.

(14) "State-assigned student identifier" means the unique student identifier assigned by the State to each student that shall not be and shall not include the Social Security number of a student in whole or in part.

(15) "Student" means any individual attending a school in this State.

(16) "Student data" means personally identifiable information or materials, in any media or format, that meets any of the following:

a. Is student performance information.

b. Is created or provided by a student or parent to an employee or agent of the Department, school district, or school.

c. Is created or provided by a student or parent to an operator in the course of the student's or parent's use of the operator's site, service, or application for K-12 school purposes.

d. Is created or provided by an employee or agent of a school district or school, to an operator.

e. Is gathered by an operator through the operation of a site, service, or application described in paragraph (10)a. of this section and can be used to distinguish or trace the identity of the student, or is linked to information that can be used to distinguish or trace the identity of the student, including information in the student's education record or email; the student's name, in whole or in part; residential or other address that allows physical contact; telephone number; online contact information; discipline records; test results; special education data; juvenile dependency records; criminal records; medical records; health records; Social Security number; passport number; student identification number or other student identifier; driver's license number; state identification card number; alien registration number; geolocation data; biometric information; disability status; socioeconomic information; food purchases; political affiliations; religious information; text messages; instant messages; documents; search activity; photos; voice recordings; or video recordings.

(17) "Student performance information" means the following data relating to student performance from early childhood learning programs through postsecondary education: college and career readiness; course and grade; degree, diploma, or credential attainment, including high school equivalency diploma; demographic; educator; enrollment; financial aid; remediation; retention; state and national assessments; transcripts; vocational and technical education information; any other data relating to education deemed necessary by the Department.

(18) "Targeted advertising" means presenting advertisements to a student, or a student's parent, where the advertisement is selected based on information obtained or inferred from that student's online behavior, usage of applications, or student data. "Targeted advertising" does not include advertising to a student at an online location based upon that student's current visit to that location without collection and retention of a student's online activities over time.

(80 Del. Laws, c. 149, § 1; 80 Del. Laws, c. 335, § 3.)

## § 8103A. Enforcement [For applicability of chapter, see 80 Del. Laws, c. 149, § 2].

The Consumer Protection Unit of the Department of Justice has enforcement authority over this chapter and may investigate and prosecute violations of this chapter in accordance with the provisions of subchapter II of Chapter 25 of Title 29.

(80 Del. Laws, c. 149, § 1; 80 Del. Laws, c. 335, § 3.)

## § 8104A. Operator duties [For applicability of chapter, see 80 Del. Laws, c. 149, § 2].

An operator shall:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the student data to protect that information from unauthorized access, destruction, use, modification, or disclosure, which shall, at a minimum, comply with the Department of Technology and Information's Cloud and Offsite Hosting Policy and include the terms and conditions set forth in the Department of Technology and Information's Cloud and Offsite Hosting Template for Non-Public Data.

(2) Delete a student's data within a reasonable timeframe not to exceed 45 calendar days if a school district or school requests deletion of data under the control of the school district or school.

(80 Del. Laws, c. 149, § 1; 80 Del. Laws, c. 335, § 3.)

## § 8105A. Operator prohibited activities [For applicability of chapter, see 80 Del. Laws, c. 149, § 2].

An operator shall not knowingly engage in any of the following activities with respect to such operator's internet website, online or cloud computing service, online application, or mobile application:

(1) Engage in targeted advertising on the operator's, or any other, internet website, online or cloud computing service, online application, or mobile application when the targeting of the advertising is based upon any information, including student data and state-assigned student identifiers or other persistent unique identifiers, that the operator has acquired because of the use of an internet website, online or cloud computing service, online application, or mobile application as described in § 8102A(10)a. of this title.

(2) Use information, including state-assigned student identifiers or other persistent unique identifiers, created or gathered by an internet website, online or cloud computing service, online application, or mobile application as described in § 8102A(10)a. of this title, to amass a profile about a student except in furtherance of K-12 school purposes.

(3) Sell student data. This prohibition does not apply to the purchase, merger, or other type of acquisition of an operator by another entity, provided that the operator or successor entity continues to be subject to the provisions of this chapter with respect to previously-acquired student data that is subject to this chapter.

(4) Disclose student data, unless the disclosure is made for any of the following reasons:

a. In furtherance of the K-12 school purposes of the internet website, online or cloud computing service, online application, or mobile application. The recipient of the student data disclosed for this reason shall not further disclose the student data unless done to allow or improve the operability and functionality within that student's classroom or school, and is legally required to comply with the requirements of § 8104A of this title and paragraphs (1) through (3) of this section.

b. To ensure legal or regulatory compliance.

c. To respond to or participate in judicial process.

d. To protect the security or integrity of the operator's internet website, online or cloud computing service, online application, or mobile application.

e. To protect the safety of users or others or security of the internet website, online or cloud computing service, online application, or mobile application.

f. To a service provider, provided that the operator, by contract, does all of the following:

1. Prohibits the service provider from using any student data for any purpose other than providing the contracted service to, or on behalf of, the operator.

2. Prohibits the service provider from disclosing to subsequent third parties any student data provided by the operator.

3. Requires the service provider to comply with the requirements of paragraphs (1) through (3) of this section and to implement and maintain the security procedures and practices as provided in § 8104A(1) of this title.

(5) Notwithstanding paragraph (4) of this section, an operator may disclose student data under the following circumstances, so long as paragraphs (1) through (3) of this section are not violated:

a. When another provision of state or federal law requires the operator to disclose the student data, and the operator complies with the requirements of applicable state and federal law in protecting and disclosing that information.

b. For legitimate research purposes:

1. As required by state or federal law and subject to the restrictions under applicable state or federal law.

2. As allowed by state or federal law and under the direction of a school district, school, or the Department, if no student data is used for any purpose in furtherance of advertising or to amass a profile on the student for purposes other than K-12 school purposes.

c. To a state agency, school district, or school, for K-12 school purposes, as permitted by state or federal law.

(6) Nothing in this section prohibits an operator from using student data for any of the following:

a. Maintaining, delivering, supporting, evaluating, or diagnosing the operator's internet website, online or cloud computing service, online application, or mobile application.

b. Adaptive learning or customized student learning purposes.

(7) Nothing in this section prohibits an operator from using or sharing aggregate student data or de-identified student data for any of the following:

a. The development and improvement of the operator's internet website, online or cloud computing service, online application, or mobile application, or other educational internet websites, online or cloud computing services, online applications, or mobile applications.

b. Within other internet websites, online or cloud computing services, online applications, or mobile applications owned by the operator, and intended for school district, school, or student use, to evaluate and improve educational products or services intended for school district, school, or student use.

c. To demonstrate the effectiveness of the operator's products or services, including their marketing.

(80 Del. Laws, c. 149, § 1; 80 Del. Laws, c. 335, §§ 2, 3.)

## § 8106A. Exclusions [For applicability of chapter, see 80 Del. Laws, c. 149, § 2].

This chapter shall not be construed so as to do any of the following:

(1) Apply to general audience internet websites, online or cloud computing services, online applications, or mobile applications, even if login credentials created for an operator's internet website, online or cloud computing service, online application, or mobile application may be used to access those general audience internet websites, online or cloud computing services, online applications, or mobile applications.

(2) Limit the authority of a law-enforcement agency to obtain any content or student data from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction.

(3) Limit internet service providers from providing internet connectivity to schools or students and their families.

(4) Prohibit an operator from marketing educational products directly to parents, so long as the marketing does not result from the use of student data obtained by the operator through the provision of services covered under this chapter.

(5) Impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this chapter on those applications or software.

(6) Impose a duty upon a provider of an interactive computer service, as defined in 47 U.S.C. § 230, to review or enforce compliance with this chapter by third-party content providers.

(7) Impede the ability of a student or parent or guardian to download, transfer, export, or otherwise save or maintain their own student data or documents.

(8) Prevent the Department, school district, or school from recommending, solely for K-12 school purposes, any educational materials, online content, services, or other products to any student or to the student's family if the Department, school district, or school determines that such products will benefit the student and no person receives compensation for developing, enabling, or communicating such recommendations.

(80 Del. Laws, c. 149, § 1; 80 Del. Laws, c. 335, § 3.)

# Part V
# Miscellaneous

## Chapter 82
## Educational Compacts

### Subchapter I

### Compact for Education

## § 8201. Compact for Education; Delaware Educational Council.

(a) The Compact for Education is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

COMPACT FOR EDUCATION

Whereas, the proper education of all citizens is one of the most important responsibilities of the States to preserve a free and open society in the United States; and

Whereas, the increasing demands of our whole national life for improving and expanding educational services require a broad exchange of research data and information concerning the problems and practices of education; and

Whereas, there is a vital need for strengthening the voices of the States in the formulation of alternative nationwide educational policies,

The States affirm the need for close and continuing consultation among our several States on all matters of education, and do hereby establish this Compact for Education.

ARTICLE I.PURPOSE AND POLICY

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the State and local levels;

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education;

3. Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education;

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this Compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.

C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II STATE DEFINED

As used in this Compact, “State” means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III.THE COMMISSION

A. The Education Commission of the States, hereinafter called “the Commission,” is established. The Commission shall consist of 7 members representing each party State. One of such members shall be the Governor; 2 shall be members of the State legislature selected by its respective houses and serving in such manner as the legislature may determine; and 4 shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. If the laws of a State prevent legislators from serving on the Commission, 6 members shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the State education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for 1 or more programs of public education. In addition to the members of the Commission representing the party States,

there may be not to exceed 10 nonvoting commissioners selected by the steering committee for terms of 1 year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to paragraph J. of this Article.

C. The Commission shall have a seal.

D. The Commission shall elect annually, from among its members, a chair, who shall be a Governor, a vice chair and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate, shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.

F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of 2 or more of the party jurisdictions or their subdivisions.

G. The Commission may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph F. of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.

J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV.POWERS

In addition to authority conferred on the Commission by other provisions of the Compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources;

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems;

3. Develop proposals for adequate financing of education as a whole and at each of its many levels;

4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this Compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private;

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials;

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this Compact.

ARTICLE V.COOPERATION WITH FEDERAL GOVERNMENT

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission but not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.

B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI.COMMITTEES

A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a Steering Committee of 32 members which, subject to the provisions of this Compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the Steering Committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the Steering Committee, but without vote. The voting members of the Steering Committee shall serve for terms of 2 years, except that members elected to the first Steering Committee of the Commission shall be elected as follows: 16 for one year and 16 for 2 years. The chair, vice chair, and treasurer of the Commission shall be members of the Steering Committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the Steering Committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than 2 terms as a member of the Steering Committee; provided that service for a partial term of one year or less shall not be counted toward the 2-term limitation.

B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to 2 or more of the party States.

C. The Commission may establish such additional committees as its bylaws may provide.

ARTICLE VII.FINANCE

A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.

B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.

C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to paragraph G. of Article III of this Compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to paragraph G. of Article III of this Compact, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

F. Nothing contained in this Compact shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII.ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

A. This Compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor," as used in this Compact shall mean the closest equivalent official of such jurisdiction.

B. Any State or other eligible jurisdiction may enter into this Compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

C. Adoption of the Compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his or her State a party only until December 31, 1967. During any period when a State is participating in this Compact through gubernatorial action, the Governor shall appoint those persons who, in addition to the Governor, shall serve as the members of the Commission from the Governor's State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him or her.

D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C. of this Article, any party State may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX.CONSTRUCTION AND SEVERABILITY

(a) This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the Constitution of any State or of the United States, or the applicability thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this

Compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the Constitution of any State participating therein, the Compact shall remain in full force and effect as to the State affected as to all severable matters.

(b) There shall be a Delaware Educational Council to consist of:

(1) The Governor or the Governor's designated alternate;

(2) The Chair of the Senate Committee on Education;

(3) The Chair of the House of Representatives Committee on Education; and

(4) Four members to be appointed by the Governor and to serve at the Governor's pleasure.

(c) The members of the Delaware Educational Council shall also be the Delaware members of the Educational Commission of the States as provided for in Article III of the Compact for Education.

(d) Pursuant to paragraph I. of Article III of the Compact, the Commission shall file a copy of its bylaws and any amendment thereto with the Secretary of State.

(14 Del. C. 1953, § 8201; 55 Del. Laws, c. 373; 56 Del. Laws, c. 12, §§ 1, 2; 70 Del. Laws, c. 186, § 1.)

## Subchapter II

## Interstate Agreement on Qualification of Educational Personnel

### § 8211. Authorization for interstate agreements.

In accordance with the terms set forth in § 8213 of this title, this State may enter into interstate agreements on educational personnel. Such agreements, properly entered into by the designated state officials, shall be considered as a contract between this State and such other states legally joining therein in the form set forth in § 8213 of this title.

(14 Del. C. 1953, § 8211; 57 Del. Laws, c. 155, § 4.)

### § 8212. Designated state official and official copies of contract.

The "designated state official" for the State shall be the Secretary of Education. The Secretary of Education shall enter into contracts pursuant to this subchapter only with the approval of the State Board of Education. True copies of all contracts made on behalf of this State pursuant to the agreement set forth in § 8213 of this title shall be placed on file in the office of the Secretary of Education, in the office of the Secretary of State and in the office of the chief state school officer in such other state as is party to the contract. Reference to the existence of such contracts, including at least a list of states involved and the teaching fields or certificates referred to in each state, shall be published regularly in such certification manuals as may from time to time be published by the Department of Education.

(14 Del. C. 1953, § 8212; 57 Del. Laws, c. 155, § 4; 71 Del. Laws, c. 180, § 182.)

### § 8213. Interstate Agreement.

ARTICLE I PURPOSE, FINDINGS AND POLICY

(A) The States party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the States party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(B) The party States find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from State to State in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this agreement can increase the availability of educational resources.

ARTICLE II DEFINITIONS

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to State law as a condition of employment in educational programs.

2. "Designated State Officials" means the education official of a State selected to negotiate and enter into, on behalf of such official's State, contracts pursuant to this Agreement.

3. "Accept," or any variant thereof, means to recognize and give effect to 1 or more determinations of another State relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving State.

4. “State” means a State, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

5. “Originating State” means a State (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III of this Agreement.

6. “Receiving State” means a State (and the subdivisions thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to Article III of this Agreement.

ARTICLE III INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS

A. The designated State official of a party State may make 1 or more contracts on behalf of such official’s State with 1 or more other party States providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the States, and the subdivisions of those States, whose designated state officials enter into it with the same force and effect as if incorporated in this Agreement. A designated State official may enter into a contract pursuant to this Article only with States in which such official finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical, to that prevailing in the official’s own State.

B. Any such contract shall provide for:

1. Its duration.

2. The criteria to be applied by an originating State in qualifying educational personnel for acceptance by a receiving State.

3. Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

4. Any other necessary matters.

C. No contract made pursuant to this Agreement shall be for a term longer than 5 years but any such contract may be renewed for like or lesser periods.

D. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving State of any persons qualified because of successful completion of a program prior to January 1, 1954.

E. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving State.

F. A contract committee composed of the designated State officials of the contracting States or their representatives shall keep the contract under continuous review, study means of improving its administration, and report at least once a year to the heads of the appropriate education agencies of the contracting States.

ARTICLE IV APPROVED AND ACCEPTED PROGRAMS

A. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party State relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that State.

B. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

ARTICLE V INTERSTATE COOPERATION

The party States agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

ARTICLE VI AGREEMENT EVALUATION

The designated State officials of any party States may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

ARTICLE VII OTHER ARRANGEMENTS

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party State or States to facilitate the interchange of educational personnel.

ARTICLE VIII EFFECT AND WITHDRAWAL

A. This Agreement shall become effective when enacted into law by 2 States. Thereafter it shall become effective as to any State upon its enactment of this Agreement.

B. Any party State may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until 1 year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States.

C. No withdrawal shall relieve the withdrawing State of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

ARTICLE IX CONSTRUCTION AND SEVERABILITY

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any Government, agency, person, or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any State participating therein, the Agreement shall remain in full force and effect as to the State affected as to all severable matters.

(14 Del. C. 1953, § 8213; 57 Del. Laws, c. 155, § 4; 70 Del. Laws, c. 186, § 1.)

## Subchapter III

## Interstate Teacher Mobility Compact

(84 Del. Laws, c. 395, § 1.)

### § 8220. Adoption.

The Interstate Teacher Mobility Compact (Compact) is hereby enacted into law and entered into with all other jurisdictions joining therein, in substantially the same form as in this chapter.

(84 Del. Laws, c. 395, § 1.)

### § 8221. Purpose.

(a) The purpose of this Compact is to facilitate the mobility of teachers across the member states, with the goal of supporting teachers through a new pathway to licensure. Through this Compact, the member states seek to establish a collective regulatory framework that expedites and enhances the ability of teachers to move across state lines.

(b) This Compact is intended to achieve the following objectives and should be interpreted accordingly. The member states hereby ratify the same intentions by subscribing hereto.

(1) Create a streamlined pathway to licensure mobility for teachers.

(2) Support the relocation of eligible military spouses.

(3) Facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the member states.

(4) Enhance the power of state and district level education officials to hire qualified, competent teachers by removing barriers to the employment of out-of-state teachers.

(5) Support the retention of teachers in the profession by removing barriers to relicensure in a new state.

(6) Maintain state sovereignty in the regulation of the teaching profession.

(84 Del. Laws, c. 395, § 1.)

### § 8222. Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

(1) "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

(2) "Adverse action" means any limitation or restriction imposed by a member state's licensing authority, such as revocation, suspension, reprimand, probation, or limitation on the licensee's ability to work as a teacher.

(3) "Bylaws" means those bylaws established by the Commission.

(4) "Career and technical education license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in P-12 public educational settings in a specific career and technical education area.

(5) "Charter member states" means a member state that has enacted legislation to adopt this Compact where such legislation predates the initial meeting of the Commission after the effective date of the Compact.

(6) "Commission" means the interstate administrative body which membership consists of delegates of all states that have enacted this Compact, and which is known as the "Interstate Teacher Mobility Compact Commission".

(7) "Commissioner" means the delegate of a member state.

(8) "Eligible license" means a license to engage in the teaching profession which requires at least a bachelor's degree and the completion of a state approved program for teacher licensure.

(9) “Eligible military spouse” means the spouse of any individual in full-time duty status in the active armed forces of the United States including members of the National Guard and Reserve moving as a result of a military mission or military career progression requirements or are on their terminal move as a result of separation or retirement, including surviving spouses of deceased military members.

(10) “Executive Committee” means a group of Commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the Commission as provided for herein.

(11) “Licensing authority” means an official, agency, board, or other entity of a state that is responsible for the licensing and regulation of teachers authorized to teach in P-12 public educational settings.

(12) “Member state” means any state that has adopted this Compact, including all agencies and officials of such a state.

(13) “Receiving state” means any state where a teacher has applied for licensure under this Compact.

(14) “Rule” means any regulation promulgated by the Commission under this Compact, which shall have the force of law in each member state.

(15) “State” means a state, territory, or possession of the United States, and the District of Columbia.

(16) “State practice laws” means a member state’s laws, rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline.

(17) “State specific requirements” means a requirement for licensure covered in coursework or examination that includes content of unique interest to the state.

(18) “Teacher” means an individual who currently holds an authorization from a member state that forms the basis for employment in the P-12 public schools of the state to provide instruction in a specific subject area, grade level, or student population.

(19) “Unencumbered license” means a current, valid authorization issued by a member state’s licensing authority allowing an individual to serve as a teacher in P-12 public educational settings. An “unencumbered license” is not a restricted, probationary, provisional, substitute, or temporary credential.

(84 Del. Laws, c. 395, § 1.)

## § 8223. Licensure under the Compact.

(a) Licensure under this Compact pertains only to the initial grant of a license by the receiving state. Nothing herein applies to any subsequent or ongoing compliance requirements that a receiving state might require for teachers.

(b) Each member state shall, in accordance with the rules of the Commission, define, compile, and update as necessary, a list of eligible licenses and career and technical education licenses that the member state is willing to consider for equivalency under this Compact and provide the list to the Commission. The list shall include those licenses that a receiving state is willing to grant to teachers from other member states, pending a determination of equivalency by the receiving state’s licensing authority.

(c) Upon the receipt of an application for licensure by a teacher holding an unencumbered eligible license, the receiving state shall determine which of the receiving state’s eligible licenses the teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the receiving state’s licensing authority and may include a determination that the applicant is not eligible for any of the receiving state’s eligible licenses. For all teachers who hold an unencumbered license, the receiving state shall grant 1 or more unencumbered license(s) that, in the receiving state’s sole discretion, are equivalent to the license(s) held by the teacher in any other member state.

(d) For active military members and eligible military spouses who hold a license that is not unencumbered, the receiving state shall grant an equivalent license or licenses that, in the receiving state’s sole discretion, is equivalent to the license or licenses held by the teacher in any other member state, except where the receiving state does not have an equivalent license.

(e) For a teacher holding an unencumbered career and technical education license, the receiving state shall grant an unencumbered license equivalent to the career and technical education license held by the applying teacher and issued by another member state, as determined by the receiving state in its sole discretion, except where a career and technical education teacher does not hold a bachelor’s degree and the receiving state requires a bachelor’s degree for licenses to teach career and technical education. A receiving state may require career and technical education teachers to meet state industry recognized requirements, if required by law in the receiving state.

(84 Del. Laws, c. 395, § 1.)

## § 8224. Licensure not under the Compact.

(a) Except as provided in § 8223 of this title, nothing in this Compact shall be construed to limit or inhibit the power of a member state to regulate licensure or endorsements overseen by the member state’s licensing authority.

(b) When a teacher is required to renew a license received pursuant to this Compact, the state granting such a license may require the teacher to complete state specific requirements as a condition of licensure renewal or advancement in that state.

(c) For the purposes of determining compensation, a receiving state may require additional information from teachers receiving a license under the provisions of this Compact.

(d) Nothing in this Compact shall be construed to limit the power of a member state to control and maintain ownership of its information pertaining to teachers or limit the application of a member state's laws or regulations governing the ownership, use, or dissemination of information pertaining to teachers.

(e) Nothing in this Compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a member state may already be a party to, or limit the ability of a member state to participate in any future agreement or other cooperative arrangement to:

(1) Award teaching licenses or other benefits based on additional professional credentials, including, but not limited to National Board Certification.

(2) Participate in the exchange of names of teachers whose license has been subject to an adverse action by a member state.

(3) Participate in any agreement or cooperative arrangement with a nonmember state.

(84 Del. Laws, c. 395, § 1.)

## § 8225. Teacher qualifications and requirements for licensure under the Compact.

(a) Except as provided for active military members or eligible military spouses in § 8223(d) of this title, a teacher may only be eligible to receive a license under this Compact where that teacher holds an unencumbered license in a member state.

(b) A teacher eligible to receive a license under this Compact shall, unless otherwise provided for herein:

(1) Upon their application to receive a license under this Compact, undergo a criminal background check in the receiving state in accordance with the laws and regulations of the receiving state.

(2) Provide the receiving state with information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

(84 Del. Laws, c. 395, § 1.)

## § 8226. Discipline; adverse actions.

(a) Nothing in this Compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on teachers according to the state practice laws thereof.

(b) Member states shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of teachers in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

(84 Del. Laws, c. 395, § 1.)

## § 8227. Establishment of the Interstate Teacher Mobility Compact Commission.

(a) The interstate Compact member states hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission:

(1) The Commission is a joint interstate governmental agency comprised of states that have enacted the Interstate Teacher Mobility Compact.

(2) Nothing in this interstate Compact shall be construed to be a waiver of sovereign immunity.

(b) *Membership, voting, and meetings.* — (1) Each member state shall have and be limited to 1 delegate to the Commission, who shall be given the title of Commissioner.

(2) The Commissioner shall be the primary administrative officer of the state licensing authority or their designee.

(3) Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed.

(4) The member state shall fill any vacancy occurring in the Commission within 90 days.

(5) Each Commissioner shall be entitled to 1 vote about the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

(6) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(7) The Commission shall establish by rule a term of office for Commissioners.

(c) The Commission shall have the following powers and duties:

(1) Establish a Code of Ethics for the Commission.

(2) Establish the fiscal year of the Commission.

(3) Establish bylaws for the Commission.

(4) Maintain its financial records in accordance with the bylaws of the Commission.

(5) Meet and take such actions as are consistent with the provisions of this interstate Compact, the bylaws, and rules of the Commission.

(6) Promulgate uniform rules to implement and administer this interstate Compact. The rules shall have the force and effect of law and shall be binding in all member states. In the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law.

(7) Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected.

(8) Purchase and maintain insurance and bonds.

(9) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state, or an associated nongovernmental organization that is open to membership by all states.

(10) Hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(11) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety.

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

(13) Establish a budget and make expenditures.

(14) Borrow money.

(15) Appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate Compact, rules, or bylaws.

(16) Provide and receive information from, and cooperate with, law enforcement agencies.

(17) Establish and elect an Executive Committee.

(18) Establish and develop a charter for an Executive Information Governance Committee to advise on facilitating exchange of information; use of information, data privacy, and technical support needs, and provide reports as needed.

(19) Perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate Compact consistent with the state regulation of teacher licensure.

(20) Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the Compact.

(d) *The Executive Committee of the Interstate Teacher Mobility Compact Commission.* — (1) The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this interstate Compact.

(2) The Executive Committee shall be composed of 8 voting members:

a. The Commission chair, vice chair, and treasurer.

b. Five members who are elected by the Commission from the current membership:

1. Four voting members representing geographic regions in accordance with Commission rules.

2. One at large voting member in accordance with Commission rules.

(3) The Commission may add or remove members of the Executive Committee as provided in Commission rules.

(4) The Executive Committee shall meet at least once annually.

(5) The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to the Compact legislation, fees paid by interstate Compact member states such as annual dues, and any Compact fee charged by the member states on behalf of the Commission.

b. Ensure Commission administration services are appropriately provided, contractual or otherwise.

c. Prepare and recommend the budget.

d. Maintain financial records on behalf of the Commission.

e. Monitor compliance of member states and provide reports to the Commission.

f. Perform other duties as provided in rules or bylaws.

(6) *Meetings of the Commission.* — a. All meetings shall be open to the public, and public notice of meetings shall be given in accordance with Commission bylaws.

b. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

1. Noncompliance of a member state with its obligations under the Compact.

2. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures.

3. Current, threatened, or reasonably anticipated litigation.

4. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

5. Accusing any person of a crime or formally censuring any person.

6. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

7. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

8. Disclosure of investigative records compiled for law enforcement purposes.

9. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact.

10. Matters specifically exempted from disclosure by federal or member state statute.

11. Others matters as set forth by Commission bylaws and rules.

c. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

d. The Commission shall keep minutes of Commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

(7) *Financing of the Commission.* — a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest.

c. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission, in accordance with the Commission rules.

d. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

e. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to accounting procedures established under Commission bylaws. All receipts and disbursements of funds of the Commission shall be reviewed annually in accordance with Commission bylaws, and a report of the review shall be included in and become part of the annual report of the Commission.

(8) *Qualified immunity, defense, and indemnification.* — a. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person.

b. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining said person's own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

c. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

(84 Del. Laws, c. 395, § 1; 84 Del. Laws, c. 42, § 1.)

## § 8228. Rulemaking.

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate Compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) The Commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate Compact. In the event the Commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law in the member states.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the Commission in accordance with Commission rules and bylaws.

(e) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of Commission or member state funds.

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.

(84 Del. Laws, c. 395, § 1.)

## § 8229. Facilitating information exchange.

(a) The Commission shall provide for facilitating the exchange of information to administer and implement the provisions of this Compact in accordance with the rules of the Commission, consistent with generally accepted data protection principles.

(b) Nothing in this Compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.

(84 Del. Laws, c. 395, § 1.)

## § 8230. Oversight, dispute resolution, and enforcement.

(a) *Oversight.* — (1) The executive and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact shall have standing as statutory law.

(2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) All courts and all administrative agencies shall take judicial notice of the Compact, the rules of the Commission, and any information provided to a member state pursuant thereto in any judicial or quasi-judicial proceeding in a member state pertaining to the subject matter of this Compact, or which may affect the powers, responsibilities, or actions of the Commission.

(4) The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

(b) *Default, technical assistance, and termination.* — (1) If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Commissioners of the member states, and all rights, privileges and benefits conferred on that state by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, the state licensing authority and each of the member states.

(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

(g) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(h) *Dispute resolution.* — (1) Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and nonmember states.

(2) The Commission shall promulgate a rule providing for both binding and nonbinding alternative dispute resolution for disputes as appropriate.

(i) *Enforcement.* — (1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

(2) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

(84 Del. Laws, c. 395, § 1.)

## § 8231. Effectuation, withdrawal, and amendment.

(a) The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state.

(1) On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter member states to determine if the statute enacted by each such Charter member state is materially different from the model Compact statute.

(2) A Charter member state whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in § 8230 of this title.

(3) Member states enacting the Compact subsequent to the Charter member states shall be subject to the process set forth in § 8227(c)(20) of this title to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.

(b) If any member state is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of member states should be less than 10.

(c) Any State that joins the Compact after the Commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state, as the rules and bylaws may be amended as provided in this Compact.

(d) Any member state may withdraw from this Compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(e) This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

(84 Del. Laws, c. 395, § 1.)

## § 8232. Construction and severability.

This Compact shall be liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any member state or a state seeking membership in the Compact, or of the United States or the applicability thereof to any other government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

(84 Del. Laws, c. 395, § 1.)

## § 8233. Consistent effect and conflict with other state laws.

(a) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the Compact.

(b) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the Compact are superseded to the extent of the conflict.

(c) All permissible agreements between the Commission and the member states are binding in accordance with their terms.

(84 Del. Laws, c. 395, § 1.)

## Subchapter IV

## Interstate Compact for School Psychologists

(85 Del. Laws, c. 188, § 1.)

### § 8241. Adoption.

The Interstate Compact for School Psychologists ("Compact") is hereby enacted into law and entered into with all other jurisdictions joining therein, in substantially the same form as in this subchapter.

(85 Del. Laws, c. 188, § 1.)

### § 8242. Purpose.

(a) The purpose of this Compact is to facilitate the interstate practice of school psychology in educational or school settings, and in so doing to improve the availability of school psychological services to the public. This Compact is intended to establish a pathway to allow school psychologists to obtain equivalent licenses to provide school psychological services in any member state. In this way, this Compact shall enable the member states to ensure that safe and effective school psychological services are available and delivered by appropriately qualified professionals in their educational settings.

(b) To facilitate the objectives described above, this Compact does all of the following:

(1) Enables school psychologists who qualify for receipt of an equivalent license to practice in other member states without first satisfying burdensome and duplicative requirements.

(2) Promotes the mobility of school psychologists between and among the member states in order to address workforce shortages and to ensure that safe and reliable school psychological services are available in each member state.

(3) Enhances the public accessibility of school psychological services by increasing the availability of qualified, licensed school psychologists through the establishment of an efficient and streamlined pathway for licensees to practice in other member states.

(4) Preserves and respects the authority of each member state to protect the health and safety of its residents by ensuring that only qualified, licensed professionals are authorized to provide school psychological services within that state.

(5) Requires school psychologists practicing within a member state to comply with the scope of practice laws present in the state where the school psychological services are being provided.

(6) Promotes cooperation between the member states in regulating the practice of school psychology within those states.

(7) Facilitates the relocation of military members and their spouses who are licensed to provide school psychological services.

(85 Del. Laws, c. 188, § 1.)

### § 8243. Definitions.

As used in this subchapter:

(1) "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

(2) "Adverse action" means disciplinary action or encumbrance imposed on a license by a state licensing authority.

(3) "Alternative program" means a nondisciplinary, prosecutorial diversion, monitoring, or practice remediation process entered into in lieu of an adverse action which is applicable to a school psychologist and approved by the state licensing authority of a member state in which the participating school psychologist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues may be referred in lieu of an adverse action.

(4) "Commissioner" means the individual appointed by a member state to serve as the representative to the Commission for that member state.

(5) "Compact" means this School Psychologist Interstate Licensure Compact.

(6) "Continuing professional education" means a requirement, imposed by a member state as a condition of license renewal to provide evidence of successful participation in professional educational activities relevant to the provision of school psychological services.

(7) "Criminal background check" means the submission of fingerprints or other biometric information for a license applicant for the purpose of obtaining that applicant's "criminal history record information," as defined in 28 C.F.R. § 20.3, and the state's "criminal history record repository" as defined in 28 C.F.R. § 20.3.

(8) "Doctoral-level degree" means a graduate degree program that consists of at least 90 graduate semester hours in the field of school psychology including a supervised internship.

(9) "Encumbered license" means a license that a state licensing authority has limited in any way other than through an alternative program, including temporary or provisional licenses.

(10) “Executive Committee” means the Commission’s Chair, Vice Chair, Secretary and Treasurer and any other Commissioners as may be determined by Commission rule or bylaw.

(11) “Equivalent license” means a license to practice school psychology which a member state has identified as a license which may be provided to school psychologists from other member states pursuant to this Compact.

(12) “Home state” means the member state that issued the home state license to the licensee and is the licensee’s primary state of practice.

(13) “Home state license” means the license that is not an encumbered license issued by the home state to provide school psychological services.

(14) “License” means a current license, certification, or other authorization granted by a member state’s licensing authority that permits an individual to provide school psychological services.

(15) “Licensee” means an individual who holds a license from a member state to provide school psychological services.

(16) “Member state” means a state that has enacted this Compact and been admitted to the Commission in accordance with the provisions in this Compact and Commission rules.

(17) “Model compact” means the model language for the School Psychologist Interstate Licensure Compact on file with the Council of State Governments or other entity as designated by the Commission.

(18) “Practice of school psychology” means the delivery of school psychological services.

(19) “Qualifying national exam” means a national licensing examination endorsed by the National Association of School Psychologists and any other exam as approved by the rules of the Commission.

(20) “Qualifying school psychologist education program” means an education program which awards a specialist-level or doctoral-level degree or equivalent upon completion and is approved by the rules of the Commission as meeting the necessary minimum educational standards to ensure that its graduates are ready, qualified, and able to engage in the practice of school psychology.

(21) “Remote state” means a member state other than the home state where a licensee holds a license through this Compact.

(22) “Rule” means a regulation promulgated by an entity, including but not limited to the Commission and the state licensing authority of each member state, that has the force of law.

(23) “School psychological services” means academic, mental and behavioral health services including assessment, prevention, consultation and collaboration, intervention, and evaluation provided by a school psychologist in a school, as outlined in applicable professional standards as determined by Commission rule.

(24) “School psychologist” means an individual who has met the requirements to obtain a home state license that legally conveys the professional title of school psychologist, or its equivalent as determined by the rules of the Commission.

(25) “School Psychologist Interstate Licensure Compact Commission” or “Commission” means the joint government agency established by this Compact whose membership consists of representatives from each member state that has enacted this Compact, and as further described in § 8248 of this title.

(26) “Scope of practice” means the procedures, actions, and processes a school psychologist licensed in a state is permitted to undertake in that state and the circumstances under which that licensee is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes, and the circumstances under which they may be undertaken, may be established through means including, but not limited to, statute, regulations, case law, and other processes available to the state licensing authority or other government agency.

(27) “Specialist-level degree” means a degree program that requires at least 60 graduate semester hours or equivalent in the field of school psychology including a supervised internship.

(28) “State” means any state, commonwealth, district, or territory of the United States of America.

(29) “State licensing authority” means a member state’s regulatory body responsible for issuing licenses or otherwise overseeing the practice of school psychology.

(30) “State specific requirement” means a requirement for licensure covered in coursework or examination that includes content of unique interest to the state.

(31) “Unencumbered license” means a license that authorizes a licensee to engage in the full and unrestricted practice of school psychology.

(85 Del. Laws, c. 188, § 1.)

## § 8244. State participation in this Compact.

(a) To be eligible to join this Compact, and to maintain eligibility as a member state, a state must do all of the following:

(1) Enact a compact statute that is not materially different from the model compact as defined in the Commission’s rules.

(2) Participate in the sharing of information with other member states as reasonably necessary to accomplish the objectives of this Compact, and as further defined in § 8249 of this title.

(3) Identify and maintain with the Commission a list of equivalent licenses available to licensees who hold a home state license under this Compact.

(4) Have a mechanism in place for receiving and investigating complaints about licensees.

(5) Notify the Commission, in compliance with the terms of this Compact and the Commission's rules, of any adverse action taken against a licensee, or of the availability of investigative information which relates to a licensee or applicant for licensure.

(6) Require that applicants for a home state license have done all of the following:

a. Taken and passed a qualifying national exam as defined by the rules of the Commission.

b. Completed a minimum of 1,200 hours of supervised internship, of which at least 600 must have been completed in a school, prior to being approved for licensure.

c. Graduated from a qualifying school psychologist education program.

(7) Comply with the terms of this Compact and the rules of the Commission.

(b) Each member state shall grant an equivalent license to practice school psychology in that state upon application by a licensee who satisfies the criteria of § 8245(a) of this title. Each member state shall grant renewal of the equivalent license to a licensee who satisfies the criteria of § 8245(b) of this title.

(c) Member states may set and collect a fee for granting an equivalent license.

(85 Del. Laws, c. 188, § 1.)

## § 8245. School psychologist participation in this Compact.

(a) To obtain and maintain an equivalent license from a remote state under this Compact, a licensee must do all of the following:

(1) Hold and maintain an active home state license.

(2) Satisfy any applicable state specific requirements established by the member state after an equivalent license is granted.

(3) Complete any administrative or application requirements which the Commission may establish by rule, and pay any associated fees.

(4) Complete any requirements for renewal in the home state, including applicable continuing professional education requirements.

(5) Upon their application to receive a license under this Compact, undergo a criminal background check in the member state in which the equivalent license is sought in accordance with the laws and regulations of such member state.

(b) To renew an equivalent license in a member state other than the home state, a licensee must only apply for renewal, complete a background check, and pay renewal fees as determined by the licensing authority.

(85 Del. Laws, c. 188, § 1.)

## § 8246. Active military members or their spouses.

A licensee who is an active military member or is the spouse of an active military member shall be deemed to hold a home state license in any of the following locations:

(1) The licensee's permanent residence.

(2) A member state that is the licensee's primary state of practice.

(3) A member state where the licensee has relocated pursuant to a permanent change of station (PCS).

(85 Del. Laws, c. 188, § 1.)

## § 8247. Discipline/adverse actions.

(a) Nothing in this Compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on licensees according to the state practice laws thereof.

(b) Member states shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of licensees in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

(85 Del. Laws, c. 188, § 1.)

## § 8248. Establishment of the School Psychologist Interstate Licensure Compact Commission.

(a) The member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted this Compact, and this agency shall be known as the School Psychologist Interstate Licensure Compact Commission. The Commission is an instrumentality of the member states acting jointly and not an instrumentality of any 1 state. The Commission shall come into existence on or after the effective date of this Compact as set forth in § 8252 of this title.

(b) *Membership, voting, and meetings. —*

(1) Each member state shall have and be limited to 1 delegate selected by that member state's state licensing authority.

(2) The delegate shall be the primary administrative officer of the member state licensing authority or their designee who is an employee of the member state licensing authority.

(3) The Commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

(4) The Commission may recommend removal or suspension of any delegate from office.

(5) A member state's licensing authority shall fill any vacancy of its delegate occurring on the Commission within 60 days of the vacancy.

(6) Each delegate shall be entitled to 1 vote on all matters before the Commission requiring a vote by Commission delegates.

(7) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

(8) The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference or other similar electronic means.

(c) The Commission shall have all of the following powers:

(1) Establish the fiscal year of the Commission.

(2) Establish code of conduct and conflict of interest policies.

(3) Establish and amend rules and bylaws.

(4) Establish the procedure through which a licensee may change their home state.

(5) Maintain its financial records in accordance with the bylaws.

(6) Meet and take such actions as are consistent with the provisions of this Compact, the Commission's rules, and the bylaws.

(7) Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected.

(8) Maintain and certify records and information provided to a member state as the authenticated business records of the Commission, and designate an agent to do so on the Commission's behalf.

(9) Purchase and maintain insurance and bonds.

(10) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state.

(11) Conduct an annual financial review; hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(12) Assess and collect fees.

(13) Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest.

(14) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein.

(15) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

(16) Establish a budget and make expenditures.

(17) Borrow money.

(18) Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws.

(19) Provide and receive information from, and cooperate with, law enforcement agencies.

(20) Establish and elect an executive committee, including a chair and a vice chair.

(21) Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in this Compact.

(22) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

(d) *The Executive Committee. —*

(1) The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include all of the following:

a. Oversee the day-to-day activities of the administration of this Compact including enforcement and compliance with the provisions of this Compact, its rules and bylaws, and other such duties as deemed necessary.

b. Recommend to the Commission changes to the rules or bylaws, changes to this Compact legislation, fees charged to member states, fees charged to licensees, and other fees.

c. Ensure Compact administration services are appropriately provided, including by contract.

d. Prepare and recommend the budget.

e. Maintain financial records on behalf of the Commission; monitor Compact compliance of member states and provide compliance reports to the Commission.

f. Establish additional committees as necessary.

g. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by rule or bylaw.

h. Other duties as provided in the rules or bylaws of the Commission.

(2) The Executive Committee shall be composed of up to 7 members as follows:

a. The chair and vice chair of the Commission shall be voting members of the Executive Committee.

b. The Commission shall elect 5 voting members from the current membership of the Commission.

(3) The Commission may remove any member of the Executive Committee as provided in the Commission's bylaws.

(4) The Executive Committee shall meet at least annually.

a. Executive Committee meetings shall be open to the public, except that the Executive Committee may meet in a closed, nonpublic meeting as provided in paragraph (f)(2) of this section.

b. The Executive Committee shall give 30 days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the Commission.

c. The Executive Committee may hold a special meeting in accordance with paragraph (f)(1)b. of this section.

(e) The Commission shall adopt and provide to the member states an annual report.

(f) *Meetings of the Commission.* —

(1) All meetings shall be open to the public, except that the Commission may meet in a closed, nonpublic meeting as provided in paragraph (f)(2) of this section.

a. Public notice for all meetings of the full Commission of meetings shall begiven in the same manner as required under the rulemaking provisions in § 8250 of this title, except that the Commission may hold a special meeting as provided in paragraph (f)(1)b. of this section.

b. The Commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all Commissioners, on the Commission's website, and other means as provided in the Commission's rules. The Commission's legal counsel shall certify that the Commission's need to meet qualifies as an emergency.

(2) The Commission or the Executive Committee or other committees of the Commission may convene in a closed, nonpublic meeting for the Commission or Executive Committee or other committees of the Commission to receive legal advice or to discuss any of the following:

a. Noncompliance of a member state with its obligations under this Compact.

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees.

c. Current or threatened discipline of a licensee by the Commission or by a member state's licensing authority.

d. Current, threatened, or reasonably anticipated litigation.

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

f. Accusing any person of a crime or formally censuring any person.

g. Trade secrets or commercial or financial information that is privileged or confidential.

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

i. Investigative records compiled for law enforcement purposes.

j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact.

k. Matters specifically exempted from disclosure by federal or member state law.

*l.* Other matters as promulgated by the Commission by rule.

(3) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(4) The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

(g) *Financing of the Commission.* —

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenue sources as provided in paragraph (c)(13) of this section.

(3) The Commission may levy on and collect an annual assessment from each member state and impose fees on licensees practicing in the member states under an equivalent license to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the Commission shall promulgate by rule.

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

(h) *Qualified immunity, defense, and indemnification. —*

(1) The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph (h)(1) shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph (h)(2) shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person’s intentional or wilful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

(4) Nothing in this Compact shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this Compact shall be interpreted to waive or otherwise abrogate a member state’s state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act [15 U.S.C. § 1 et seq.], Clayton Act [15 U.S.C. § 12 et seq.], or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the member states or by the Commission.

(85 Del. Laws, c. 188, § 1.)

## § 8249. Facilitating information exchange.

(a) The Commission shall provide for facilitating the exchange of information to administer and implement the provisions of this Compact in accordance with the rules of the Commission, consistent with generally accepted data protection principles.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall agree to provide for the facilitation of all of the following licensee information as required by the rules of the Commission, including any of the following:

(1) Identifying information.

(2) Licensure data.

(3) Adverse actions against a license and information related thereto.

(4) Nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law.

(5) Any denial of application for licensure, and the reason or reasons for such denial.

(6) The presence of investigative information.

(7) Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the rules of the Commission.

(c) Nothing in this Compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.

(85 Del. Laws, c. 188, § 1.)

## § 8250. Rulemaking.

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate Compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) The Commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate Compact. In the event the Commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law in the member states.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the Commission in accordance with Commission rules and bylaws.

(e) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking in each of the following places:

(1) On the website of the Commission or other publicly accessible platform.

(2) On the website of each member state licensing authority or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(f) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to do any of the following:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of Commission or member state funds.

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(4) Protect public health and safety.

(85 Del. Laws, c. 188, § 1.)

## § 8251. Oversight, dispute resolution, and enforcement.

(a) *Oversight. —*

(1) The executive and judicial branches of the state government in each member state shall enforce this Compact and take all actions necessary and appropriate to implement this Compact.

(2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing in this paragraph (a)(2) shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of this Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

(b) *Default, technical assistance, and termination. —*

(1) If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.

(2) The Commission shall provide a copy of the notice of default to the other member states.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from this Compact upon an affirmative vote of a supermajority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's licensing authority and each of the member states' licensing authorities.

(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) Upon the termination of a state's membership from this Compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this Compact for a minimum of 6 months after the date of said notice of termination.

(g) The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from this Compact, unless agreed upon in writing between the Commission and the defaulting state.

(h) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(i) *Dispute resolution. —*

(1) Upon request by a member state, the Commission shall attempt to resolve disputes related to this Compact that arise among member states and between member and nonmember states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(j) *Enforcement. —*

(1) By majority vote as provided by rule, the Commission may initiate legal action against a member state in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of this Compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees. These remedies shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting member state's law.

(2) A member state may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of this Compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) No person other than a member state shall enforce this Compact against the Commission.

(85 Del. Laws, c. 188, § 1.)

## § 8252. Effective date, withdrawal, and amendment.

(a) This Compact shall come into effect on the date on which this Compact statute is enacted into law in the seventh member state.

(1) On or after the effective date of this Compact indicated above, the Commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

a. A Charter member state whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in § 8251 of this title.

b. If any member state is later found to be in default, or is terminated or withdraws from this Compact, the Commission shall remain in existence and this Compact shall remain in effect even if the number of member states should be less than 7.

(2) Member states enacting this Compact subsequent to the charter member states shall be subject to the process set forth in § 8248(c)(21) of this title to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in this Compact.

(3) All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of this Compact prior to the effective date of this Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

a. Any state that joins this Compact subsequent to the Commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which this Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that state.

b. Any member state may withdraw from this Compact by enacting a statute repealing the same.

(b) A member state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(c) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

(d) Upon the enactment of a statute withdrawing from this Compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this Compact for a minimum of 6 months after the date of such notice of withdrawal.

(1) Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.

(2) This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

(85 Del. Laws, c. 188, § 1.)

## § 8253. Construction and severability.

(a) This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of this Compact. Provisions of this Compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

(b) The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in this Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

(c) Notwithstanding subsection (b) of this section, the Commission may deny a state's participation in this Compact or, in accordance with the requirements of § 8251(b) of this title, terminate a member state's participation in this Compact, if it determines that a constitutional requirement of a member state is a material departure from this Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

(85 Del. Laws, c. 188, § 1.)

## § 8254. Consistent effect and conflict with other state laws.

(a) Nothing in this section shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with this Compact.

(b) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with this Compact are superseded to the extent of the conflict.

(c) All permissible agreements between the Commission and the member states are binding in accordance with their terms.

(85 Del. Laws, c. 188, § 1.)

# Part V
# Miscellaneous

## Chapter 83
## Eye Protection Devices

### § 8301. Definitions.

As used in this chapter:

"Eye protection areas" mean vocational or industrial art shops, science or other school laboratories, or school or institutional facilities in which activities take place involving:

(1) Hot molten metals;

(2) Milling, sawing, turning, shaping, cutting, grinding or stamping of any solid materials;

(3) Heat treatment, tampering or kiln firing of any metal or other materials;

(4) Gas or electric arc welding;

(5) Repair or servicing of any vehicle or mechanical equipment;

(6) Corrosive or explosive materials;

(7) Custodial or other service activity potentially hazardous to the eye; or

(8) Any other activity or operation involving mechanical or manual work in any area that is potentially hazardous to the eye.

(14 Del. C. 1953, § 8301; 55 Del. Laws, c. 450.)

### § 8302. Eye protection devices required in schools.

Every person shall wear eye protection devices when entering, participating in, observing or performing any function in connection with any courses or activities taking place in eye protection areas of any school, college, university or other public or private educational institution in this State. Persons covered in this section include, without limitation, any student or teacher in, staff member or other employee of, or visitor to, any of the foregoing educational institutions.

(14 Del. C. 1953, § 8302; 55 Del. Laws, c. 450.)

### § 8303. Eye protection devices standards.

Eye protection devices, which shall include safety spectacles, plastic face shields or goggles, shall comply with the American Standards Association Safety Code for Head, Eye and Respiratory Protection.

(14 Del. C. 1953, § 8303; 55 Del. Laws, c. 450.)

### § 8304. Instructions for compliance.

The State Department of Education shall prepare and circulate to each public or private educational institution in this State, a manual containing instructions and recommendations for the guidance of such institution in implementing the eye safety provision of this chapter.

(14 Del. C. 1953, § 8304; 55 Del. Laws, c. 450; 71 Del. Laws, c. 180, § 183.)

# Part V
# Miscellaneous

## Chapter 84
## Delaware Institute of Medical Education and Research

**§§ 8401-8409. Definitions; creation of Board; composition; appointment; term; compensation; vacancies; quorum; purposes; fiscal and property; education; research; register; organizational and general [Repealed].**

Repealed by 70 Del. Laws, c. 516, § 1, effective July 17, 1996.

# Part V
# Miscellaneous
## Chapter 85
## Private Business and Trade Schools

### § 8501. Definitions.

For purposes of this chapter:

(1) "Agent" means a person employed by a school as defined herein, whether such school is 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 in any form made at any place in this State other than the office or place of business of the school.

(2) "Private business school," "private trade school," "trade school" or "school" 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, and other related subjects of a similar character or subjects of general education when they contribute values to the objectives of the course of study. Classes or courses may be identified by reference to *Vocational Education and Occupations* published by the United States Office of Education, or *The Dictionary of Occupational Titles* published by the United States Department of Labor; or lists prepared and promulgated from time to time by the Delaware State Department of Education, and in every case by evaluation of the information presented in the application required by § 8504, § 8507 and other applicable sections of this title. Classes in any of the subjects herein referred to which are taught or coached in homes or elsewhere are included in the term "school."

(3) "Protective hairstyle" includes braids, locks, and twists.

(4) "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

(5) "Secretary" means the Secretary of Education.

(14 Del. C. 1953, § 8501; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 184; 73 Del. Laws, c. 65, § 15; 83 Del. Laws, c. 13, § 11; 83 Del. Laws, c. 401, § 3.)

### § 8502. Advisory committee on private business and trade schools.

(a) The Secretary of Education shall appoint an advisory committee of 5 persons whose function it shall be to advise the Secretary relative to the administration of this chapter in regard to policies concerning the conduct of private business schools serving clients in the State.

(b) One of the members of the committee shall be an executive or managerial person in a private business school in the State; 1 shall be a person occupied in commerce or industry in this State in an executive or managerial position; 1 shall be an executive or managerial person in a private trade school in the State; 1 shall be the president of the Delaware Technical and Community College system; and 1 shall have, for at least 5 years, occupied managerial positions concerned primarily with the use of computers.

(c) Members of the advisory committee, except the president of the Delaware Technical and Community College, shall serve for rotating terms of 4 years. At the initial meeting of the committee, members shall draw lots to determine the length of terms for 1, 2, 3 or 4 years. The Secretary of Education shall appoint a person from the staff of the State Department of Education to serve as chairperson and secretary to the committee and shall provide the necessary clerical services to the committee from within the State Department of Education.

(d) Members of the advisory committee shall receive no salary or compensation for the performance of committee duties but shall be entitled to reimbursement for expenses incurred in carrying out the assignments of the committee. The rate of such expenses shall be in accordance with any statutes from time to time promulgated by the State or according to rules and regulations adopted by the Department of Education.

(14 Del. C. 1953, § 8502; 58 Del. Laws, c. 544; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 185-187.)

### § 8503. Necessity for certificate of approval; person eligible; nontransferability; display; approved list.

(a) No person, partnership or corporation, whether its main office be located within or outside the State, shall conduct a private school or classes as herein defined, or instruct individuals in business or trade subjects in this State, without having been issued a certificate of approval by the Department. A person, partnership or corporation shall be qualified to receive a certificate of approval who complies with every standard, rule and regulation of the Department pertaining to this chapter, who pays the fee for a certificate of approval, and whose school, after an examination conducted under the direction of the Department, is approved by the Department. Such certificates of approval are not transferable.

(b) The certificate of approval shall be prominently displayed at some place on the premises of the school open to the inspection of all interested persons.

(c) The Department shall maintain open to public inspection a list of schools approved under this chapter and may annually publish such list.

(14 Del. C. 1953, § 8503; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 188.)

## § 8504. Application for certificate; contents.

Every person, partnership or corporation desiring to obtain a certificate of approval shall make a verified application to the Department setting forth the following information:

(1) The title or name of a school, together with ownership and controlling officers thereof;

(2) The specific fields and courses of instruction which will be offered;

(3) The place or places where such instruction will be given and a description of the physical and sanitary facilities thereof;

(4) A specific listing of the equipment available for instruction in each field and course;

(5) The educational and teaching qualifications of instructors and supervisors;

(6) The financial resources available to equip and maintain the school;

(7) The entrance requirements for admission to each program offered by the school, and a copy or example of the instrument or instruments used to test for admission to each program.

a. If an institution admits as a regular student a person who does not have a high school diploma or its equivalent, the institution shall determine, at the time of admission, whether that person has the ability to benefit from the education or training the institution offers.

b. An institution shall determine whether a person described in paragraph (7)a. of this section has the requisite ability by administering to the person a nationally recognized, standardized or industry developed test approved by the Secretary of the United States Department of Education and shall include the test and results in the student's record; or by providing evidence that an assessment of the person's basic skills and aptitudes has been conducted and that the assessment indicates that the person has the ability to benefit from the education or training the institution offers and shall include the method used and results in the student's record.

(14 Del. C. 1953, § 8504; 58 Del. Laws, c. 544; 65 Del. Laws, c. 63, § 1; 68 Del. Laws, c. 111, § 1; 71 Del. Laws, c. 180, §§ 189, 190; 74 Del. Laws, c. 255, § 5.)

## § 8505. Application commitments.

(a) Each application for a certificate of approval shall also contain the following commitments:

(1) To conduct the school in accordance with standards, rules and regulations from time to time established by the Department;

(2) To agree to provide a surety company bond for the protection of the contractual rights of students in such form and amount as will meet the approval of the Department and written by a company authorized to do business in this State. Such bonds shall be deposited with the Secretary of State. The amount of the surety bond shall be determined in accordance with subsection (b) of this section, except that in no case shall the surety bond of a business and trade school covered by this chapter be for less than $25,000 per calendar year;

(3) a. As a condition for granting certification, each school must maintain a cancellation and settlement policy which must provide a full refund of all moneys paid by a student if:

1. The student cancels the enrollment agreement or contract within 72 hours (until midnight of the 3rd day excluding Saturdays, Sundays and legal holidays) after the enrollment contract is signed by the prospective student;

2. The enrollment of the student was procured as the result of any misrepresentation in advertising, promotional materials of the school or representations by the owner or representative of the school.

b. As a condition for granting certification, each school must maintain a policy for the refund of the unused portion of tuition, fees and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter the course, or withdraws or is discontinued therefrom at any time prior to completion, and such policy must provide:

1. Refunds for private business and trade school courses will be based on the period of enrollment computed on the basis of course time expressed in clock hours;

2. The effective date of the termination for refund purposes in private business and trade schools will be the earliest of the following:

A. The last date of attendance, if the student is terminated by the school;

B. The date of receipt of written notice from the student;

C. Ten school days following the last date of attendance;

3. If tuition is collected in advance of entrance, and if, after expiration of the 72-hour cancellation privilege, the student does not enter the private business and trade school, not more than $100 shall be retained by the school;

4. For the student who enters a private business and trade school course of not more than 12 months in length terminates or withdraws, the school may retain $100 of tuition and fees and the minimum refund of the remaining tuition will be:

A. After 0.01 percent enrollment time of the course, 80 percent of the remaining tuition;

B. After 5 percent to 9.9 percent enrollment time of the course, 70 percent of the remaining tuition;

C. After 10 percent to 14.9 percent enrollment time of the course, 60 percent of the remaining tuition;

D. After 15 percent to 24.9 percent enrollment time of the course, 55 percent of the remaining tuition;

E. After 25 percent to 49.9 percent enrollment time of the course, 30 percent of the remaining tuition;

F. After 50 percent or more enrollment time of the course, the student may be considered obligated for the full tuition;

Enrollment time is the time elapsed between the actual starting date and the date of the student's last day of physical attendance in the school;

5. For private business and trade courses more than 12 months in length, the refund shall be applied to each 12-month period, or part thereof, separately;

6. Refunds of items of extra expense to the student, such as instructional supplies, books, student activities, laboratory fees and service charges, where these items are separately stated and shown in the data furnished the student before enrollment, will be made in a reasonable manner acceptable to the administrator;

7. Refunds based on enrollment in private business and trade schools will be totally consummated within 30 days after the effective date of termination;

8. Refunds for correspondence courses will be computed on the basis of the number of lessons in the course;

9. The effective date of the termination for refund purposes in correspondence courses will be the earliest of the following:

A. The date of notification to the student if the student is terminated;

B. The date of receipt of written notice from the student;

C. The end of the third calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that the student wishes to remain enrolled;

10. If tuition is collected before any lessons have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the course, not more than $50 shall be retained by the school;

11. In cases of termination or withdrawal after the student has begun the correspondence course, the school may retain $50 of tuition and fees, and the minimum refund policy must provide that the student will be refunded the pro rata portion of the remaining tuition fees and other charges that the number of lessons completed and serviced by the school bears to the total number of lessons in the course;

12. Refunds based on enrollment in correspondence schools will be totally consummated within 30 days after the effective date of termination.

c. In lieu of the refund policy herein set forth, for programs of instruction not regularly offered to the general public, the Department of Education may, for good cause shown, amend, modify, substitute and/or alter the terms of such policy due to the specialized nature and objective of the subject school's course of instruction.

d. If a course of instruction is discontinued by the school and this prevents the student from completing the course, all tuition and fees paid are then due and refundable;

(4) Agree that within the 72-hour grace period reserved for cancellation as provided in paragraph (a)(3) of this section, the school will not discount any evidence of indebtedness given by a student applicant, or on an applicant's behalf, or in any other way place such evidence of indebtedness into the hands of a holder in due course;

(5) To permit the Department to inspect the school or classes thereof from time to time; and to make available to the Department, at any time when required to do so, information pertaining to the activities of the school required for the administration of this chapter;

(6) That all advertising and solicitation will be free from misrepresentation, deception or fraud, and that no fraudulent or deceptive statements shall be made as to possible future employment opportunities or wage expectations.

(b) The amount of the surety bond required of a private business or trade school shall be determined as follows:

(1) The following private business and trade schools shall only be required to post a bond in the amount of $25,000:

a. Schools which only solicit students in the State and which do not receive any revenues for services provided within the State; and

b. Schools which do not receive revenue directly from their students for tuition or any other services. Revenue received by such schools cannot be generated by guaranteed student loans and/or state or federal student grants.

(2) All other private business and trade schools which operate in or from the State, or who render services to students within the State, shall provide a bond in an amount equal to the highest anticipated gross prepaid tuition for students enrolled on any given day in the calendar year for which a certificate of approval is requested. This amount shall include moneys paid by all students regardless of their state of residence.

(3) Surety bonds may only be cancelled during or at the end of any annual term by the bonding agency *by giving 45 days' prior notice* in writing by certified mail, return receipt requested, to the Administrator, Private Business and Trade Schools, Vocational Division, State Department of Education, State of Delaware, P.O. Box 1402, Dover, Delaware 19903.

(14 Del. C. 1953, § 8505; 58 Del. Laws, c. 544; 65 Del. Laws, c. 63, § 2; 67 Del. Laws, c. 374, §§ 1-3; 68 Del. Laws, c. 111, §§ 2-4; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, §§ 186, 190; 76 Del. Laws, c. 114, §§ 1, 2.)

## § 8506. Signing of application.

Each application for a certificate of approval shall be signed by the applicant. If the applicant is a partnership, it shall be signed by each member thereof. If the applicant is a corporation, it shall be signed by any officer thereof.

(14 Del. C. 1953, § 8506; 58 Del. Laws, c. 544.)

### § 8507. Restriction of certificate to fields indicated in application; supplementary applications.

Any certificate of approval issued shall be restricted to the fields or courses specifically indicated in the application for a certificate of approval. The holder of a certificate shall present a supplementary application, as may be directed by the Department for approval of additional fields or courses, in which it is desired to offer instruction during the effective period of the certificate of approval.

(14 Del. C. 1953, § 8507; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

### § 8508. Filing fees; renewal fees.

Each original application for a certificate of approval shall be accompanied by a filing fee to be determined by the Department, which fee shall include the cost of investigation and issuance of the original certificate of approval, if the application is approved. There shall be an annual renewal fee to be determined by the Department. No fee shall be charged for a supplementary application for the approval of additional fields or courses of instruction. Fees, charges or fines within this chapter shall be deposited to the General Fund of the State.

(14 Del. C. 1953, § 8508; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

### § 8509. Business or trade school agent permits; application; contents; fees; separate permits.

Every agent representing a school as herein defined, whether located in the State or without, shall make application for an agent's permit to the Department, in writing, upon forms prepared and furnished by the Department. Each application shall state the name of the school which the applicant will represent, contain evidence of the honesty, truthfulness and integrity of the applicant, shall be verified under oath by the applicant, and shall be accompanied by the recommendation of 2 reputable persons, certifying that the applicant is truthful, honest and of good reputation, and recommending that a permit, as an agent, be granted to the applicant. The fee for an original permit, as an agent, shall be determined by the Department, and there shall be an annual renewal fee determined by the Department. A separate permit shall be obtained for each school represented by an agent.

(14 Del. C. 1953, § 8509; 58 Del. Laws, c. 544; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 190.)

### § 8510. Issuance of pocket cards upon approval of application; contents.

The Department, upon approval of an application for or renewal of a permit, shall prepare and deliver to each agent a pocket card which, among other things, shall contain the name and address of the agent and of the employing school and shall certify that the person whose name appears thereon is an authorized agent of the school.

(14 Del. C. 1953, § 8510; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

### § 8511. Annual renewal of certificates.

Each school and each agent that continues as such shall annually renew the school's or agent's certificate of approval and pay the required annual renewal fees. Every certificate of approval which has not been renewed by its expiration date shall expire on the expiration date.

(14 Del. C. 1953, § 8511; 58 Del. Laws, c. 544; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 122, § 1.)

### § 8512. Issuance, revocation, renewal or restoration of certificates upon action and report of Department.

Repealed by 75 Del. Laws, c. 122, § 2, effective July 7, 2005.

### § 8513. Rules and regulations.

In addition to standards provided for hereunder, the Department shall make and enforce reasonable rules and regulations as shall be necessary for the proper administration and enforcement of this chapter.

(14 Del. C. 1953, § 8513; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

### § 8514. Prohibition against advertising school or soliciting students without Department authorization.

Prior to the establishment of a private business or trade school and the issuance of a certificate of approval therefor, no person shall advertise such a school or solicit prospective students for such a school unless such person has applied for and received from the Department authorization to conduct such activity.

(14 Del. C. 1953, § 8514; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

### § 8515. Procedure for approval of applications and programs.

The Department shall provide such rules and regulations as are necessary to direct applicants for a certificate of approval in the preparation of a statement of the existing or planned educational programs and managerial organization and financial status of the applicant school. Upon receipt of any application, prepared in accordance with the provisions of this chapter, the Department shall provide for the review of that application and shall, within 90 days of its receipt, notify the applicant that the application is approved or disapproved or that further negotiation will be afforded toward the goal of approval.

(14 Del. C. 1953, § 8515; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

## § 8516. Grounds for refusal to issue, renew or for revoking certificates or permits.

In addition to any other cause herein set forth, the Department may refuse to issue or to renew, or may revoke any certificate of approval or permit for any 1 or more of the following causes:

(1) Violation of this chapter or any rule or regulation made by the Department;

(2) Furnishing of false, misleading or incomplete information to the Department or failure to furnish information requested by the Department;

(3) If any person, who signed an application, has entered a plea of nolo contendere or been found guilty of any crime involving moral turpitude;

(4) If any person, who signed an application, is found by competent medical authority to be addicted to the use of any narcotic drug, other than a drug currently prescribed for treatment or who has been found mentally incompetent;

(5) Violation of any commitment made in an application for a certificate of approval;

(6) Presenting to prospective students information relating to the school, or to employment opportunities or opportunities for enrollment in institutions of higher learning after entering into or completing courses offered by the school, which is false, misleading or fraudulent;

(7) Failure to provide or maintain premises or equipment in a safe and sanitary condition as required by laws, regulations or ordinances applicable at the location of the school;

(8) Refusal by an agent to display that agent's own permit upon demand of a prospective student, the Department or its representative, or any other interested person;

(9) Failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered or to retain a sufficient and qualified instructional and administrative staff;

(10) Conduct of instruction in a course or field which has not been approved by the Department for the particular school;

(11) Refusal to admit applicants solely on account of race, color, creed, age, sex, or any other basis protected under Chapter 45 of Title 6.

(14 Del. C. 1953, § 8516; 58 Del. Laws, c. 544; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 190; 75 Del. Laws, c. 122, § 3; 85 Del. Laws, c. 144, § 8.)

## § 8517. Investigations by Department upon its own motion or upon verified complaint; opportunity for correction.

The Department may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proved, would constitute grounds for refusal or revocation under this chapter, investigate the actions of any applicant or any person or persons holding or claiming to hold a certificate or permit.

However, before proceeding to a hearing on the question of whether a certificate of approval shall be refused or revoked for any cause enumerated in § 8516 of this title, exclusive of those causes enumerated in paragraphs (3) and (4) of that section, the Department may grant a reasonable time to the holder of or applicant for a certificate of approval to correct the situation. If within such time, the situation is corrected, no further action leading to refusal or revocation shall be taken.

(14 Del. C. 1953, § 8517; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

## § 8518. Hearings.

(a) Any applicant for a certificate of approval or agency permit or for the renewal of a certificate of approval or agency permit who is refused issue of that certificate or permit or its renewal may request a hearing before the Secretary. In addition, any certificate or permit holder is entitled to a hearing before the Secretary to challenge a revocation for cause pursuant to § 8516 of this title.

(b) Whenever the Department proposes to refuse to issue or renew a certificate or permit, or to revoke a certificate or permit, it shall first give notice to the applicant or certificate or permit holder of the intended action and the reasons therefore. The applicant or certificate or permit holder shall be afforded at least 20 calendar days to request a hearing.

(c) Hearings shall be held within 90 calendar days of the date the Secretary receives a request for hearing. Notice of the hearing shall be given at least 20 calendar days before the day it is held.

(d) All hearings shall be conducted by the Secretary or the Secretary's designee who shall prepare a proposed order for the Secretary's consideration. In connection with such hearings, the Secretary or the Secretary's designee shall be empowered to:

(1) Issue subpoenas for witnesses and the production of relevant books and papers, either on the Secretary's or the Secretary's designee's own initiative or at the request of any party; failure of any person without adequate excuse to obey a subpoena shall be punishable according to the rules of the Superior Court;

(2) Administer oaths to witnesses;

(3) Exclude plainly irrelevant, immaterial, insubstantial, cumulative and privileged evidence; and

(4) Limit unduly repetitive proof, rebuttal and cross-examination.

(e) Burden of proof shall be upon the applicant or proponent.

(f) A record from which a verbatim transcript can be prepared shall be made of all hearings in all contested cases. Transcripts shall be made at the request and expense of the requesting party. With respect to each case, all notices, correspondence between the Department and the parties, all exhibits, documents and testimony admitted into evidence and all recommended orders, summaries of evidence and findings and all interlocutory and final orders shall be included in the record of the proceedings.

(g) The Secretary's decision shall include:

(1) A brief summary of the evidence before the Secretary and the Secretary' findings of fact;

(2) The Secretary's conclusions of law; and

(3) The Secretary's decision and a brief statement of the reasons therefore.

(h) Upon the revocation of a certificate or permit, the holder shall be required to surrender such certificate or permit to the Department and upon failure or refusal to do so, the Department shall have the right to seize such certificate or permit.

(14 Del. C. 1953, § 8518; 58 Del. Laws, c. 544; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 190; 75 Del. Laws, c. 122, § 4.)

## § 8519. Power to subpoena and administer oaths.

The Department, over the signature of any member thereof, is authorized to subpoena and bring before the Department any person or persons in this State and to take testimony, either orally or by deposition or by exhibit, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure in civil cases in Superior Courts of this State.

(14 Del. C. 1953, § 8519; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190; 75 Del. Laws, c. 122, § 5.)

## §§ 8520-8522. Powers of the Department; Department to provide stenographer; record of proceedings; transcript costs; Service of Department's report upon respondent; motion for rehearing; time; surrender of certificate.

Repealed by 75 Del. Laws., c. 122, § 5, effective July 7, 2005.

## § 8523. Forfeiture of bond.

If any school certified, pursuant to this chapter, should fail to provide the services called for in a contract or agreement with a student, as determined by the Superior Court of the State, the bond prescribed by § 8505(a)(2) of this title, or any part thereof, shall be forfeited, and the proceeds distributed by the Department in such manner as justice and the circumstances require.

(14 Del. C. 1953, § 8523; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

## § 8524. Appeal to Superior Court; certification of record.

(a) Any person affected by a final administrative decision of the Department may have such decision reviewed judicially by the Superior Court of the county wherein such person resides, or in the case of a corporation, wherein the registered office is located. If the plaintiff in the review proceeding is not a resident of this State, the venue shall be in any county of this State. The review shall be on the record without a trial de novo.

(b) Service of summons issued in such review proceedings may be had upon any member of the Department. The Department shall not be required to certify the record of the proceeding unless the plaintiff in the review proceedings shall first pay to the Department a sum to be determined by the Department for every page of such record. Exhibits shall be certified without cost.

(14 Del. C. 1953, § 8524; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190; 75 Del. Laws, c. 122, § 7.)

## § 8525. Unlawful acts of school employees not ground for revocation of certificate; exception.

Any unlawful act or violation of any of the provisions of this chapter upon the part of any agent or employee of a business or trade school shall not be cause for the revocation of the certificate of approval unless it shall appear to the satisfaction of the Department that any 1 or more of the controlling officers, members or managing employees had guilty knowledge thereof.

(14 Del. C. 1953, § 8525; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

## § 8526. Penalty.

(a) Any person found to be violating this chapter shall, if an individual, be punished by a fine of a minimum of $500 for each offense, or by imprisonment for a period not to exceed 1 year, or both; and, if an artificial entity, shall be punished by a fine of a minimum of $1,000 for each offense. Any organization or representative of an organization is subject to the penalties herein prescribed for individuals.

(b) The Superior Court shall have exclusive jurisdiction of violations of this chapter.

(14 Del. C. 1953, § 8526; 58 Del. Laws, c. 544; 83 Del. Laws, c. 401, § 3.)

## § 8527. Incorporated institution.

Any applicant seeking incorporation under Title 8 in order to conduct a private business or trade school within the State shall first seek approval as an applicant to conduct a business or trade school in accordance with this chapter. Upon approval of such applicant

and the issuance of a certificate to conduct a private business or trade school, the Department of Education shall notify the Secretary of State of such approval. At any time that a certificate of approval is denied or revoked by the Department of Education, the applicant for that certificate shall no longer be authorized to conduct classes as a private business or trade school in the State, other provisions of a corporate charter notwithstanding.

(14 Del. C. 1953, § 8527; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

## § 8528. Previously existing schools; temporary authorization.

Repealed effective July 13, 2002, by § 190 of 71 Del. Laws, c. 180, as affected by 72 Del. Laws, c. 433, § 1.

## § 8529. Certain schools exempt.

Any institution whose main facilities are located in the State and which was approved by the Department of Education in compliance with § 125 of Title 8, prior to July 18, 1972, shall be exempt from this chapter. Apprenticeship and training programs offered or conducted by persons, partnerships, joint ventures, corporations, political subdivisions, employers or employer associations for their employees or prospective employees or by labor organizations or associations of employees for their members or apprentices shall be exempt from this chapter.

(14 Del. C. 1953, § 8529; 58 Del. Laws, c. 544; 71 Del. Laws, c. 180, § 190.)

## § 8530. Ceasing operation.

All schools that have been approved to operate under this chapter shall perform the duties set forth in § 192 of this title prior to ceasing operation.

(65 Del. Laws, c. 103, § 1; 71 Del. Laws, c. 180, § 190; 74 Del. Laws, c. 255, §§ 1-4; 83 Del. Laws, c. 401, § 3.)

# Part V
# Miscellaneous

## Chapter 86
## Delaware Advisory Council on Career and Technical Education

### § 8601. Purpose.

(a) It is the purpose of the General Assembly of the State, through this chapter, to establish and maintain the Delaware Advisory Council on Career and Technical Education, referred to as "DACCTE" throughout this chapter. DACCTE is established to advise the Governor, General Assembly, Secretary of Education, and the State Board of Education on all matters pertaining to career and technical education with emphasis on recommending policies and initiatives that should be pursued to strengthen and modernize the career and technical education delivery system.

(b) Further, it is the intent and purpose of the General Assembly to provide an objective agency to conduct evaluations and program reviews and serve as a clearinghouse for state and national information on career and technical education, to provide citizens of this State access to the experience and judgment of lay and professional groups from the fields of employment and education in the formation of public policies.

(14 Del. C. 1953, § 8601; 59 Del. Laws, c. 204, § 1; 75 Del. Laws, c. 44, § 1; 82 Del. Laws, c. 206, § 1.)

### § 8602. Membership.

(a) (1) The Governor shall appoint all voting DACCTE members, who serve at the Governor's pleasure. The voting members must represent, at a minimum, the following:

a. An individual knowledgeable about the vocational needs and the problems of management and labor in the State.

b. An individual representing an industrial and economic development agency.

c. An individual representing an institution of higher education.

d. An individual representing an institution that provides programs of career and technical education and training.

e. An individual knowledgeable about programs in technical and career education.

f. An individual representing a school board.

g. An individual knowledgeable about students with disabilities.

h. An individual representing business and industry and familiar with current and projected employment opportunities.

i. An individual representing a career and technical student organization.

j. An individual representing the Delaware National Guard.

k. An individual representing the general public, with a demonstrated interest in public education.

*l.* An individual to serve as chair.

(2) The Governor may not appoint a member to represent more than 2 of the membership qualifications under paragraph (a)(1) of this section.

(3) The Secretary of the Department of Education shall appoint the following nonvoting DACCTE members:

a. A representative of the Department of Education.

b. A student enrolled in a Delaware career and technical education program, whose term is for 1 school year. The Secretary shall consider geographical and other diversities in appointing this member.

(b) A member may be removed by the member's appointing authority for gross inefficiency, misfeasance, nonfeasance, malfeasance, or neglect of duty in office. A member is deemed in neglect of duty if the member is absent from 3 consecutive, regular Board meetings or attends less than 50% of Board meetings in a calendar year. The member's appointing authority may consider the member to have resigned, and may accept the member's resignation.

(14 Del. C. 1953, § 8602; 59 Del. Laws, c. 204, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 44, § 1; 82 Del. Laws, c. 206, § 2.)

### § 8603. Duties and responsibilities.

DACCTE shall do all of the following:

(1) Advise policymakers on the development of the State Plan for Career and Technical Education and amendments to the State Plan.

(2) Recommend policies that the State should pursue to strengthen career and technical education and related initiatives.

(3) Evaluate career and technical education programs, services, activities, and career initiatives throughout the State.

(4) Provide technical assistance to local school districts, agencies, and other organizations to enhance and improve the career and technical education delivery system.

(5) Analyze and report on the distribution of funds for career and technical education and on the availability of career and technical education activities and services within the State.

(6) Promote coordination, collaboration, and effective partnerships among business, industry, labor, education, and employment and training programs to help meet the economic needs of the State.

(7) Disseminate relevant career information to teachers, counselors, students, and the general public.

(8) Schedule and conduct at least 4 regular meetings each year at which the public is given opportunity to express views concerning career and technical education. The Council shall determine the time, place, and manner of meeting.

(14 Del. C. 1953, § 8603; 59 Del. Laws, c. 204, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 191; 75 Del. Laws, c. 44, § 1; 82 Del. Laws, c. 206, § 3.)

## § 8604. Acceptance of and compliance with federal and state legislation and regulations.

(a) DACCTE shall comply with the federal Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) [20 U.S.C. § 2301 et seq.] and subsequent reauthorization thereof. DACCTE is subject to requirements of the Carl D. Perkins Career and Technical Education Act of 2006, implementing regulations thereto, and any state laws or regulations related to career and technical education. As used in this title, "career and technical education" has the same meaning as "vocational-technical education."

(b) The State Treasurer is the fiscal agent for DACCTE and shall make disbursements upon the order of the Council to carry out its functions.

(14 Del. C. 1953, § 8604; 59 Del. Laws, c. 204, § 1; 75 Del. Laws, c. 44, § 1; 79 Del. Laws, c. 83, § 3; 82 Del. Laws, c. 206, § 4.)

## § 8605. Member reimbursement.

Members serve without pay and may be reimbursed for travel in connection with their responsibilities.

(14 Del. C. 1953, § 8605; 59 Del. Laws, c. 204, § 1; 75 Del. Laws, c. 44, § 1; 82 Del. Laws, c. 206, § 5.)

## § 8606. Staff.

The Council may obtain the services of professional, technical, and clerical personnel and to contract for such services as may be necessary to carry out the duties and responsibilities of this chapter.

(14 Del. C. 1953, § 8606; 59 Del. Laws, c. 204, § 1; 75 Del. Laws, c. 44, § 1; 82 Del. Laws, c. 206, § 6.)

## § 8607. Meetings; quorum.

(a) DACCTE shall schedule no less than 3 meetings per year after regular business hours at locations in each of the 3 counties of this State.

(b) A majority of the voting DACCTE members must be present at a meeting in order to have a quorum and conduct official business. The nonvoting members or a vacant position are not counted for quorum purposes.

(82 Del. Laws, c. 206, § 7.)

## § 8608. School monitoring.

DACCTE shall do all of the following:

(1) Create a 2-year, rotating career and technical education program monitoring schedule.

(2) Conduct on-site monitoring visits of schools.

(3) Post all final reports regarding the program monitoring under this chapter to DACCTE's website.

(82 Del. Laws, c. 206, § 7.)

## § 8609. Annual report.

(a) DACCTE shall produce an annual report that includes all of the following:

(1) Advocacy efforts made to lawmakers and school administrators on behalf of career and technical education students.

(2) a. A copy of that year's issue of the annual publication, Career Compass.

b. A list of recipients of both the print and digital versions of Career Compass. The list must include the names of specific entities that receive Career Compass, but may not include the names of specific individuals, unless the individual receives a Career Compass by virtue of the individual's position.

(3) A needs assessment of statewide career and technical education programming.

(4) The reports from all on-site monitoring visits to programs conducted under § 8608 of this title.

(5) Written procedure if an on-site monitoring visit requires follow up.

(6) Advocacy efforts to provide career and technical education students and their families with timely information regarding educational, employment, and training opportunities.

(b) DACCTE shall submit the annual report under this section to the Governor, the General Assembly, the Department of Education's Director of Career and Technical Education, and the Director and the Librarian of the Division of Legislative Services.

(82 Del. Laws, c. 206, § 7; 83 Del. Laws, c. 135, § 1; 84 Del. Laws, c. 255, § 20.)

# Part V
# Miscellaneous

## Chapter 87
## Delaware Institute of Veterinary Medical Education [Repealed]

### § 8701. Purposes [Repealed].

(60 Del. Laws, c. 137, § 1; repealed by 84 Del. Laws, c. 445, § 7, effective Sept. 26, 2024.)

### § 8702. Definition [Repealed].

(60 Del. Laws, c. 137, § 1; repealed by 84 Del. Laws, c. 445, § 8, effective Sept. 26, 2024.)

### § 8703. Board — Creation [Repealed].

(60 Del. Laws, c. 137, § 1; repealed by 84 Del. Laws, c. 445, § 9, effective Sept. 26, 2024.)

### § 8704. Board — Composition; appointment; term; compensation; vacancies; quorum [Repealed].

(60 Del. Laws, c. 137, § 1; 69 Del. Laws, c. 67, § 2; repealed by 84 Del. Laws, c. 445, § 10, effective Sept. 26, 2024.)

### § 8705. Board — Fiscal and property powers [Repealed].

(60 Del. Laws, c. 137, § 1; 66 Del. Laws, c. 219, § 1; repealed by 84 Del. Laws, c. 445, § 11, effective Sept. 26, 2024.)

### § 8706. Board — Powers generally [Repealed].

(60 Del. Laws, c. 137, § 1; repealed by 84 Del. Laws, c. 445, § 12, effective Sept. 26, 2024.)

# Part V
# Miscellaneous

## Chapter 87A
## Delaware Veterinary Medicine Education Advisory Council

(84 Del. Laws, c. 445, § 1.)

### § 8701A. Creation and purpose.

(a) The Delaware Veterinary Medicine Education Advisory Council is established and serves in an advisory capacity to the Department of Agriculture.

(b) The purpose of this chapter is to initiate, encourage, and promote all of the following:

(1) Satisfactory alternatives to a state-supported veterinary medical school for Delaware residents seeking a doctorate or similar degree in veterinary medicine education.

(2) Creation of opportunities for Delaware residents to obtain veterinary medical training.

(3) A strengthening of the factors favoring the decision of qualified veterinary medical and technical personnel to practice in Delaware.

(4) Development of a coordinated program of pre-veterinary medicine education among state public education institutions.

(5) Development of programs of education and training in veterinary-medicine-related fields and research.

(6) Administration and monitoring of veterinary medicine school scholarships, loans, or loan repayment programs.

(84 Del. Laws, c. 445, § 2.)

### § 8702A. Definitions.

As used in this chapter:

(1) “Advisory Council” means the Delaware Veterinary Medicine Education Advisory Council.

(2) “Department” means the Department of Agriculture.

(84 Del. Laws, c. 445, § 3.)

### § 8703A. Advisory Council — Composition; appointment; terms; quorum; compensation; removal; staffing.

(a) Composition and appointment. —

The Advisory Council consists of 13 members. Membership is comprised as follows:

(1) One veterinary practitioner who is a former recipient of educational assistance through the Delaware Institute of Veterinary Medicine Education, the Advisory Council, the Southern Regional Education Board Regional Contract Program for Veterinary Medicine, or a similar entity or program, appointed by the Governor.

(2) One member of the faculty of the University of Delaware, appointed by the University of Delaware Dean of the College of Agricultural Sciences.

(3) One faculty member of Delaware State University, appointed by the Delaware State University Head of the Department of Agriculture and Natural Resources.

(4) One member of the Delaware Veterinary Medical Association, appointed by the Governor. The Governor may consider potential nominees from a list that the Delaware Veterinary Medical Association provides.

(5) The Secretary of the Department of Agriculture, or the Secretary’s designee.

(6) The Secretary of the Department of Education, or the Secretary’s designee.

(7) The State Veterinarian, or the Veterinarian’s designee.

(8) The President of the Delaware Farm Bureau, or the President’s designee.

(9) The Director of the Office of Animal Welfare, or the Director’s designee.

(10) The President of the Delaware Technical Community College, or the President’s designee.

(11) Two members representing different animal shelters in this State, appointed by the Governor.

(12) One representative of the State Board of Veterinary Medicine, appointed by the Governor. The Governor may consider potential nominees from a list that the State Board of Veterinary Medicine provides.

(b) Designees. —

A member who may select a designee must select the designee from the organization that the member represents to serve in their stead and at their pleasure. A member must provide the designation to the chair in writing. A designee has the same duties and rights as the member the designee represents.

(c) Terms and vacancies. —

A member, other than a member who serves by virtue of position, is appointed for a period of 3 years and may serve additional terms until replaced. Each term expires on the date specified in the appointment, but a member remains eligible to participate in Advisory Council proceedings until the appropriate appointing authority replaces that member.

(d) Quorum. —

A majority of the members must be present at an Advisory Council meeting in order to have quorum and conduct official business. A majority of the members present at a meeting at which quorum is present is sufficient to approve an action of the Advisory Council. A vacancy on the Advisory Council is not counted for quorum.

(e) Conduct of business. —

The Advisory Council may adopt rules necessary for its operation. If the Advisory Council does not adopt rules or the adopted rules do not govern a given situation, Robert's Rules of Order governs.

(f) Chair. —

The Advisory Council shall annually elect 1 chair and 1 vice-chair from among its members.

(g) Compensation. —

A member receives no compensation but may be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official duties.

(h) Removal. —

A member may be removed by the member's appointing authority for gross inefficiency, misfeasance, nonfeasance, malfeasance, or neglect of duty in office.

(1) A member is deemed in neglect of duty if the member is absent from 3 consecutive Advisory Council meetings without good cause or fails to attend at least 50% of all regular Advisory Council meetings in a calendar year.

(2) A member who is deemed in neglect of duty is considered to have resigned, and the member's appointing authority may consider the member to have resigned and may accept the member's resignation.

(i) Staffing. —

The Department of Agriculture, through the Secretary, shall provide reasonable staff support to assist the Advisory Council in performing its duties.

(84 Del. Laws, c. 445, § 4.)

## § 8704A. Advisory Council — Authority and duties.

The Advisory Council shall do all of the following:

(1) Research and complete a landscape analysis every 10 years of the veterinary needs and options present in Delaware, and develop recommendations to increase veterinary medicine in Delaware. The first analysis must be completed no later than March 26, 2026. Subsequent analyses must also include a measurement of the impact of the Advisory Council and the Southern Regional Education Board Regional Contract Program for Veterinary Medicine or similar entity or program.

(2) Develop and monitor a recruitment program for veterinary medicine education in conjunction with local colleges and universities to encourage veterinary medicine applications from Delaware residents.

(3) Develop and maintain statewide communications, publicity, and marketing plans to promote awareness of the existence of the Advisory Council and veterinary opportunities for Delaware residents, including the Veterinary Medicine Regional Contract Program as managed by the Department of Education through a contract with the Southern Regional Education Board.

(4) Monitor veterinary medicine schools serving Delaware residents for data regarding the number of Delaware residents graduating and initial placement after graduation.

(5) Develop recruitment programs aimed at attracting pre-veterinary medicine students interested in practicing in Delaware.

(6) Support, as appropriate, private sector provider recruitment efforts by consolidating information collection and dissemination efforts, such as statewide recruitment brochures.

(7) Assist and advise the Department of Education and the Department of Agriculture in developing a working relationship or affiliation agreement with out-of-state veterinary medicine schools to carry out the purposes of this chapter. The Department of Education and the Department of Agriculture, not the Advisory Council, may approve an agreement under this paragraph. The State, not the Advisory Council, must be a signatory to a document setting the terms of an agreement under this paragraph.

(8) Adopt bylaws or rules to carry out its functions under this chapter.

(9) Submit an annual report to the Governor, the General Assembly, the Chair and Vice Chair of the Joint Finance Committee, the Department of Agriculture, the Department of Education, and the Director and Librarian of the Division of Legislative Services not later than January 1. The report should include a summary of each action the Advisory Council took during the year of the report and recommendations the Advisory Council has identified to encourage graduates of veterinary medicine schools to return or come to practice in Delaware.

(84 Del. Laws, c. 445, § 5; 84 Del. Laws, c. 255, § 36.)

# Part V
# Miscellaneous

## Chapter 88
## Delaware Institute of Dental Education and Research

**§§ 8801-8807. Purposes; definition; board established; composition; appointment; term; vacancies; quorum; compensation; fiscal and property powers; education and research responsibilities; powers generally [Repealed].**

Repealed by 73 Del. Laws, c. 4, § 1, effective Jan. 31, 2001.

# Part V
# Miscellaneous

## Chapter 89
## Teacher of the Year Award

### § 8901. Established.

There is hereby established a series of teacher of the year awards the purpose of which is to reward outstanding teachers throughout the State.

(67 Del. Laws, c. 165, § 1.)

### § 8902. Procedure.

Each year every school district throughout this State shall conduct a study within each school building to determine those certified employees (teachers) who are deserving of the title "teacher of the year" from that building. One teacher of the year may be selected to represent all of the charter schools in the State. The selection process will follow the guidelines developed by the Department of Education which includes input from teachers, administrators and Department of Education staff. After the buildings make their individual selections, the district-wide teacher of the year shall be selected from each district, following the current guidelines. The final step will be the selection of the state "teacher of the year."

(67 Del. Laws, c. 165, § 1; 71 Del. Laws, c. 180, § 192; 73 Del. Laws, c. 74, § 352.)

### § 8903. Range of awards.

(a) Those individuals who are chosen teacher of the year in their respective school buildings shall be nominated for the district teacher of the year award.

(b) Those individuals who are chosen teacher of the year for their respective school districts will be awarded $2,000.

(c) The individual who is chosen state teacher of the year shall be awarded $3,000 in addition to the district level award.

(67 Del. Laws, c. 165, § 1.)

### § 8904. Fund established.

(a) A special fund of $5,000 shall be set aside within the budget of the Department of Education, which fund shall be known and referred to as the "Teacher of the Year Award."

(b) Each annual recipient of the teacher of the year award pursuant to this chapter shall have set aside from the Teacher of the Year Award Fund, for that recipient's exclusive assignment and disbursement, an amount equal to $5,000. The award recipient shall not directly receive the funds so set aside, but may make such withdrawals as are necessary for that recipient's educational purposes and objectives as herein authorized.

(c) The Fund established by this section, and the guidelines established therefore in § 8905 of this title shall be distinct from, and in addition to, the money directly given to the individual teachers as specified in § 8903 of this title.

(63 Del. Laws, c. 406, § 1; 67 Del. Laws, c. 281, § 199; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 193.)

### § 8905. Use of funds.

(a) The Department of Education shall adopt and promulgate rules and regulations concerning the use to which teacher of the year award funds may be assigned by the designated recipient.

(b) The amount set aside for designation by an award recipient shall be expended solely to accomplish educational purposes or objectives for pupils. No amount or portion of such award shall be used for the personal benefit of the award recipient; provided, however, that in the use of such funds for educational purposes the recipient may be an indirect or incidental beneficiary as teacher of the benefited pupils. In the event that all funds set aside for an award recipient have not been completely expended by that recipient at the time when a subsequent award is granted, the remainder of the former recipient's award shall not revert, but shall remain set aside in the name of such former recipient until such time as it is totally expended or the recipient dies or leaves the State.

(c) The recipient shall present to the superintendent of the school district in which that recipient is employed a plan for utilization of the award. Such submission shall not waive the right of the recipient to judge and choose but shall be in order to avoid wasteful duplication of materials or violation of school district policy regarding students, materials or activities. The principal criteria for use of the Fund shall be that of educational benefit to pupils. The Fund may be designated for, but not limited to, such items as:

(1) Purchase of nonconsumable materials and supplies; e.g., library books, audio visual equipment, computer equipment and programs, musical instruments, specialized furniture.

(2) Purchase of otherwise consumable materials that are used in the production of a student designed item; e.g., artist's or draftperson's paper, canvas, paints, instruments, wood and metal.

(3) Payment for student travel; e.g., prepared visits to museums, theaters, historic sites, laboratories when these are related to classroom study.

(4) Employment of performers and consultants; e.g., touring companies of a dramatic or musical group, visiting artist, poet, author, musician or historian.

(5) Reimbursements to the recipient, not to exceed $500, for personal expenses.

(d) Where the recipient has purchased materials, equipment or any other durable item with award funds, such item shall be the property of the Delaware school district in which the recipient is employed at the time of the expenditure. Each invoice, purchase order and personal reimbursement form related to withdrawals from teacher of the year award funds shall be retained by the school district, and shall be available for inspection as public records and subject to regular audit by the State Auditor of Accounts.

(63 Del. Laws, c. 406, § 1; 65 Del. Laws, c. 87, § 225; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 180, § 194.)

## § 8906. Pension modifications.

Each teacher of the year, on every level, shall have added to that teacher's final year of salary the dollar amount of that teacher's Teacher of the Year Award or Awards as enumerated in § 8903 of this title solely for computing the final average compensation for pension purposes.

(67 Del. Laws, c. 165, § 1; 67 Del. Laws, c. 281, § 200; 70 Del. Laws, c. 186, § 1.)

# Part V
# Miscellaneous

## Chapter 89A
## Delaware Volunteerism Act

### § 8901A. Purpose.

The active participation of young adults in volunteer activities is necessary to achieve a truly healthy community. It is especially rewarding to instill the spirit of volunteerism in young people who may display that spirit repeatedly in their future years. Thus, it is deemed beneficial to encourage volunteerism among high school students.

(69 Del. Laws, c. 246, § 1.)

### § 8902A. Provisions.

(a) The Delaware Office of Volunteerism, and the Department of Education, having knowledge of bona fide volunteer opportunities, shall make those opportunities known to high school students through the schools' guidance counseling program and shall update their information regularly.

(b) High schools, through school counselors, shall promote known opportunities to students by stressing the desirability of giving back to one's community, helping people and of the benefits of such experience in the process of finding employment and applying for acceptance in institutions of secondary education. High schools that offer the volunteer credit must inform students of the option to earn up to 1 elective credit through volunteer work at or before the time students select classes. Information provided under this section must include that students may be able to volunteer for a local fire department.

(c) (1) A student in grades 9-12 who performs voluntary community service for at least 45 hours per semester for 2 semesters shall receive 1 Delaware Volunteer credit. The credit may count as an elective for graduation requirements if approved by, and conducted under the supervision of, the school principal. This credit shall appear prominently on the student's high school transcript. The Department of Education shall prepare a statement of explanation of the Delaware Volunteer credit and attach the statement to or include it on its response to any official transcript request for a student transcript that contains the credit. Voluntary community service performed during the summer or other recess periods shall count toward the fulfillment of required hours.

(2) To qualify for Delaware Volunteer credit:

a. Volunteer community service shall not be performed during the hours that the student is required to be in attendance at school.

b. Volunteer community service may be performed only with an organization or project whose name has been submitted to a school guidance counselor by the Delaware Office of Volunteerism or the Department of Education, or with a local fire department.

c. Volunteer community service shall not be of a political or advocacy nature.

(3) A student's volunteer community service time shall be verified by a director or supervisor of the organization or project on forms developed by the Department of Education and the Delaware Office of Volunteerism, and certified by the student's guidance counselor or principal, or by the principal's designee.

(4) A student who earns a Delaware Volunteer credit pursuant to this section shall also receive a certificate of recognition, developed by the Department of Education and the Office of Volunteerism, to document the student's volunteer community service.

(5) No more than 1 Delaware Volunteer credit shall be awarded to any student.

(69 Del. Laws, c. 246, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 415, § 1; 73 Del. Laws, c. 65, § 17; 85 Del. Laws, c. 216, § 1.)

### § 8903A. Regulatory authority.

The Department may promulgate regulations necessary to implement this chapter.

(85 Del. Laws, c. 216, § 1.)

# Part V
# Miscellaneous

## Chapter 89B
## Speech/Language Pathologist Incentive Program

### §§ 8901B-8905B. Purpose; administration; scholarship loans; disbursement; repayment and forgiveness [Repealed].

Repealed by 73 Del. Laws, c. 188, § 9, effective July 17, 2001. For present law, see § 3422 of this title.

# Part V
# Miscellaneous

## Chapter 89C
## Professional Librarian and Archivist Incentive Program

### §§ 8901C-8905C. Purpose; administration; scholarship loans; disbursement; payment and forgiveness [Repealed].

Repealed by 73 Del. Laws, c. 188, § 10, effective July 17, 2001. For present law, see § 3423 of this title.

# Part V
# Miscellaneous

## Chapter 89D
## Educational Support Professional of the Year Program

### § 8901D. Established.

There is hereby established a series of Educational Support Professional of the Year Awards the purpose of which is to reward outstanding educational support professionals throughout the State.

(81 Del. Laws, c. 231, § 1.)

### § 8902D. Definitions.

*Educational support professional (ESP). —*

A school employee whose position is instructional in nature or who provides other direct or indirect services to students and/or their parents: such as: paraprofessionals; instructional aides; custodial staff; secretaries; nutritional staff and school bus drivers.

(81 Del. Laws, c. 231, § 1.)

### § 8903D. Procedure.

Each year every school district throughout this State shall conduct a study within each school building to determine those educational support professionals who are deserving of the title "Educational Support Professional of the Year" from that building. One Educational Support Professional of the Year may be selected to represent all of the charter schools in the State. The selection process will follow the guidelines developed by the Department of Education which include input from educational support professionals, administrators and Department of Education staff. After the buildings make their individual selections, the district-wide Educational Support Professional of the Year shall be selected from each district, following the current guidelines. The final step will be the selection of the state "Educational Support Professional of the Year."

(81 Del. Laws, c. 231, § 1.)

### § 8904D. Range of awards.

(a) Those individuals who are chosen Educational Support Professional of the Year in their respective school buildings shall be nominated for the district Educational Support Professional of the Year Award.

(b) Those individuals who are chosen Educational Support Professional of the Year for their respective school districts will be awarded $2,000.

(c) The individual who is chosen state Educational Support Professional of the Year shall be awarded $3,000 in addition to the district level award.

(81 Del. Laws, c. 231, § 1; 83 Del. Laws, c. 339, § 21.)

### § 8905D. Fund established.

(a) A special fund of $5,000 shall be set aside within the budget of the Department of Education, which fund shall be known and referred to as the "Educational Support Professional of the Year Award Fund."

(b) Each annual recipient of the Educational Support Professional of the year award pursuant to this chapter shall have set aside from the Educational Support Professional of the Year Award Fund, for that recipient's exclusive assignment and disbursement, an amount equal to $5,000. The award recipient shall not directly receive the funds so set aside, but may make such withdrawals as are necessary for that recipient's educational purposes and objectives as herein authorized.

(c) The Fund established by this section shall be distinct from, and in addition to, the money directly given to the individual educational support professionals as specified in § 8904D of this title.

(81 Del. Laws, c. 231, § 1; 83 Del. Laws, c. 339, § 21.)

### § 8906D. Use of funds.

(a) The Department of Education shall adopt and promulgate rules and regulations concerning the use to which Educational Support Professional of the Year Award funds may be assigned by the designated recipient.

(b) The amount set aside for designation by an award recipient shall be expended solely to accomplish educational purposes or objectives for pupils. No amount or portion of such award shall be used for the personal benefit of the award recipient; provided, however, that 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. In the event that all funds set aside for an award recipient have not been completely expended by that recipient at the time when a subsequent award is granted, the remainder of the former recipient's award shall not revert, but shall remain set aside in the name of such former recipient until such time as it is totally expended or the recipient dies or leaves the State.

(c) The recipient shall present to the superintendent of the school district in which that recipient is employed a plan for utilization of the award. Such submission shall not waive the right of the recipient to judge and choose but shall be in order to avoid wasteful duplication of materials or violation of school district policy regarding students, materials or activities. The principal criteria for use of the Fund shall be that of benefit to pupils. The Fund may be designated for, but not limited to, such items as:

(1) Purchase of nonconsumable materials and supplies; e.g., library books, audio visual equipment, crossing signs, computer equipment and programs, musical instruments, specialized furniture.

(2) Purchase of otherwise consumable materials that are by students; e.g., paper, notebooks, binders, pens, pencils, paints, instruments, wood and metal.

(3) Employment of performers and consultants; e.g., touring companies of a dramatic or musical group, visiting artist, poet, author, and other subject matter experts.

(4) Student-centered professional development for building level educational support professionals.

(5) Reimbursements to the recipient, not to exceed $500, for personal expenses.

(d) Where the recipient has purchased materials, equipment or any other durable item with award funds, such item shall be the property of the Delaware school district in which the recipient is employed at the time of the expenditure. Each invoice, purchase order and personal reimbursement form related to withdrawals from Educational Support Professional of the Year Award funds shall be retained by the school district, and shall be available for inspection as public records and subject to regular audit by the State Auditor of Accounts.

(81 Del. Laws, c. 231, § 1.)

## § 8907D. Pension modifications.

Each Educational Support Professional of the Year, on every level, shall have added to that educational support professional’s final year of salary the dollar amount of that educational support professional’s Educational Support Professional of the Year Award or Awards as enumerated in § 8904D of this title solely for computing the final average compensation for pension purposes.

(81 Del. Laws, c. 231, § 1.)

# Part V
# Miscellaneous

## Chapter 89E
## Behavioral Health Professional of the Year Awards

### § 8901E. Established.

There is hereby established a series of Behavioral Health Professional of the Year Awards the purpose of which is to reward outstanding behavioral health support professionals throughout the State.

(83 Del. Laws, c. 6, § 1.)

### § 8902E. Definitions.

"Behavioral health professional." —

A school employee whose position is health care practitioner or social or human services provider who offers services for the purpose of improving an individual's mental health such as: school counselors; social workers; licensed clinical social workers; school psychologists; and school nurses.

(83 Del. Laws, c. 6, § 1.)

### § 8903E. Procedure.

Each year every school district throughout this state shall conduct a study to determine those behavioral health professionals who are deserving of the title "Behavioral Health Professional of the Year" from that district. One Behavioral Health Professional of the Year may be selected to represent all of the charter schools in the State. The selection process will follow the guidelines developed by the Department of Education which includes input from behavioral health professionals, administrators and Department of Education staff. After the districts make their selections, the state-wide Behavioral Health Professional of the Year shall be selected following the current guidelines.

(83 Del. Laws, c. 6, § 1.)

### § 8904E. Range of awards.

(a) Those individuals who are chosen Behavioral Health Professional of the Year in their respective district shall be nominated for the Behavioral Health Professional of the Year Award.

(b) Those individuals who are chosen Behavioral Health Professional of the Year for their respective school districts will be awarded $2,000.

(c) The individual who is chosen state Behavioral Health Professional of the Year shall be awarded $3,000 in addition to the district level award.

(83 Del. Laws, c. 6, § 1.)

### § 8905E. Fund established.

(a) A special fund of $5,000 shall be set aside within the budget of the Department of Education, which fund shall be known and referred to as the "Behavioral Health Professional of the Year Award."

(b) Each annual recipient of the Behavioral Health Professional of the Year Award pursuant to this chapter shall have set aside from the Behavioral Health Professional of the Year Award Fund, for that recipient's exclusive assignment and disbursement, an amount equal to $5,000. The award recipient shall not directly receive the funds so set aside, but may make such withdrawals as are necessary for that recipient's educational purposes and objectives as herein authorized.

(c) The Fund established by this section shall be distinct from, and in addition to, the money directly given to the individual behavioral health professionals as specified in § 8904E of this title.

(83 Del. Laws, c. 6, § 1.)

### § 8906E. Use of funds.

(a) The Department of Education shall adopt and promulgate rules and regulations concerning the use to which Behavioral Health Professional of the Year Award funds may be assigned by the designated recipient.

(b) The amount set aside for designation by an award recipient shall be expended solely to accomplish educational purposes or objectives for pupils. No amount or portion of such award shall be used for the personal benefit of the award recipient; provided, however, that in the use of such funds for educational purposes the recipient may be an indirect or incidental beneficiary as behavioral health professional of the benefited pupils. In the event that all funds set aside for an award recipient have not been completely expended by that recipient at the time when a subsequent award is granted, the remainder of the former recipient's award shall not revert, but shall remain set aside in the name of such former recipient until such time as it is totally expended or the recipient dies or leaves the State.

(c) The recipient shall present to the superintendent of the school district in which that recipient is employed a plan for utilization of the award. Such submission shall not waive the right of the recipient to judge and choose but shall be in order to avoid wasteful duplication of materials or violation of school district policy regarding students, materials or activities. The principal criteria for use of the Behavioral Health Professional of the Year Award Fund ("Fund") shall be that of benefit to pupils. The Fund may be designated for the following:

(1) Purchase of nonconsumable materials and supplies, e.g.: library books; audio visual equipment; crossing signs; computer equipment and programs; musical instruments; specialized furniture.

(2) Purchase of otherwise consumable materials that are by students, e.g.: paper; notebooks; binders; pens; pencils; paints; instruments; wood and metal.

(3) Employment of performers and consultants, e.g.: touring companies of a dramatic or musical group; visiting artist, poet, author, and other subject matter experts.

(4) Student centered professional development for building level behavioral health professionals.

(5) Reimbursements to the recipient, not to exceed $500, for personal expenses.

(d) Where the recipient has purchased materials, equipment or any other durable item with award funds, such item shall be the property of the Delaware school district in which the recipient is employed at the time of the expenditure. Each invoice, purchase order and personal reimbursement form related to withdrawals from Behavioral Health Professional of the Year Award funds shall be retained by the school district and shall be available for inspection as public records and subject to regular audit by the State Auditor of Accounts.

(83 Del. Laws, c. 6, § 1.)

## § 8907E. Pension modifications.

Each Behavioral Health Professional of the Year, on every level, shall have added to that behavioral health professional's final year of salary the dollar amount of that behavioral health professional's Behavioral Health Professional of the Year Award or Awards as enumerated in § 8904E of this title solely for computing the final average compensation for pension purposes.

(83 Del. Laws, c. 6, § 1.)

# Part V
# Miscellaneous

## Chapter 90
## College and University Security Information Act

### § 9001. Short title.

This chapter shall be known and may be cited as the "College and University Security Information Act."

(67 Del. Laws, c. 329, § 1; 69 Del. Laws, c. 90, § 1.)

### § 9002. Participating institutions.

All educational institutions and branch campuses required to comply with the federal "Student Right-To-Know and Campus Security Act" (P.L. 101-542 as amended) are subject to the requirements promulgated herein.

(69 Del. Laws, c. 90, § 1.)

### § 9003. Crime statistics.

(a) Each participating institution shall prepare a report, on at least a monthly basis, of the numbers and types of reported criminal offenses occurring on property owned or controlled by the institution within the same contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or any building or property owned or controlled by student organizations recognized by the institution. Such report shall be public record and shall be provided to any person upon request. Reports prepared pursuant to this subsection shall be consistent with the crime reporting format mandated by 34 C.F.R. Part 668, Section 668.48 "Institutional Security Policies and Crime Statistics."

(b) The crime statistics as reported under subsection (a) of this section shall also be published on an annual basis for the most recent 3-year period, where available, in a campus newspaper or other suitable ways prescribed by the institution's chief executive officer for the information of all students and employees. Institutions with more than 1 campus shall provide the required information on a campus-by-campus basis.

(67 Del. Laws, c. 329, § 1; 69 Del. Laws, c. 90, § 1.)

### § 9004. Disclosure of campus security policy.

(a) Each participating institution shall publish, in conjunction with the annual report of campus crime statistics specified under § 9003(b) of this title, information with regard to campus security policies as required for compliance with Title II of the federal Student Right-To-Know and Campus Security Act (P.L. 101-542 as amended). This information shall be provided to any person upon request.

(b) Each institution shall also develop and adopt written security rules, regulations and procedures. Such rules, regulations and procedures shall include, but need not be limited to, the following information:

(1) Procedures for responding to emergencies or criminal actions.

(2) Procedures for securing campus buildings and residence halls.

(3) Procedures for investigating violations of criminal statutes and university regulations.

(4) Procedures related to campus police and other security personnel activity within student housing facilities which are owned or leased by the institution.

(5) Rules and regulations governing the possession and use of firearms by campus police and other security personnel.

(6) Rules and regulations governing the possession and use of firearms on campus by employees, students and visitors.

(7) Security considerations used in the construction, maintenance, groundskeeping and lighting of campus buildings and grounds.

(8) Methods used to inform the campus community about public safety matters.

(69 Del. Laws, c. 90, § 1.)

### § 9005. Rules and regulations.

The Office of the Attorney General shall be responsible for oversight and implementation of this chapter.

(67 Del. Laws, c. 329, § 1; 69 Del. Laws, c. 90, § 1.)

### § 9006. Enforcement.

(a) Whenever the Attorney General has reason to believe that an institution of higher education is violating or has violated the provisions of this chapter, the Attorney General may bring an action in the name of the State against the institution to compel compliance.

(b) In any action brought by the Attorney General to compel compliance with this chapter, if the court finds that an institution of higher education is wilfully violating this chapter, or if any institution of higher education fails to promptly comply with an order of the court

to comply with this chapter, the Attorney General, acting in the name of the State, may recover on behalf of the State a civil penalty not to exceed $10,000.

(67 Del. Laws, c. 329, § 1; 69 Del. Laws, c. 90, § 1.)

## § 9007. Effective dates.

The first monthly report required under § 9003(a) of this title shall be published by September 4, 1993. Annual reports required under § 9003(b) of this title shall be published no later than September 1.

(69 Del. Laws, c. 90, § 1.)

# Part V
# Miscellaneous

## Chapter 90A
## Sexual Assault Policy for Institutions of Higher Education

(80 Del. Laws, c. 294, § 1.)

### § 9001A. Definitions.

As used in this chapter:

(1) "Academic institution" means an institution of postsecondary education receiving State funds or a private institution of postsecondary education with campuses physically located in Delaware serving over 1,000 students.

(2) "Advocate" means any of the following:

a. An employee or volunteer at a domestic violence shelter or a telephone crisis line for crime victims.

b. An employee or volunteer at an organization whose primary purpose is to provide services for victims of domestic violence or sexual offenses, including sexual assault, stalking, or any abuse.

c. An employee, whose primary job duties are the provision of services to victims of domestic violence, sexual assault, or other crimes.

(3) "Responsible employee" means persons who are any of the following:

a. Faculty, teachers, or professors.

b. Employees of the academic institution who, as part of their job duties, regularly interact with students in a teaching, mentoring, advisory, or supervisory capacity.

c. Persons who serve as an appointed trustee or director of the academic institution.

d. Student employees of an academic institution who, as part of their job duties, have teaching, mentoring, advisory, or supervisory responsibilities with respect to other students. This shall include resident advisors, hall directors, and teaching assistants.

(4) "Sexual assault" means physical contact of a sexual nature perpetrated without consent or where consent is unable to be given.

(80 Del. Laws, c. 294, § 1.)

### § 9002A. Duties of responsible employees, law enforcement, and academic institutions.

(a) Any responsible employee of an academic institution who is informed by the victim of an alleged sexual assault upon or by a student of the academic institution, shall immediately make an offer to the victim to notify the law-enforcement officers or public-safety officials who service the academic institution of the allegation. If the victim requests such a notification, the responsible employee shall make the report to law enforcement or public safety within 24 hours. Where the academic institution does not have law-enforcement officers or public-safety officials of its own, the responsible employee shall make an offer to notify municipal or state law-enforcement officers having jurisdiction over the alleged assault. Such an offer to report is required only where the alleged sexual assault occurred while the victim or perpetrator was on campus, or was enrolled as a student at the academic institution, unless the sexual assault occurred when such victim was a minor, in which case it must be reported consistent with the requirements of Chapter 9 of Title 16. Any responsible employee of an academic institution who is informed by the victim of an alleged sexual assault that occurred on campus even if the victim or perpetrator are not students, shall immediately make an offer to the victim to notify the law-enforcement or public-safety officials who service the academic institution of the allegation within 24 hours.

(b) The responsible employee shall inform the victim of the alleged sexual assault of the employee's duty to offer to report to law-enforcement officers. The responsible employee shall inform the victim that crime victims are afforded certain rights in criminal proceedings in Delaware and provide or direct the victim to a copy of the Victims' Bill of Rights in Chapter 94 of Title 11 or a summary version thereof approved by the Department of Justice. Responsible employees shall provide information regarding confidential medical, counseling, and advocacy services available to victims on campus, as well as appropriate off-campus services available to victims. Academic institutions shall require responsible employees to document compliance with this section as part of the responsible employee's requirement to report to the Title IX coordinator. Responsible employees shall maintain a victim's confidentiality so far as it does not conflict with any requirements of federal law.

(c) If law-enforcement officers or public-safety officials serving an academic institution receive a report, pursuant to subsection (a) of this section, of an alleged assault that took place outside of their jurisdiction, they shall within 24 hours of receiving the report notify the municipal or state law-enforcement agency having jurisdiction over the offense.

(d) Law-enforcement agencies shall make reasonable efforts to ensure a victim's privacy when contacting a victim and shall inform the victim of their rights pursuant to the Victims' Bill of Rights in Chapter 94 of Title 11. Law-enforcement agencies shall provide information regarding confidential medical, counseling, and advocacy services available to victims on campus, as well as appropriate off-campus services available to victims.

(e) An academic institution is accountable under § 9005A of this title for the compliance of its responsible employees with the requirements of this section, as well as the compliance of any law-enforcement or public-safety officers who are employees of the academic institution.

(80 Del. Laws, c. 294, § 1.)

## § 9003A. Exceptions.

(a) No responsible employee is required to make an offer to report an alleged sexual assault where the information was obtained through any communication considered privileged or confidential under state or federal law.

(b) No responsible employee is required to make an offer to report an alleged sexual assault if that employee is an advocate.

(c) No responsible employee is required to make an offer to report an alleged sexual assault disclosed at any student-led speak out events.

(80 Del. Laws, c. 294, § 1.)

## § 9004A. Training.

(a) Academic institutions shall provide training to responsible employees regarding the prevalence and nature of sexual assaults on college campuses, the requirements of this chapter, and the reporting requirements under Title IX of the Education Amendments of 1972 [20 U.S.C. § 1681 et seq.], or any regulations or guidance promulgated thereunder. This training shall ensure that responsible employees are trained to respond to disclosures of sexual assaults using best practices with regard to a victim-centered, trauma-informed approach.

(b) All new employees are required to complete training within 3 months of beginning work as a responsible employee.

(c) All responsible employees are required to complete a refresher training at least every 2 years.

(d) All newly enrolled full-time students are required to complete a training in sexual assault prevention, awareness, the requirements of this chapter, and the reporting requirements under Title IX of the Education Amendments of 1972 [20 U.S.C. § 1681 et seq.], or any regulations or guidance promulgated thereunder.

(e) Academic institutions shall require at-risk student populations, as designated by the academic institution's Title IX coordinator, to receive additional training in sexual assault prevention, awareness and the requirements of this chapter, oriented specifically to the unique situations of each student population.

(80 Del. Laws, c. 294, § 1; 84 Del. Laws, c. 521, § 1.)

## § 9005A. Penalty for violation.

(a) Any academic institution that violates § 9002A, § 9004A, or § 9006A(a) of this title may be liable for a civil penalty not to exceed $10,000 for the first violation, and not to exceed $25,000 for each second or subsequent violation within a 5-year period. Any penalty collected under this provision shall be paid to the Criminal Justice Council, to be deposited in a fund for the benefit of sexual assault survivors at academic institutions, and for use in other sexual assault awareness and prevention programs. To the extent practicable, penalty moneys shall be used for the benefit of sexual assault survivors and for programs at the academic institution that paid the penalty, or for generalized statewide prevention and education programs.

(b) The Department of Justice shall receive and investigate complaints regarding violations of this chapter and is empowered to seek enforcement of penalties under this section in a court of competent jurisdiction or engage with an academic institution to remediate or correct violations.

(80 Del. Laws, c. 294, § 1.)

## § 9006A. Annual report.

(a) By July 1 of each year, an academic institution is required to make a report to the Department of Justice detailing the following information for the prior academic year:

(1) Certify its compliance with the training requirements of this section. The certification shall include information on training participation rates for faculty, staff, and students, as well as information regarding the format and length of training for each group.

(2) Total number of reports of sexual assault made to the academic institution's Title IX coordinator. The report shall include aggregate data regarding the nature of the assault, the outcomes of any investigation, and any penalties enforced by the school against the perpetrator of a sexual assault where the assault was found substantiated.

(3) Where the academic institution has law-enforcement officers or public-safety officials of its own, that campus law-enforcement agency shall provide the aggregated data of the number and nature of alleged sexual assault reports they received.

(b) By July 1 of each year, the Statistical Analysis Center shall submit to the Department of Justice a report on the outcome or status of complaints of violations of §§ 767-773 of Title 11 where the alleged victim or the alleged perpetrator, or both, is a student of an academic institution and whether the alleged offense occurred on campus at an academic institution. The report shall cover the previous academic year. The Statistical Analysis Center may work with the Delaware Criminal Justice Information System to create a mechanism for police reports of such complaints to indicate whether the alleged victim or the alleged perpetrator, or both, is a student of an academic institution and whether the alleged offense occurred on campus at an academic institution as defined in this section.

(c) (1) By September 15 of each year, the Department of Justice shall furnish to the Governor and the General Assembly all the information provided by each academic institution in subsection (a) of this section and the statistical information reported by the Statistical Analysis Center under subsection (b) of this section. This report shall be considered a public record and shall be posted on the Department of Justice website, along with reports from the previous 5 years.

(2) In addition to the current year's data, each report created under this subsection must include the aggregate data collected under this section from the previous 5 years so that data trends are easily identified. The report must also include the rate of change for the number of sexual assaults reported each year.

(d) No reports under this section shall contain any personally identifiable information relating to the alleged victims or perpetrators of a sexual assault.

(80 Del. Laws, c. 294, § 1; 84 Del. Laws, c. 521, § 2.)

## § 9007A. Limitations.

(a) Nothing in this chapter is intended to contravene or interfere with an academic institution's responsibilities under Title IX of the Education Amendments of 1972 [20 U.S.C. § 1681 et seq.], the Clery Act [20 U.S.C. § 1092] or any regulations or guidance promulgated thereunder.

(b) A violation of this chapter does not give rise to a private right of action. Nor shall there be a private right of action based on a good faith attempt by any academic institution or responsible employee to comply with the provisions of this chapter.

(80 Del. Laws, c. 294, § 1.)

# Part V
# Miscellaneous

## Chapter 90B
## Student Identification Cards

(83 Del. Laws, c. 404, § 2.)

### § 9001B. Publication of safety hotline numbers.

(a) Every public institution of higher learning in this State that issues student identification cards shall have printed on either side of the student identification card the following public safety telephone and text numbers:

(1) National Suicide Prevention Lifeline: Call or text “988”.

(2) National Domestic Violence Hotline: 1-800-799-7233(SAFE).

(3) Crisis Text Line:Text “DE” to 741741.

(4) Local campus police or campus security phone number.

(b) Every public institution of higher learning in this State that issues student identification cards, in addition to printing the required public safety numbers listed in subsection (a) of this section on the student identification card, may also print the following telephone number for the National Sexual Assault Hotline: 1-800-656-4673(HOPE).

(c) If any of the numbers listed in subsection (a) or (b) of this section have been updated, the most updated numbers must be printed on the student identification card when the card is reissued or reprinted.

(d) If a public institution of higher learning has unissued student identification cards that do not comply with the requirements of subsection (a) of this section, the institution may continue to issue the identification cards until the institution’s supply of the identification cards is depleted.

(83 Del. Laws, c. 404, § 2; 84 Del. Laws, c. 108, § 2; 85 Del. Laws, c. 261, §§ 1, 2, § 4.)

# Part V
# Miscellaneous
## Chapter 90C
## Ban the Box Act

(83 Del. Laws, c. 478, § 1.)

### § 9001C. Short title.

This chapter may be known as and cited as the "Ban the Box Act."

(83 Del. Laws, c. 478, § 1.)

### § 9002C. Definitions.

For purposes of this chapter:

(1) "Academic institution" means an institution of postsecondary education receiving state funds or a private institution of postsecondary education with campuses physically located in Delaware.

(2) "Applicant" means a prospective student applying for admission to an academic institution.

(3) "Conviction" means a verdict of guilty by the trier of fact, whether judge or jury, or a plea of guilty, or a plea of nolo contendere accepted by the court.

(83 Del. Laws, c. 478, § 1.)

### § 9003C. Consideration of criminal history; prohibited acts; disclosure of policy.

(a) (1) Except as provided in this subsection, an academic institution shall not inquire about an applicant's criminal history on an initial application form or at any time during the admissions process prior to the institution's decision relative to the prospective student's acceptance for admission.

(2) An academic institution may inquire on an initial application form about an applicant's criminal conviction history relative to any conviction for an offense of stalking or a "sexual offense" as defined in § 761 of Title 11 or an offense under the laws of another state or under any military, territorial, foreign, tribal, or federal law that is equivalent to any of these offenses. If the institution elects to deny admission based on any such conviction, it shall notify the applicant, who may appeal the decision to the entity within the institution that considers the institution's disciplinary matters.

(b) (1) After an applicant has been accepted for admission, an academic institution may make inquiries relative to the applicant's criminal conviction history, not limited to the offenses enumerated in paragraph (a)(2) of this section, for the following purposes:

a. Offering supportive counseling and services.

b. Making decisions relative to the student's participation in campus life and determining if the institution will limit such participation.

(2) An institution may make such inquiries when obtaining secondary information, including information pertaining to immunizations, financial aid, or housing. If an institution elects to make such inquiries, the institution shall consider all of the following:

a. The nature and gravity of the criminal conduct and whether it bears a direct relationship to a particular aspect of a student's participation in campus life, including campus residency and campus activities.

b. The time that has passed since the occurrence of the criminal conduct.

c. The age of the student at the time of the conduct underlying the criminal conviction.

d. Any evidence of rehabilitation or good conduct produced by the student.

(3) After an applicant has been accepted for admission, an institution may consider the applicant's criminal conviction history if the applicant applies for or enrolls in a teacher preparation program or other program, offered by the institution, for which information pertaining to the applicant's criminal conviction history is disclosed to a state agency in connection with a licensing or certification process. The purpose of such consideration shall be limited to the offering of counseling as provided in paragraph (c)(1) of this section.

(c) (1) An academic institution shall not deny based solely on criminal conviction history admission to or continuation in an academic program designed to prepare a student for a career that requires an occupational license or a teaching certificate. The institution shall offer counseling relative to the licensing or certification requirement in order to assist a student in making an informed decision about pursuing such a program.

(2) Academic institutions may consider criminal conviction history if information pertaining to such history is provided on an application that is designed by a national application service, tailored for admission to a specific degree program and used by postsecondary education institutions in multiple states.

(d) Each academic institution shall publish any policy adopted pursuant to this section on its publicly accessible website or, if no policy has been adopted, a statement describing the academic institution's compliance with this section.

(83 Del. Laws, c. 478, § 1.)

## § 9004C. Department of Education; reporting.

(a) (1) Under this chapter, the Department of Education shall compile and complete an annual report of admissions from each academic institution and submit the report to the Controller General, with copies to the Chairpersons of the Senate and House of Representatives Education Committees, the Senate Corrections and Public Safety Committee, and the House of Representatives Corrections Committee, before June 1 of each year.

(2) The annual report shall include the following statistics:

a. The race of each accepted student.

b. The race of each applicant.

c. The gender each accepted student.

d. The gender of each applicant.

e. The number of applicants eligible for Pell Grants.

f. The number of accepted students who receive Pell Grants.

(3) The annual report shall include all application forms used by any academic institution whose data is reported under this section.

(b) The Department of Education shall cease reporting by October 21, 2029.

(83 Del. Laws, c. 478, § 1.)

# Part V
# Miscellaneous

## Chapter 90D

## Livestreaming Board of Trustees Meetings of Public Institutions of Higher Education [Transferred]

(83 Del. Laws, c. 533; 84 Del. Laws, c. 233, § 29.)

### § 9001D. Board of Trustees meetings; livestreaming requirements [Transferred].

Transferred to § 10008 of Title 29 by 84 Del. Laws, c. 233, § 29, effective Sept. 21, 2023.

# Part V
# Miscellaneous

## Chapter 90E
## Advanced Placement Examination Credit

(84 Del. Laws, c. 246, § 1.)

### § 9001E. Definitions.

As used in this chapter:

(1) “Advanced placement examination” means any examination administered through the College Board’s Advanced Placement Program.

(2) “Institution” means an in-state public institution of higher learning that offers freshman-level courses, including the University of Delaware, Delaware State University, and Delaware Technical and Community College.

(84 Del. Laws, c. 246, § 1.)

### § 9002E. Advanced placement examination policy.

(a) Each institution shall adopt and implement a policy granting undergraduate course credit to incoming students for all advanced placement examinations upon which a student receives a score of 3 or higher for any similarly-correlated course offered by the institution.

(b) The institution may require a score higher than 3 if the credit is to be used for meeting a course requirement for a particular major or program at the institution. If a student’s score of 3 or higher on an advanced placement examination does not satisfy a course requirement for a particular major or program, the student shall receive course credit for that examination in an area outside of the student’s particular major or program area.

(c) Each institution must publish on its website a list determining the number and type of credits awarded for each advanced placement examination score available for institutional credit.

(84 Del. Laws, c. 246, § 1.)

# Part V
# Miscellaneous

## Chapter 90F
## Access to Medication for the Termination of Pregnancy and Emergency Contraception

(84 Del. Laws, c. 436, § 1.)

### § 9001F. Definitions.

As used in this chapter:

(1) "Provider" means an individual who is authorized to prescribe medication for the termination of pregnancy or emergency contraception within the individual's scope of practice.

(2) "Student" means an individual that is enrolled in the university where student health services are provided.

(3) "University" means an institution of postsecondary education receiving state funds with campuses physically located in Delaware.

(84 Del. Laws, c. 436, § 1.)

### § 9002F. Access to medication for the termination of pregnancy and emergency contraception.

Except as provided under § 9004F of this title, each university with a student health center shall offer both of the following, on-site:

(1) Medication for the termination of pregnancy.

(2) Emergency contraception, whether it is available over the counter, with a prescription, or dispensed consistent with the requirements of Chapter 25 of Title 24.

(84 Del. Laws, c. 436, § 1.)

### § 9003F. Provision of services.

A consultation to provide services under this chapter may be performed by a provider at the student health center or by a provider who is associated with a university-contracted external agency.

(84 Del. Laws, c. 436, § 1.)

### § 9004F. Exceptions.

A university that has a student health center but is not equipped or staffed to provide medication abortion must do all of the following:

(1) Provide information and referral services for medication abortion to students at the student health center. The referral must be to qualified healthcare providers who can lawfully administer medication abortion.

a. The referral process must include providing students with contact information for at least 2 qualified healthcare providers, including telehealth providers.

b. If a student requests telehealth services, the university shall provide a private space for the student to engage in the telehealth appointment.

(2) Ensure the university health services website provides comprehensive information and resources for students regarding reproductive services, including prenatal care and termination of pregnancy. The information must include all of the following:

a. Instructions on scheduling an appointment with student health services for pregnancy testing and to discuss pregnancy options.

b. Contact information for the university's mental health services.

c. Links and contact information for campus resources that assist with receiving requests for academic accommodations, including absences, rescheduling exams, or adjusting other academic requirements during recovery from pregnancy or a medical treatment.

(84 Del. Laws, c. 436, § 1.)

### § 9005F. Confidentiality.

A university shall keep confidential information that a student provides to the university regarding a request for a referral for medication abortion, emergency contraception, or counseling regarding reproductive health care, to the extent that the information is not already protected as confidential under the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d-2).

(84 Del. Laws, c. 436, § 1.)

# Part V
# Miscellaneous

## Chapter 90G
## Background Checks

(85 Del. Laws, c. 403, § 1.)

### § 9001G. Background checks; general.

Criminal background checks and Child Protection Registry checks are required for all employees, contractors, and volunteers working for or with child-serving entities, as those terms are defined and in accordance with the procedures set forth under § 309 of Title 31.

(85 Del. Laws, c. 403, § 1.)

### § 9002G. Student Mentoring Program.

(a) An individual providing or seeking to provide mentorship to 1 or more students through a mentoring program under the Department of Education must submit to a criminal background check and Child Protection Registry check.

(b) An individual required to obtain a background check under this section must submit fingerprints and other necessary information to the State Bureau of Identification in order to obtain a Delaware and national criminal history background check. The following reports must be obtained:

(1) A report of the individual's entire state criminal history record information from the State Bureau of Identification or a statement that the State Bureau of Identification Central Repository contains no information relating to that individual.

(2) A report of the individual's entire federal criminal history record information from the Federal Bureau of Investigation or a statement that the Federal Bureau of Investigation's records contain no information relating to that individual.

(c) The State Bureau of Identification must forward all information obtained under paragraphs (b)(1) and (b)(2) of this section to the individual responsible for overseeing the mentorship program under the Department of Education.

(d) If an individual providing or applying to provide mentorship to 1 or more students through a mentoring program under the Department of Education obtains a background check under this section, the State Bureau of Identification must provide all of the following to the Secretary or the Secretary's designee for 1 year:

(1) Any subsequent state criminal history record information of the individual.

(2) Any subsequent criminal history record information of the individual available through the Rap Back System as defined under § 8502 of Title 11, if the Rap Back System is available.

(e) The individual overseeing a mentorship program under the Department and the Secretary or the Secretary's designee has the right to review and use criminal background information obtained under this section to the extent permitted by § 309(d) of Title 31, including to determine eligibility to serve as a volunteer mentor.

(f) All costs associated with a criminal background check under this section must be paid by the Department of Education.

(g) The Department is authorized to promulgate regulations as necessary to give effect to this section.

(85 Del. Laws, c. 403, § 1.)

# Part VI
# Delaware Technical and Community College

## Chapter 91
## Administrative Provisions

### Subchapter I
### General Provisions

(82 Del. Laws, c. 21, § 2.)

### § 9101. Definitions.

As used in this chapter:

(1) “Board” means the Board of Trustees of the Delaware Technical and Community College.

(2) “Fund” means the Community College Infrastructure Fund.

(3) “Institution” means such institutions of higher learning as may be from time to time established by the Board.

(4) “The College” means the Delaware Technical and Community College.

(14 Del. C. 1953, § 9101; 55 Del. Laws, c. 374, § 1; 58 Del. Laws, c. 19, §§ 1, 2; 82 Del. Laws, c. 21, §§ 2, 3.)

### § 9102. Board of Trustees — Creation.

There shall be a Board of Trustees of the Delaware Technical and Community College which shall be a state agency.

(14 Del. C. 1953, § 9102; 55 Del. Laws, c. 374, § 1; 58 Del. Laws, c. 19, § 1; 82 Del. Laws, c. 21, § 2.)

### § 9103. Board of Trustees — Composition; qualifications; chair; appointment; term; compensation; vacancy; quorum.

(a) The Board shall consist of 7 trustees.

(b) The trustees shall be appointed by the Governor by and with the consent of a majority of the members elected to the Senate.

(c) Six trustees shall be appointed for terms of 3 years each, commencing, in each case, from the date of appointment. The 6 trustees appointed for a term of 3 years shall reside: 1 in the City of Wilmington, 1 in the remainder of New Castle County, 1 in Kent County and 1 in Sussex County. The other 2 members may reside anywhere in the State. The seventh member may reside anywhere in the State; shall serve at the pleasure of the Governor and shall be chair of the Board. The chair may be removed at any time by the Governor and shall serve until removed by the Governor.

(d) No more than 4 trustees shall be members of the same political party.

(e) Each trustee shall be a citizen of the United States, a qualified voter of this State and a resident of this State for at least 3 years preceding that trustee’s appointment.

(f) A trustee shall continue to reside in the political subdivision of which the trustee was a resident at the time of that trustee’s appointment.

(g) In case of a vacancy on the Board for any reason other than expiration of the term of office, the Governor shall fill such vacancy for the unexpired term by and with the consent of a majority of the members elected to the Senate.

(h) No member of the Board shall receive any compensation for that member’s duties except that the member may receive actual travel expenses.

(i) Four members of the Board shall constitute a quorum. A majority of the members present at any meeting and constituting a quorum shall be sufficient for any action by the Board.

(14 Del. C. 1953, § 9103; 55 Del. Laws, c. 374, § 1; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 21, § 2.)

### § 9104. Purpose and object.

The purpose of the College shall be to operate or make available public institutions of learning for persons who have graduated from high school or who are unable to attend public high schools.

(14 Del. C. 1953, § 9104; 55 Del. Laws, c. 374, § 1; 56 Del. Laws, c. 35; 58 Del. Laws, c. 19, § 2; 82 Del. Laws, c. 21, § 2.)

### § 9105. Powers and duties of Board.

(a) The Board may establish such institutions of learning throughout the State as may be necessary to effectuate the purposes of this chapter.

(b) The Board may contract with the University of Delaware, or with any other institution or organization, so that the University or other institution or organization shall establish or offer a 2-year college parallel program or associate degree program, and the Board shall

provide necessary funds to meet the entire cost of the establishment or operation of such program, and shall furnish facilities, equipment and supplies therefor. If the Board shall enter into such a contract with the University of Delaware, the Board of Trustees of the University of Delaware shall have, with respect to such 2-year college parallel program or associate degree program, the same powers which it has with respect to the affairs of the University of Delaware by virtue of its charter or the statutes of this State.

(c) The Board shall have custody of and be responsible for the property of the institutions and shall be responsible for the management and control of said institutions.

(d) For the effectuation of the purposes of this chapter the Board, in addition to such other powers expressly granted to it by this chapter, shall have the following powers:

(1) To select such officers, except the chair, as it may deem desirable, from among its own membership;

(2) To adopt or change the name of the institutions established by it;

(3) To adopt and use a seal;

(4) To sue and be sued;

(5) To determine the educational program of the institutions;

(6) To appoint members of the administrative and teaching staffs of the institutions and to fix their compensation and terms of employment;

(7) To appoint or employ such other officers of the institutions, agents and employees as may be required to carry out this chapter and to fix and determine their qualifications, duties, compensation, terms of office or employment and all other terms and conditions of employment;

(8) To fix schedules of tuition rates and fees for educational services at the institutions;

(9) To grant diplomas, certificates or degrees;

(10) To enter into contracts;

(11) To accept from any government or governmental agency, or from any other public or private body, or from any other source, grants or contributions of money or property (conditional or otherwise) which the Board may use for or in aid of any of its purposes;

(12) To acquire (by gift, purchase, condemnation or otherwise), own, lease, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for educational purposes;

(13) To determine that any property owned by the College is no longer necessary for educational purposes and to dispose of the same in such manner and upon such terms and conditions as shall be established by it;

(14) To make and promulgate such rules and regulations, not inconsistent with this chapter, that are necessary and proper for the administration and operation of the institutions and for the conduct of the business of the Board;

(15) To exercise all other powers not inconsistent with this chapter, which may be reasonably necessary or incidental to the establishment, maintenance and operation of higher learning institutions;

(16) To employ such persons as deemed desirable.

(14 Del. C. 1953, § 9105; 55 Del. Laws, c. 374, § 1; 56 Del. Laws, c. 35, § 2; 58 Del. Laws, c. 19, § 2; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 307, § 298; 82 Del. Laws, c. 21, § 2.)

## § 9106. Transfer of property.

Within applicable provisions of law, any department or agency of the state government, and any subdivision of the State may sell, give, lease, or otherwise make available any of its property to, or for use by, the Board.

(14 Del. C. 1953, § 9106; 55 Del. Laws, c. 374, § 1; 82 Del. Laws, c. 21, § 2.)

## § 9107. Donations; misnomer.

Devises, bequests, grants and gifts to the College or any of its institutions shall not be avoided by any misnomer, if the description can be understood with reasonable certainty.

(14 Del. C. 1953, § 9107; 55 Del. Laws, c. 374, § 1; 58 Del. Laws, c. 19, § 2; 82 Del. Laws, c. 21, § 2.)

## § 9108. Treasurer’s bond.

The treasurer of the Board shall give bond with good and sufficient security to the State in the sum of $10,000, conditioned for the faithful application of all the moneys received. The bond shall be approved by the trustees and shall be deposited in the office of the Secretary of State.

(14 Del. C. 1953, § 9108; 55 Del. Laws, c. 374, § 1; 82 Del. Laws, c. 21, § 2.)

## § 9109. Aid to needy Delaware students.

(a) There is established a program to provide financial aid to needy Delaware residents who are enrolled or selected as students of the Delaware Technical and Community College to the end that all students from all economic levels should have an opportunity to obtain the technical training needed and that the State should not be denied the benefit of persons who are highly trained in technical areas.

(b) The aid program shall be administered by an officer of the Delaware Technical and Community College who is designated by the president as responsible for the institution's financial aid program.

(c) Each applicant for aid shall provide, on forms supplied by the college, all biographical and financial information needed, together with a parents' financial statement. Financial grants shall not be for any fixed amount per student and grants shall be made available to students who have qualified to matriculate or to continue their courses of study solely upon the basis of economic need. All grants shall be for 1 year or for 1 semester and may be renewed if a qualified student reapplies in the same manner required for an initial request for assistance.

(59 Del. Laws, c. 495, § 1; 82 Del. Laws, c. 21, § 2.)

### § 9110. Name of campus in Kent County.

The Kent County campus of the Delaware Technical and Community College shall be named "Charles L. Terry, Jr. Campus."

(60 Del. Laws, c. 367, § 1; 82 Del. Laws, c. 21, § 2.)

### § 9111. Name of campus in Sussex County.

The Sussex County campus of the Delaware Technical and Community College shall be named "Jack F. Owens Campus."

(70 Del. Laws, c. 41, § 1; 82 Del. Laws, c. 21, § 2.)

### § 9112. Name of campus in Wilmington.

The Wilmington campus of the Delaware Technical and Community College shall be named "Orlando J. George, Jr. Campus."

(79 Del. Laws, c. 241, § 1; 82 Del. Laws, c. 21, § 2.)

## Subchapter II

## Community College Infrastructure Fund

(82 Del. Laws, c. 21, § 4.)

### § 9130. Establishment of Community College Infrastructure Fund; purposes; limitations.

(a) (1) There is established within the Office of the State Treasurer a special account to be known as the "Community College Infrastructure Fund", with the intent that the General Assembly fund said account by an annual appropriation of at least $10 million through Fiscal Year 2029. Further, it is the intent that the General Assembly fully fund the College's annual capital improvement request for critical capital needs/deferred maintenance. At the end of Fiscal Year 2029, the College shall report on its progress in addressing its deferred maintenance needs and submit a reevaluation of the College's deferred maintenance needs to the General Assembly and the Governor. College requests for major capital construction shall continue to be funded through the annual major capital improvement budgetary process.

(2) Additional nonappropriated amounts may be deposited by the College from other available sources including, but not limited to, student tuition and fees, private funds, nonstate grants and federal support.

(b) The authorization amounts deposited into the Fund pursuant to paragraph (a)(1) of this section hereof are to be used to pay all or a portion the following:

(1) Costs associated with major and minor capital improvements that the Board deems necessary for the sound expansion and development of the College, including equipping buildings and facilities, together with the incidental acquisition of land.

(2) Costs associated with the maintenance and preservation of major and minor capital improvements.

(3) Costs associated with enhancements to technology including the acquisition of computer hardware and software to support instruction, student services, and administration.

(c) The nonappropriated amounts deposited into the Fund pursuant to paragraph (a)(2) of this section hereof are to be used for the following:

(1) Costs listed in subsection (b) of this section above.

(2) Principal and interest on promissory notes or bonds issued by the College under this subchapter.

(3) Expenses associated with the issuance of promissory notes or bonds by the College or any expenses associated with the issuance of bonded indebtedness by the State to acquire a like principal amount of promissory notes or bonds issued by the College and for the purpose of refunding or refinancing outstanding issues of such bonds issued by the State.

(d) No portion of the Fund may be used to pay the operating expenses of the College.

(e) The Fund may be divided into 2 or more subaccounts: 1 subaccount for the amounts deposited in the Fund that constitute authorized amounts as set forth in paragraph (a)(1) of this section; and 1 subaccount for the nonappropriated funds in the Fund that constitute amounts as set forth in paragraph (a)(2) of this section. Each such subaccount may be divided further into additional subaccounts.

(f) The State Treasurer is authorized and directed to draw warrants or drafts on such Fund in the amount of the principal of and interest on the state bonds or other obligations incurred to acquire a like principal amount of the College's promissory notes or bonds as the same shall become due and payable, and to deposit such money, so drawn, to the credit of the General Fund of the State.

(g) Warrants or drafts on the Fund drawn by the College must be applied only for the purposes authorized by this chapter.

(h) The principal and interest on promissory notes or bonds issued by the College under this chapter shall be payable solely from amounts on deposit in the Fund that constitute nonappropriated funds pursuant to paragraph (a)(2) of this section above and which are specifically pledged in each case by a certification from the Board, such certification to cover the sufficiency of such available nonappropriated funds to pay debt service on any such promissory notes or bonds issued hereunder.

(i) Any promissory notes or bonds issued by the College under this chapter shall bear interest at a rate equal to the rate payable on bonds of the State issued to provide the moneys deposited into the Fund pursuant to subsection (a) of this section plus an amount to cover administrative expenses of the State in connection with such financing in an amount not exceeding ¼ of 1% per annum.

(82 Del. Laws, c. 21, § 4; 84 Del. Laws, c. 83, § 143(b).)

## § 9131. Power of Board to issue promissory notes or bonds.

(a) The Board may issue promissory notes or bonds payable to the State for the purpose of carrying out any plan or program for the acquisition of lands, acquisition or construction of buildings, improvements to lands or buildings, or acquisition of equipment as may be authorized by this chapter.

(b) Notwithstanding subsection (a) of this section, the Board may not issue promissory notes or bonds until the promissory notes or bonds and the corresponding plan or program under subsection (a) of this section have been authorized by the General Assembly in a bond and capital improvement act.

(82 Del. Laws, c. 21, § 4.)

## § 9132. Faith and credit of the College; exemption of bonds from taxation.

The faith and credit of the College is expressly pledged for the full and complete payment of the principal of and interest on any promissory notes or bonds authorized to be issued under this chapter. Bonds or notes issued under this chapter shall not be deemed to constitute a debt or liability of the State or any political subdivision thereof, other than the College, or a pledge of the faith and credit of the State or any such political subdivision, other than the College, but shall be paid solely from the funds provided therefor. Bonds to be issued under this chapter are exempt from taxation, with respect to both principal and interest, by the State or any political subdivision of the State for any purpose.

(82 Del. Laws, c. 21, § 4.)

## § 9133. Validity of bonds; incontestability.

When any bonds are sold and delivered under this chapter, the certification by the Board that the bonds have been issued in due compliance with this chapter is conclusive upon the College and every person of the right, power, and authority for the issuance of the bonds, the legality and validity of the bonds, and the principal debt and interest represented by the bonds. After the certification is issued, the legality and validity of the bonds may not be subject to question in any court by the College or by any person for or on its behalf. This section must be made part of the contract and obligation represented by each bond sold and delivered under this chapter.

(82 Del. Laws, c. 21, § 4.)

## § 9134. Procedure governing sale of bonds to State.

The State shall purchase any bonds and/or promissory notes to be issued by the College under the authority contained in this chapter or under any other provision of law of this State at private sale. The State may require that the validity of the bonds be approved by the Attorney General or the Attorney General’s designee. The Board shall cause a complete record of the proceedings taken in relation to the issuance of the bonds to be made and kept with the Board’s other records.

(82 Del. Laws, c. 21, § 4.)

## § 9135. Terms and form of bonds.

Bonds issued under this chapter must meet all of the following conditions:

(1) Be in such denomination, in such form, and bear such rate of interest as determined by the State under § 7506 of Title 29; provided, however, that the Board must be consulted regarding the term of such bonds.

(2) Bear interest from and after their date, payable semiannually on the days designated in the bonds.

(3) Consist of a single bond registered as to both principal and interest with the principal of the bonds payable in installments and interest on the bonds payable semiannually. The amounts of principal payable, the dates on which such payments are due, and the dates on which the interest is due must be noted on the bond form.

(4) The bonds must be payable in serial installments beginning not more than 1 year after the date of the bonds and ending not more than 20 years after such date. The amount of any installment payable in any 1 year, except the last year, must be not less than 1/20 of the aggregate principal amount of the bonds of such issue.

(82 Del. Laws, c. 21, § 4.)

## § 9136. Designation, numbering, and date of bonds.

Any bonds issued under this chapter must be designated by the name of the College and the year in which the bonds are issued. The bonds must be numbered consecutively and bear the date approved by the Board. Each of the bonds must be numbered consecutively and the coupons attached to the bonds must bear the same number as the bond itself.

(82 Del. Laws, c. 21, § 4.)

## § 9137. Place of payment of principal and interest.

The principal of and interest on the bonds must be payable at a state or national bank within or without the State designated by the issuing officers, as "issuing officers" is defined in § 7401 of Title 29.

(82 Del. Laws, c. 21, § 4.)

## § 9138. Signing and sealing bonds.

The bonds must be signed by the president of the College, or the chair, and 1 other member of the Board. The Board may adopt a seal to be used in the execution of the bonds. The Board may, in lieu of the signatures required by this section, authorize by special resolution that the signatures of the individuals required to sign the bonds may be engraved or facsimiles of the signatures printed or otherwise transcribed upon the bonds. If such engraved or facsimile signatures are authorized and engraved, printed, or otherwise impressed upon the bonds, the signatures have the same effect as written signatures.

(82 Del. Laws, c. 21, § 4.)

## § 9139. Temporary bonds.

Until bonds in definite form are prepared, the Board may cause temporary bonds with appropriate coupons to be prepared. Temporary bonds must be executed and signed as provided in §§ 9135 through 9138 of this title. Temporary bonds may be exchanged for definitive bonds at the request of the holder.

(82 Del. Laws, c. 21, § 4.)

## § 9140. Cancellation and destruction of paid bonds.

After any bonds issued under the authority of this chapter or the coupons annexed to the bonds have been paid, the bonds or coupons must be immediately cancelled, a record of payment must be made, and the bonds or coupons must destroyed.

(82 Del. Laws, c. 21, § 4.)

## § 9141. Replacement of lost, destroyed, or defaced bonds.

(a) Upon written request of the owner of the unmatured bond, or the owner's legal representative, successor, or assign, the Board may issue a new bond to replace an unmatured bond which has been lost, destroyed, or defaced if all of the following are provided:

(1) Proof of ownership of the unmatured bond.

(2) Proof of loss or destruction, or, in the case of a defaced bond, the bond and coupons, if any.

(3) Adequate security to indemnify the College and any bank at which the bond and coupons are payable against any loss that may be suffered on account of such replaced bond and coupons.

(4) Payment of the cost of preparation of the new bond and coupons, if any.

(b) Any new bond and coupons must be executed by the officials, including a member of the Board, in office at the time the new bond is issued and must bear the seal of the College. The coupons, if any, must be signed by the facsimile of the signatures of the appropriate officers. The new bond must include a statement in substantially the following form: "This bond has been reissued to replace a lost, destroyed, or defaced bond."

(c) The new bond must be authorized by a resolution of the Board that must include a copy of the written request of the owner or the owner's legal representative, successor, or assign and the designation, date, maturity, interest rate, denomination, and number of the new bond.

(82 Del. Laws, c. 21, § 4.)

## § 9142. Rules and regulations governing fiscal records pertaining to bonds.

The Budget Commission, established by Chapter 63 of Title 29, shall promulgate and enforce rules and regulations governing the fiscal records to be maintained by the State Treasurer and the College pertaining to bonds of such College.

(82 Del. Laws, c. 21, § 4.)

# Part VI
# Delaware Technical and Community College

## Chapter 92
## Delaware Higher Education Supplemental Loan Authority

### § 9201. Legislative findings; declaration of purpose; construction of chapter.

(a) The General Assembly makes the following findings:

(1) For the benefit of the people of the State, the conduct and increase of their commerce, the protection and enhancement of their welfare, the development of continued prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and skills;

(2) To achieve these ends it is of the utmost importance that students attending institutions of higher education located in the State have reasonable financial alternatives to enhance their access to such institutions;

(3) Reasonable financial access to institutions of higher education will assist such youth in achieving the optimum levels of learning and development of their intellectual and mental capacities and skills;

(4) There exists a serious problem in this State regarding the ability of students to obtain financing for the cost of education beyond the high school level;

(5) Escalating costs of securing such an education have contributed to the difficulties faced by students in attempting to finance an education;

(6) Without the public action contemplated by this chapter, many students will be forced to postpone or abandon plans for obtaining additional education;

(7) It is in the interests and welfare of the citizens of the State to provide a means for assisting students to continue their education; and

(8) It is necessary to create a Higher Education Supplemental Loan Authority to encourage the investment of private capital in the provision of funds for the financing of student loans.

(b) The General Assembly declares its legislative purpose to:

(1) Provide a measure of assistance and an alternative method to enable students and the families of students attending institutions of higher education located in the State appropriately and prudently to finance the cost or a portion of the cost of such higher education;

(2) To supplement federal guaranteed higher education loan programs, other student loan programs and grant or scholarship programs to provide the needed additional options for the financing of a student's higher education in execution of the public policy recited herein; and

(3) Cause the establishment of the Authority for the benefit of the people of the State, for the improvement of their education, health and welfare, and for the promotion of the economy.

(c) The Authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it and this chapter shall be liberally construed to effect its purposes.

(63 Del. Laws, c. 378, § 1.)

### § 9202. Definitions.

Unless the context clearly requires otherwise, in this chapter the following words have the meanings indicated:

(1) "Authority" means the Delaware Higher Education Supplemental Loan Authority.

(2) "Authority loans" means loans by the Authority to institutions of higher education for the purpose of funding education loans.

(3) "Bond resolution" means the resolution or resolutions of the Authority and the trust agreement, if any, authorizing the issuance of and providing for the terms and conditions applicable to bonds.

(4) "Bonds" means bonds, notes or other evidences of obligation of the Authority issued under this chapter including, without limitation, bond or revenue anticipation notes, notes in the nature of commercial paper and refunding bonds.

(5) "Borrower" means a student who has received an education loan or any parent who has received or agreed to pay an education loan.

(6) "Costs of attendance" means the tuition and fees applicable to a student, together with the institution's estimate of other expenses reasonably related to cost of attendance at that institution including, without limitation, the cost of room and board, transportation, books and supplies.

(7) "Default insurance" means insurance insuring education loans, Authority loans or bonds against default.

(8) "Default reserve fund" means a fund established under a bond resolution for the purpose of securing education loans, Authority loans or bonds.

(9) "Education loan" means a loan which is made by an institution to a student or to parents of a student, or both, in amounts not in excess of the maximum amounts specified by the Authority to finance a part or all of the cost of the student's attendance at that institution.

(10) “Education loan series portfolio” means all education loans made by a specific institution which are funded from the proceeds of an Authority loan to the institution of higher education out of the proceeds of a related specific bond issue through the Authority.

(11) “Institution” means any public or private nonprofit educational institution situated within this State which:

a. Provides a program of education beyond the high school level;

b. Awards an associate’s, bachelor’s or advanced degree;

c. Is accredited by the Commission on Higher Education of the Middle States Association of Colleges and Schools or by a national accrediting association or group recognized by the Council on Postsecondary Accreditation.

(12) “Loan funding deposit” means moneys or other property deposited by an institution with the Authority or a trustee, in amounts the Authority determines necessary as a condition for an institution’s participation in the Authority’s programs to:

a. Provide security for bonds;

b. Fund a default reserve fund;

c. Acquire default insurance; or

d. Defray costs of the Authority.

(13) “Parent” means any parent or guardian of a student at an institution of higher education.

(63 Del. Laws, c. 378, § 1.)

## § 9203. Established; composition; term of office; vacancies; officers; compensation.

(a) There is hereby established the Delaware Higher Education Supplemental Loan Authority. The Authority is constituted a public instrumentality and the exercise by the Authority of the powers conferred by this chapter is the performance of an essential public function. The Authority shall consist of 9 members appointed by the Governor. Each member shall be a resident of the State.

(1) Two members shall be trustees, directors, officers or employees of institutions of higher education, at least 1 of whom is from an institution not owned or operated by the State.

(2) Two members shall have had the experience in the field of state and municipal finance, either as a partner, officer or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio, and who are not trustees, directors, officers or employees of an institution of higher education.

(3) One member shall have had experience in higher education finance.

(4) Two members shall have had experience with student financial aid.

(5) One member shall be the State Treasurer, ex officio, or the state designee.

(6) One member shall be the Secretary of Finance, ex officio, or the Secretary of Finance’s designee.

(7) Two members shall be appointed from the public at large.

(b) (1) Of the members of the Authority first appointed, 3 shall serve for terms expiring on June 30, 1983, 1984 and 1985, respectively, and until a successor is appointed and qualifies. On the expiration of the term of any member a successor shall be appointed for a term of 3 years and serve until a successor is appointed and qualifies.

(2) The Governor shall appoint a qualified person to fill any vacancy.

(3) A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualifies.

(4) Any member may be removed by the Governor for misfeasance, malfeasance or wilful neglect of duty or other cause after notice.

(c) (1) Each year the Authority shall elect from among its members:

a. A Chair;

b. A Vice-Chair; and

c. Any other officers it requires.

(2) Each member of the Authority:

a. Serves without compensation; and

b. Is entitled to reimbursement for expenses in accordance with the standard state travel regulations.

(63 Del. Laws, c. 378, § 1; 70 Del. Laws, c. 186, § 1.)

## § 9204. Executive Director; General Counsel; quorum; power to issue bonds.

(a) (1) The Authority may appoint an Executive Director and a General Counsel, and any other officers, none of whom may be members of the Authority.

(2) The Executive Director shall:

a. Serve at the pleasure of the Authority; and

b. Receive compensation as fixed by the Authority.

(3) The Executive Director or other person designated by resolution of the Authority:

a. Shall keep a record of the proceedings of the Authority;

b. Shall be custodian of all books, documents and papers filed with the Authority, the minute book or journal of the Authority and its official seal; and

c. May cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under the official seal of the Authority to the effect that the copies are true copies, and all persons dealing with the Authority may rely upon the certificates.

(b) (1) Six members of the Authority shall constitute a quorum.

(2) The affirmative vote of a majority of the members present, and not less than 5 votes, is necessary for any action taken by the Authority.

(c) (1) A vacancy in the membership of the Authority may not impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

(2) Any action taken by the Authority under this chapter may be authorized by resolution at any regular or special meeting and may take effect immediately and need not be published.

(d) (1) The Authority may issue bonds for the purpose of making Authority loans to institutions participating in a program of the Authority for the purpose of providing education loans.

(2) Bonds issued under this section shall be obligations of the Delaware Higher Education Supplemental Loan Authority only, and not of the State. The Authority may not offer bonds for sale, nor issue any bonds, to which it has pledged the moral obligation of the State.

(e) (1) Bonds issued under this chapter shall state on the face of each bond that they represent and constitute an obligation of the Authority only, and do not constitute either a debt of the State within the meaning of the Constitution or laws of the State or a pledge of the faith and credit of the State.

(2) The bonds may not grant to the owners or holders any right to have the Authority or the General Assembly levy any taxes or appropriate any funds for the payment of principal or interest.

(63 Del. Laws, c. 378, § 1.)

## § 9205. Powers and duties.

(a) (1) In addition to any other powers granted or duties imposed upon it, the Authority has the powers and duties set forth in this section.

(2) The Authority shall adopt any rule or regulation necessary to carry out its powers and duties.

(b) The Authority may:

(1) Adopt an official seal;

(2) Maintain an office at the place or places it may designate;

(3) Participate in legal proceedings in the name of the Authority; and

(4) Sue and be sued in its own name, plead and be impleaded.

(c) The Authority, in consultation with the institutions, shall establish criteria for and guidelines encompassing the types of and qualifications for education loan financing programs which shall include those eligibility standards for borrowers that the Authority determines may be necessary or desirable to effectuate the purposes of this chapter and which shall include provisions that each student have a certificate of admission or enrollment at a specific participating institution, that each student or student's parents satisfy the financial qualifications that the Authority establishes and that each student and each student's parent submit to the participating institution information that may be required by the Authority.

(d) The Authority shall contract with financial institutions and other qualified loan origination and servicing organizations to provide assistance in prequalifying borrowers for education loans and for servicing and administering education loans and any participating institution's respective loan series portfolio. Any education loan fee may include a portion to cover the cost of any servicing organization's assistance prorated on a basis deemed fair by the Authority.

(e) To insure the marketability of its bonds and the adequacy of the security for the payment of the principal of and interest on its bonds, the Authority shall establish criteria governing:

(1) The eligibility of institutions to participate in its program;

(2) The making of Authority loans and education loans;

(3) Provisions for default;

(4) The establishment of default reserve funds;

(5) The purchase of default insurance; and

(6) Provision for the establishment of prudent debt service reserves and for the furnishing by participating institutions of such additional guarantees of or other security for education loans, Authority loans or the Authority's bonds.

(f) The Authority shall establish limitations on the principal amounts and the terms of education loans, criteria regarding the qualifications and characteristics of borrowers and procedures for allocating Authority loans among participating institutions.

(g) The Authority may:

(1) Issue bonds for any of its corporate purposes and borrow funds as working capital for its operations;

(2) Fix, revise, charge and collect rates, fees and charges for the services furnished or to be furnished by the Authority and contract with any person, including financial institutions, loan originators, servicers, administrators, issuers of letters of credit and insurers;

(3) Employ consultants, attorneys, accountants, financial experts, loan processors, bankers, managers and other employees and agents as may be necessary in its judgment, and fix their compensation;

(4) Establish regulations, criteria or guidelines with respect to Authority loans, education loans and education loan series portfolios;

(5) Receive and accept from any source and in any form, loans, appropriations, contributions, gifts or grants for or in aid of any Authority purpose or education loan financing program and, when required, use the funds, property or labor only for the purposes for which it was provided;

(6) Make Authority loans to institutions and require that the proceeds of the loans be used for making education loans and paying related loan costs and fees;

(7) Charge to and apportion among participating institutions its administrative and operating costs and expenses incurred in the exercise of its powers and duties; and

(8) Do all acts and things necessary or convenient to carry out its corporate purposes and in such manner and upon such procedure as the Authority may in its discretion from time to time determine or prescribe.

(h) Notwithstanding any other provision contained in this chapter, the Authority may commingle and pledge as security for a series or issue of bonds, with the consent of all of the institutions which are participating in the series or issue:

(1) The education loan series portfolios and some or all future education loan series portfolios of the institutions; and

(2) The loan funding deposits of the institutions if education loan series portfolios and other security and moneys set aside in any fund or funds pledged for any series or issue of bonds are held for the sole benefit of the series or issue separate and apart from education loan series portfolios and other security and moneys pledged for any other series or issue of bonds of the Authority.

(i) The Authority shall:

(1) Examine records and financial reports of participating institutions; and

(2) Examine records and financial reports of any contractor organization or financial institution retained by the Authority.

(j) The Authority shall require that:

(1) Authority loans be used solely to make education loans;

(2) Institutions require each borrower under an education loan use the proceeds solely for the cost of attendance; and

(3) Each borrower certify that proceeds shall be used solely for the cost of attendance.

(63 Del. Laws, c. 378, § 1.)

## § 9206. Use of refunding bond proceeds.

(a) Whenever refunding bonds are issued to refund bonds, the proceeds of which were used to make Authority loans, the Authority may reduce the amount it is owed by the institutions which had received Authority loans from the proceeds of the refunded bonds.

(b) The institutions may use this reduced amount to reduce the amount of interest being paid on education loans which the institutions had made pursuant to the Authority loans from the proceeds of the refunded bonds.

(c) All expenses incurred in carrying out this section shall be payable solely from funds provided under the authority of this section and, except as otherwise provided, no liability shall be incurred by the Authority beyond the extent to which moneys shall have been provided under this section.

(63 Del. Laws, c. 378, § 1.)

## § 9207. Loan funding deposits.

(a) (1) The Authority shall establish guidelines relating to:

a. The deposits of certain moneys, endowments or properties by institutions so as to provide reasonable security for education loan funding programs, Authority loans, education loans or for bonds; and

b. Guarantees of or contracts to purchase education loans or bonds by the institutions or by financial institutions or others.

(2) A default reserve fund may be established for any series or issue of bonds.

(b) (1) The Authority may receive moneys, endowments, properties and guarantees as it determines appropriate and, if necessary, take title in the name of the Authority or in the name of a participating institution or a trustee.

(2) When the principal of and interest on bonds of the Authority issued to finance the cost of any education loan financing program or programs, including any refunding bonds issued to refund or refinance any bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the bonds, and all other conditions of the bond resolution authorizing the bonds have been satisfied and the lien created by the bond resolution has been released, the Authority shall promptly do the things and execute the deeds and conveyances necessary and required to convey any remaining moneys, properties and other assets comprising loan funding deposits to the participating institutions in proportion to the amounts furnished by the respective institutions.

(63 Del. Laws, c. 378, § 1.)

## § 9208. Bonds.

(a) (1) The Authority shall at any time and from time to time issue bonds for any corporate purpose.

(2) The bonds of each issue shall be payable solely out of revenues of the Authority, including, without limitation:

a. Principal and interest on Authority loans and education loans;

b. Payments by institutions, banks, insurance companies or others pursuant to letters of credit or purchase agreements;

c. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement;

d. Insurance proceeds;

e. Loan funding deposits;

f. Proceeds of sales of education loans;

g. Proceeds of refunding bonds; and

h. Other fees, charges or revenues of the Authority.

(3) Bonds shall be authorized by a bond resolution of the Authority and shall:

a. Bear the date or dates, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding the year following the last year in which the final payments in an education loan series portfolio are due, or 30 years from their respective dates of issue, whichever is sooner;

b. Bear interest at a rate or rates determined by the Authority;

c. Be payable at a time or times, in the denominations and form, either coupon or registered or both, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost or destroyed bonds as the Authority may establish;

d. Be deemed a "security" within the meaning of § 8-102 of Title 6, whether or not it is either 1 of a class or series or by its terms is divisible into a class or series of instruments and negotiable for all purposes although payable from a limited source, notwithstanding any other law;

e. Be payable in lawful money of the United States at a designated place;

f. Be subject to the terms of redemption that the bond resolution provides;

g. Be executed by the manual or facsimile signatures of the officers of the Authority designated by the Authority; and

h. Be sold in the manner and upon the terms determined by the Authority including private (negotiated) sale.

(4) Pending preparation of the definitive bonds, the Authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(b) Any bond resolution may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(1) Pledging or assigning the revenues derived from the Authority loans and education loans with respect to which such bonds are to be issued;

(2) The fees and other charges to be collected and the sums to be raised in each year thereby, and the use, investment and disposition of such sums;

(3) The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment and disposition thereof;

(4) Limitations on the use of the education loans;

(5) Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;

(7) The refunding or refinancing of outstanding bonds;

(8) The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

(9) Defining the acts or omissions which shall constitute a default in the duties of the Authority to holders of its obligations and providing the rights or remedies of such holders in the event of a default;

(10) Providing for guarantees, pledges of endowments, letters of credit, property or other security, or insurance for the benefit of the holders of the bonds; and

(11) Any other matter relating to the bonds which the Authority determines appropriate.

(c) No member of the Authority nor any person executing the bonds shall be liable personally on the bonds or subject to any personal liability by reason of the issuance of the bonds.

(d) (1) The Authority may purchase its bonds out of any available funds and may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with bondholders.

(2) The Authority may refund or refinance any of its bonds.

(63 Del. Laws, c. 378, § 1.)

## § 9209. Trust agreement.

(a) Any bonds issued under this chapter may be secured by a trust agreement by and between the Authority, a participating institution and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the State.

(b) Any trust agreement or bond resolution may:

(1) Pledge or assign any revenues to be received by the Authority or proceeds or benefits of any contract and may serve to convey or mortgage or otherwise secure any property or property rights;

(2) Contain provisions for protecting and enforcing the rights and remedies of bondholders;

(3) Restrict the individual right of action by bondholders; and

(4) Contain such other provisions as the Authority deems appropriate.

(c) Any expense incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of an education loan program.

(63 Del. Laws, c. 378, § 1.)

## § 9210. Fees for services; pledge of revenues as security.

(a) (1) The Authority shall fix, revise, charge and collect fees and charges for its services and operations and may contract with any person in connection therewith without supervision or regulation by any unit of state government.

(2) Any agreement entered into by the Authority with an institution shall provide that the fees and other amounts payable by the institution with respect to any program of the Authority shall be sufficient at all times:

a. To pay its share of the administrative costs and expenses of the Authority;

b. To pay when due the principal of and the interest on its share of outstanding bonds of the Authority issued in respect of the program and the redemption price or purchase price of any bonds to be retired by call or purchase, to the extent that other revenues of the Authority pledged for the payment of the bonds may not be sufficient for that purpose;

c. To create and maintain reserves which may, but need not, be required or provided for in a bond resolution; and

d. To establish and maintain whatever education loan servicing, control or audit procedures are appropriate to the prudent operations of the Authority.

(b) (1) A pledge by the Authority of revenues as security for an issue of bonds shall be valid and binding from the time when the pledge is made.

(2) The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against the Authority or any participating institution, irrespective of whether the person has notice.

(3) No bond resolution, trust agreement or financing statement, continuation statement or other instrument adopted or entered into by the Authority need be filed or recorded in any public record other than the records of the Authority in order to perfect the lien against third persons, regardless of any contrary provision of public law.

(c) (1) All moneys received by or on behalf of the Authority under this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

(2) Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes provided in the chapter and any applicable bond resolution or trust agreement.

(63 Del. Laws, c. 378, § 1.)

## § 9211. Enforcement of rights and duties by bondholder.

Except to the extent that their rights are restricted by any applicable bond resolution or trust agreement, any holder of bonds issued under this chapter or a trustee under a trust agreement entered into under this chapter may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Delaware or by any applicable bond resolution or trust agreement.

(63 Del. Laws, c. 378, § 1.)

## § 9212. Refunding bonds.

(a) (1) The Authority may issue bonds to refund any bonds of the Authority then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in 1 or more series in an amount in excess of that of the bonds to be refunded.

(2) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date determined by the Authority.

(b) (1) Any escrowed proceeds, pending use, may be invested and reinvested in direct obligations of the United States of America, maturing at a time or times appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding bonds to be refunded.

(2) The interest, income and profits, if any, earned or realized on any investment may also be applied to the payment of the outstanding bonds to be refunded.

(3) After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest, income and profits, if any, earned or realized on the investments shall be returned to the institution for use by it in any lawful manner.

(c) Refunding bonds shall be subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

(63 Del. Laws, c. 378, § 1.)

## § 9213. Permissible investments.

(a) Except as otherwise provided in this chapter, the Authority may invest funds in:

(1) Direct obligations of the United States;

(2) Obligations as to which the timely payment of principal and interest is fully guaranteed by the United States;

(3) Obligations of the federal intermediate credit banks, federal banks for cooperatives, federal land banks, federal home loan banks, federal national mortgage association and the government national mortgage association;

(4) Certificates of deposit or time deposits constituting direct obligations of any bank as defined by the laws of this State. However, investments may be made only in those certificates of deposit or time deposits in banks which are insured by the Federal Deposit Insurance Corporation or its successor if then in existence; and

(5) Withdrawable capital accounts or deposits of state or federal chartered savings and loan associations which are insured by the Federal Savings and Loan Insurance Corporation.

(b) Securities may be purchased at such time and at such prices as the Authority determines.

(63 Del. Laws, c. 378, § 1.)

## § 9214. Legal investments in bonds.

All banks, bankers, trust companies, savings banks and institutions, building, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued under this chapter.

(63 Del. Laws, c. 378, § 1.)

## § 9215. Accounts; annual report; audit.

(a) The Authority shall keep full and accurate accounts of its activities and operations and shall annually in the month of January make a report to the Governor, the Controller General, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Secretary of Finance.

(b) The report shall cover the preceding fiscal year and shall include a complete operating and financial statement for that year and a summary of the residences of the recipients of education loans. The Authority shall cause an audit of its books and accounts to be made at least once each year by independent certified public accountants, and the cost thereof shall be paid by the Authority from funds available to it pursuant to this chapter.

(63 Del. Laws, c. 378, § 1.)

## § 9216. Chapter additional and supplemental to other laws; permissible rate of interest.

(a) This chapter provides a complete, additional and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to, and the limitations imposed by this chapter do not limit or otherwise affect powers or rights conferred by, other laws, and the issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

(b) (1) Notwithstanding any other provision of law or charter, institutions may borrow money from the Authority, make education loans and take all other actions and do those things necessary or convenient to consummate the transactions contemplated under this chapter.

(2) The Authority may establish, contract for, charge and collect any amount or rate of interest or compensation with respect to Authority loans and participating institutions may contract for, charge and collect any amount or rate of interest or compensation with respect to education loans.

(63 Del. Laws, c. 378, § 1.)

## § 9217. Tax exemption.

The Authority shall not be required to pay any taxes or assessments of any kind whatsoever and its bond, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times

from every kind and nature of taxation by this State or by any of its political subdivisions, municipal corporations or public agencies of any kind.

(63 Del. Laws, c. 378, § 1.)

## § 9218. Termination of Authority.

The Authority in its corporate existence shall continue until terminated by law but no law terminating its existence shall take effect as long as any bonds of the Authority are outstanding and unpaid without adequate provision for payment having been made. Upon termination of its existence, all rights, privileges and property of the Authority shall pass to and be vested in the State.

(63 Del. Laws, c. 378, § 1.)

## § 9219. Basic salary schedule for Plan A employees.

(a) Salaries paid to Delaware Technical and Community College Salary Plan A employees shall, upon full implementation, be based on the following index schedule:

**DELAWARE TECHNICAL AND COMMUNITY COLLEGE INDEX SCHEDULE FOR PLAN A EMPLOYEES**

| Yrs of Exp. | No Degree | Assoc. Degree | Bach. Degree | Bach. Degree Plus 15 Grad. Credits | Bach. Degree Plus 30 Grad. Credits | Mast. Degree | Mast. Degree Plus 15 Grad. Credits | Mast. Degree Plus 30 Grad. Credits | Mast. Degree Plus 45 Grad. Credits | Doctor's Degree |
|---|---|---|---|---|---|---|---|---|---|---|
| 0 | 0.90316 | 0.96147 | 1.00000 | 1.03853 | 1.07806 | 1.11661 | 1.15515 | 1.19467 | 1.23321 | 1.25199 |
| 1 | 0.92786 | 0.98616 | 1.02469 | 1.06325 | 1.10178 | 1.14131 | 1.18084 | 1.21937 | 1.25792 | 1.27768 |
| 2 | 0.95158 | 1.01088 | 1.04842 | 1.08598 | 1.12648 | 1.16503 | 1.20357 | 1.24309 | 1.28163 | 1.30237 |
| 3 | 0.95849 | 1.01384 | 1.05041 | 1.08695 | 1.13637 | 1.17490 | 1.21246 | 1.25000 | 1.28856 | 1.30634 |
| 4 | 0.96542 | 1.01878 | 1.05336 | 1.08795 | 1.14725 | 1.18479 | 1.22135 | 1.25693 | 1.29447 | 1.31226 |
| 5 | 1.00099 | 1.05336 | 1.08795 | 1.12452 | 1.15910 | 1.19467 | 1.23025 | 1.26483 | 1.30140 | 1.31819 |
| 6 | 1.03558 | 1.08795 | 1.12452 | 1.15910 | 1.19467 | 1.23025 | 1.26483 | 1.30140 | 1.33598 | 1.35377 |
| 7 | 1.07214 | 1.12452 | 1.15910 | 1.19467 | 1.23025 | 1.26483 | 1.30140 | 1.33598 | 1.37056 | 1.38935 |
| 8 | 1.10673 | 1.15910 | 1.19467 | 1.23025 | 1.26483 | 1.30140 | 1.33598 | 1.37056 | 1.40713 | 1.42393 |
| 9 | 1.14131 | 1.19467 | 1.23025 | 1.26483 | 1.30140 | 1.33598 | 1.37056 | 1.40713 | 1.44172 | 1.45950 |
| 10 | 1.15020 | 1.23025 | 1.26483 | 1.30140 | 1.33598 | 1.37056 | 1.40713 | 1.44172 | 1.47630 | 1.49409 |
| 11 | 1.15910 | 1.23914 | 1.30140 | 1.33598 | 1.37056 | 1.40713 | 1.44172 | 1.47630 | 1.51287 | 1.52966 |
| 12 | | 1.24804 | 1.30930 | 1.37056 | 1.40713 | 1.44172 | 1.47630 | 1.51287 | 1.54745 | 1.56524 |
| 13 | | | | 1.37946 | 1.44172 | 1.47630 | 1.51287 | 1.54745 | 1.58303 | 1.59982 |
| 14 | | | | 1.37946 | 1.45061 | 1.51287 | 1.54745 | 1.58303 | 1.61860 | 1.63639 |
| 15 | | | 1.35476 | 1.39824 | 1.48619 | 1.54745 | 1.58303 | 1.61860 | 1.65318 | 1.67097 |
| 16 | | | 1.36266 | 1.40713 | 1.49508 | 1.58303 | 1.61860 | 1.65318 | 1.68975 | 1.70655 |
| 17 | | | 1.37056 | 1.41603 | 1.49508 | 1.59093 | 1.62750 | 1.66208 | 1.69765 | 1.71544 |
| 18 | | | | | 1.50397 | | | | | |
| 19 | | | | | | | | | | |
| 20 | | | | | | 1.61860 | 1.66208 | 1.70655 | 1.75002 | 1.79549 |
| 21 | | | | | | 1.62750 | 1.67197 | 1.71544 | 1.75991 | 1.80438 |
| 22 | | | | | | | | | | |
| 23 | | | | | | | | | | |
| 24 | | | | | | | | | | |
| 25 | | | | | | 1.66208 | 1.70655 | 1.75002 | 1.79549 | 1.83896 |
| 26 | | | | | | 1.67197 | 1.71544 | 1.75991 | 1.80438 | 1.84786 |
| 27+ | | | | | | 1.68183 | 1.72434 | 1.76980 | 1.81327 | 1.85675 |

INDEX DERIVATION

Base =1.00 The base salary for 10–month employees shall be calculated by taking the salary derived at Bachelor's degree, 0 years from § 1305(b) of this title, and dividing by 0.605894 to account for 100 percent state funding.

(b) Twelve-month salaries shall be determined by multiplying the appropriate 10-month salaries by 1.2.

(c) The salary paid to any Salary Plan A employee shall be determined as follows:

(1) Placement on the index for any Salary Plan A employee shall be based on the employee's actual degree, additional credits, and years of relevant experience as certified by the college on July 1 of the current fiscal year. Advancement for additional degrees and credits completed on and after that date and through December 31 will become effective on January 1. Advancement in any of these areas after January 1 will become effective for salary purposes on July 1 of the following fiscal year.

(2) For Fiscal Year 1995, the minimum increase for a Plan A employee shall be 1.5 percent of the employee's Fiscal Year 1994 salary.

(d) The Board of Trustees of the College may certify that specific instructional positions are in scarce supply and shall report that determination to the Secretary of the Department of Human Resources, the Director of the Office of Management and Budget and Controller General. After such certification, new hires on the Salary Plan A schedule who are to be engaged in positions of scarce supply may be offered a salary by the Board of Trustees that exceeds the scheduled salary by up to 15%.

(e) During fiscal year 1989, new hires in Salary Plan A shall not receive salaries in excess of the lowest paid employee occupying a cell with the same or higher index value, unless the provisions of subsection (d) of this section have been duly invoked.

(f) The salary paid to any Plan B employee shall be paid in accordance with a merit system comparable pay system. Such a system shall be subject to the following provisions:

(1) For salary purposes, the 37.5 hour merit salary schedule shall be the pay plan for Plan B employees. Salary adjustments shall be granted under the same conditions as listed in § 8(d)(1)(ii) of 70 Del. Laws, c. 118.

(2) a. The class specifications for positions occupied by Delaware Technical and Community College Plan B employees shall be assigned paygrades comparable to the Merit System pay plan using the same criteria authorized by the Department of Human Resources for Merit System positions. Notwithstanding the forgoing, the College is authorized to adopt a separate pay plan for Plan B employees assigned to information technology class specifications and support positions, without impact to the general fund appropriation limit as provided in § 1 of the annual Appropriations Act.

b. Periodic classification maintenance reviews shall be processed under the normal Department of Human Resources maintenance review processes. Critical reclassifications shall be processed under the same general system as the Merit System, subject to final approval of a committee composed of the President of the College, Secretary of the Department of Human Resources, Director of the Office of Management and Budget and Controller General.

(3) The College is authorized to hire at up to 100% of the midpoint of an assigned paygrade upon the signature of the appropriate Vice President and Campus Director; hiring beyond the 100% of midpoint shall require the signatures of the Secretary of the Department of Human Resources, Director of the Office of Management and Budget and Controller General.

(4) Selective market variation and any other special considerations relative to standard compensation exceptions shall be handled in accordance with hiring/compensation procedures outlined in the Merit System.

(5) Vacation and sick leave policies shall remain at the discretion of the College.

(6) Part-time employees' salaries shall not exceed the hourly rate of the grade assigned to comparable full-time employees.

(7) The College may compensate Plan B employees for additional degrees earned. This compensation shall be in the form of a 1-time bonus not added to the employee's base rate, and not paid out of state funds. The College may also provide such additional compensation to Plan B employees as authorized by the Board of Trustees. This compensation shall not be added to the employee's base rate, and shall not be paid out of state funds. This supplement and any 1-time bonus shall not be considered within the pension definitions stated in § 5501(c)-(f) of Title 29, § 5600(3) of Title 29, and § 8351(2) of Title 11.

(8) The College shall retain the ability to underfill any position and to advance any employee in an underfilled position, upon determination of satisfactory performance, to the paygrade to which the position is assigned.

(9) Employee benefits paid by a college plan in addition to state benefits shall remain at the discretion of the College.

(g) The salary plan for administration shall cover full-time employees of Delaware Technical and Community Colleges not covered by Salary Plan A or Salary Plan B. The compensation of an employee on the Administrative Salary Plan (Plan D) shall be computed as follows:

**ADMINISTRATIVE RESPONSIBILITY INDEX SCHEDULE**

| | Years in Level | Index |
|---|---|---|
| Level 1 | 0 | 4% |
| | 1 | 5% |
| | 2 | 6% |
| | 3 | 7% |
| | 4 | 8% |
| Level 2 | 0 | 9% |
| | 1 | 10% |
| | 2 | 11% |
| | 3 | 12% |
| Level 3 | 0 | 26% |
| | 1 | 28% |
| Level 4 | | 37% |
| Level 5 | | 55% |

(1) The base salary shall be determined by placement on the same index and in the same manner as Salary Plan A under this section.

(2) In addition to the salary received under this section an employee shall receive an annual amount for administrative responsibility. That amount shall be computed by multiplying the amount provided under this section, by the index volume specified in the schedule below that corresponds with the appropriate classification level and experience level. The experience level shall be determined by the employee's actual years of experience in the assigned level while in the Administrative Pay Plan at Delaware Technical and Community College.

(3) The new salary for any employee shall not be effective until the presentation by the employee of proof of credentials to support claimed degrees, additional credits, and relevant work experience.

(4) Any changes in the allocation of jobs to grade level shall be approved by the Board of Trustees and filed with the Secretary of the Department of Human Resources, Director of the Office of Management and Budget and the Controller General.

(5) The Board of Trustees may provide additional compensation and benefits with non-state funds to employees in the Administrative Salary Plan.

(h) For each fiscal year, the minimum increase for a Plan A or Plan D employee shall be one-half of the general increase for all eligible merit and merit comparable state employees of the employee's Fiscal Year 1995 salary.

(66 Del. Laws, c. 85, § 12(t); 66 Del. Laws, c. 303, § 12(t); 67 Del. Laws, c. 47, § 12(t); 67 Del. Laws, c. 281, § 8(t); 68 Del. Laws, c. 84, § 8(r); 68 Del. Laws, c. 290, § 8(r); 69 Del. Laws, c. 64, § 8(r); 69 Del. Laws, c. 291, § 8(n); 70 Del. Laws, c. 118, §§ 8(n), (o); 72 Del. Laws, c. 94, § 8(o)(2); 72 Del. Laws, c. 294, § 31; 73 Del. Laws, c. 74, § 336; 74 Del. Laws, c. 307, §§ 8(n)(2), 299; 75 Del. Laws, c. 88, §§ 20, 21(2); 75 Del. Laws, c. 89, § 8(n)(2); 79 Del. Laws, c. 174, § 1; 80 Del. Laws, c. 79, § 8(m)(8); 81 Del. Laws, c. 66, § 10; 83 Del. Laws, c. 54, § 8(n); 83 Del. Laws, c. 325, § 8(n), (o); 84 Del. Laws, c. 81, § 8(n), § 8; 84 Del. Laws, c. 233, § 30; 84 Del. Laws, c. 295, § 8(n); 85 Del. Laws, c. 324, § 8(r).)

# Part VII
# Hazing

## Chapter 93
## Anti-Hazing Law

### § 9301. Short title.

This chapter shall be known and may be cited as the "Anti-Hazing Law."

(68 Del. Laws, c. 400, § 1.)

### § 9302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Hazing" means any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student or which wilfully destroys or removes public or private property for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in, any organization operating under the sanction of or recognized as an organization by an institution of higher learning. The term shall include, but not be limited to, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug or other substance, or any other forced physical activity which could adversely affect the physical health and safety of the individual, and shall include any activity which would subject the individual to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct which could result in embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual, or any wilful destruction or removal of public or private property. For purposes of this definition, any activity as described in this definition upon which the admission or initiation into or affiliation with or continued membership in an organization is directly or indirectly conditioned shall be presumed to be "forced" activity, the willingness of an individual to participate in such activity notwithstanding.

(68 Del. Laws, c. 400, § 1.)

### § 9303. Hazing prohibited.

Any person who causes or participates in hazing commits a class B misdemeanor.

(68 Del. Laws, c. 400, § 1.)

### § 9304. Enforcement by institution.

(a) *Anti-hazing policy.* — Each institution shall adopt a written anti-hazing policy and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with any organization operating under the sanction of or recognized as an organization by the institution from engaging in any activity which can be described as hazing.

(b) *Enforcement and penalties.* — (1) Each institution shall provide a program for the enforcement of such rules and shall adopt appropriate penalties for violations of such rules to be administered by the person or agency at the institution responsible for the sanctioning or recognition of such organizations.

(2) Such penalties may include the imposition of fines, the withholding of diplomas or transcripts pending compliance with the rules or pending payment of fines and the imposition of probation, suspension or dismissal.

(3) In the case of an organization which authorizes hazing in blatant disregard of such rules, penalties may also include recision of permission for that organization to operate on campus property or to otherwise operate under the sanction or recognition of the institution.

(4) All penalties imposed under the authority of this section shall be in addition to any penalty imposed for violation of paragraph (b)(3) of this section or any of the criminal laws of this State or for violation of any other institutional rule to which the violator may be subject.

(5) Rules adopted pursuant hereto shall apply to acts conducted on or off campus whenever such acts are deemed to constitute hazing.

(68 Del. Laws, c. 400, § 1.)

# Part VII
# Hazing

## Chapter 94
## Education Privacy Act [Transferred to Chapter 81 of this title.]